

THIRD DIVISION
September 4, 2015

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IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

IN THE INTEREST OF)	Appeal from the Circuit Court
K.S.,)	of Cook County.
)	
Minor-Respondent-Appellee,)	
)	No. 11 JA 595
(PEOPLE OF THE STATE OF ILLINOIS)	
)	
Petitioner-Appellee,)	The Honorable
)	Andrea M. Buford,
v.)	Judge Presiding.
)	
CANDACE L.)	
)	
Mother-Respondent-Appellant).)	

JUSTICE PUCINSKI delivered the judgment of the court.
Justice Hyman and Presiding Justice Mason concurred in the judgment.

ORDER

¶ 1 *Held:* Circuit court order terminating respondent mother's parental rights affirmed where the court's conclusion that termination was in the best interest of respondent's minor child was not against the manifest weight of the evidence.

¶ 2 Following hearings conducted in accordance with the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/1-1 *et seq.* (West 2014)), the circuit court found that respondent, Candace L., was an unfit parent as that term is defined in section 1(D) of the Illinois

Adoption Act (Adoption Act) (750 ILCS 50/1 (D) (West 2014)), and that it was in the best interest of her minor child K.S. to terminate her parental rights. On appeal, Candace L. challenges the propriety of the circuit court's order terminating her parental rights, arguing that the circuit court's finding was against the manifest weight of the evidence. For the reasons explained herein, we affirm the judgment of the circuit court.

¶ 3

BACKGROUND

¶ 4

Candace L., is the natural mother of K.S., born September 22, 2010. Jason B. is K.S.'s biological father.¹ Following K.S.'s birth, two hotline calls were made by medical personnel from Provena St. Joseph Medical Center to the Illinois Department of Child and Family Services (DCFS). In the first call, placed on September 23, 2010, the reporter indicated that Candace L. and K.S. had both tested positive for the presence of marijuana and opiates. In the second call, placed November 18, 2010, the reporter voiced concerns that K.S. was "at risk due to failure to thrive" given that his weight had only increased to 7 pounds from his birth weight of 6 pounds 7 ounces.

¶ 5

Petitions for Temporary Custody and Adjudication of Wardship

¶ 6

Thereafter, on August 18, 2011, following those calls and an initial DCFS investigation, the Cook County State's Attorney filed a petition for adjudication of wardship and a motion for temporary custody on K.S.'s behalf. In its petition, the State alleged that K.S. was a "neglected" and "abused" minor as those terms are defined in the Juvenile Court Act because he was not receiving the proper care or support necessary for his well-being (705 ILCS 405/2-3(1)(a) (West 2012)); was subjected to an environment that was injurious to his welfare (705 ILCS 405/2-3(1)(b) (West 2012)); and was born with some amount of a controlled substance present in his

¹ Jason B. is not a party to this appeal.

body that was not the result of medical treatment administered to him or his mother (705 ILCS 405/2-3(1)(c) (West 2012)). In support of its claims of neglect and abuse, the State set forth the following allegations:

"Mother has two prior indicated reports for failure to thrive and substance misuse. Mother has one other minor not in her care or custody. At the time of this minor's birth, both mother and this minor tested positive for illegal substances. In November of 2010 this minor was diagnosed with non-organic failure to thrive. On or about December 2, 2010 an intact case was opened to offer services to this family. Mother has been non-compliant with services including substance abuse treatment and follow-up medical appointments for this minor. Mother's whereabouts were unknown from December 30, 2010 until May 5, 2011. Mother admitted to currently using illegal substances and not following through on medical treatment for this minor. Both mother and presumed father tested positive for illegal substances in July of 2011. Mother stated that this minor was hospitalized in April of 2011 due to respiratory problems and she failed to follow through with medical appointments after this minor was discharged."

¶ 7 The circuit court immediately granted the State's petition for temporary custody and placed K.S. in the custody of the Department of Child and Family Services where he remained until October 2011, when he was placed in the custody of his great-aunt, Miss J. Candace L. subsequently began working with personnel from One Hope United to complete various social work services in order to regain custody of her son. Thereafter, on February 6, 2013, K.S. was formally adjudicated a ward of the court. In doing so, the circuit court found he had been born drug exposed and had not been receiving requisite care and that Candace L. was unable and unwilling to presently care for him.

¶ 8

Termination Proceedings

¶ 9

On April 8, 2014, the State initiated proceedings to terminate Candace L.'s parental rights by filing a Motion for the Appointment of a Guardian with the Right to Consent to Adoption. In the motion, the State alleged:

"The parents are unfit pursuant to 750 ILCS 50/1(D) and 705 ILCS 405/2-29 in that:

[1] They have failed to maintain a reasonable degree of interest, concern or responsibility as to the child's welfare, in violation of 750 ILCS 50/1(D)(b) and 705 ILCS 405/2-29.

[2] They have deserted the child for more than three months next preceding the commencement of these termination proceedings, in violation of 750 ILCS 50/1(D)(c) and 705 ILCS 405/2-29.

[3] They have failed to make reasonable efforts to correct the conditions which were the basis for the removal of the child from them and/or have failed to make reasonable progress toward the return of the child to them within 9 months after the adjudication of neglect or abuse under the Juvenile Court Act, or after an adjudication of dependency under the Juvenile Court Act, and/or within any 9 month period after said finding, in violation of 750 ILCS 50/1(D)(m) and 705 ILCS 405/2-29.

[4] They evidenced intent to forego parental rights as manifested by a failure for a period of 12 months to (i) visit the child, (ii) to communicate with the child or agency, although able to do so and not prevented from doing so by an agency or by court order, and/or (iii) to maintain contact with or plan for the future of the child, although physically able to do so in violation of 750 ILCS 50/1 (D)(n) and 705 ILCS 405/2-29."

¶ 10 The State further alleged that it was in K.S.'s best interest "that a guardian be appointed with the right to consent to his adoption based upon the following facts:

- a. The minor has resided with his foster parent(s) since October 27, 2011.
- b. The foster parent(s) desire(s) to adopt the minor.
- c. Adoption by the minor's foster parent(s) is in the best interest of the minor."

¶ 11 Based on those allegations, the State requested the court to find K.S.'s parents unfit, terminate their parental rights, and appoint a guardian on K.S.'s behalf with the right to consent to his adoption. Once the pleadings had been filed, the circuit court presided over a fitness hearing, the first phase of any bifurcated termination of parental rights proceeding. Although we acknowledge that Candace L. does not challenge the court's fitness determination, we set forth the evidence presented at the fitness hearing to provide a more detailed background pertaining to the circumstances that led to the termination proceedings and the persons involved in those proceedings. See, *e.g.*, *In re Curtis W., Jr.*, 2015 IL App (1st) 143860, ¶ 11; *In re Tajannah O.*, 2014 IL App (1st) 133119, ¶ 3.

¶ 12 Fitness Hearing

¶ 13 Candace L. was the first witness the State called upon to testify. Candace L. confirmed that she gave birth to her son on September 22, 2010, and that DCFS first became involved "a couple of days after he was born" because a doctor had reported that K.S. had been born with "opiates in his system." She, however, told the DCFS investigator that opiates were present in her son's system because another doctor had issued her a prescription for Tylenol 3 to treat the severe back spasms that she developed during her pregnancy. After Candace L. spoke to the DCFS investigator, K.S. remained in her care until sometime after his six-month checkup. At that time, Candace L. recalled that someone came to her house because there was a concern that

she "was not feeding [K.S.] or something" and the State initiated legal proceedings to remove him from her care.

¶ 14 Candace L. subsequently met with George Husick, a foster care case manager from One Hope United, and discussed the steps she needed to take in order to regain custody of K.S. Specifically, Candace L. was informed that she "needed to go to Haymarket [Rehabilitation Center] and go through the program of Haymarket as far as Drug Rehabilitation and Parenting Classes" and produce random urine drops. She testified that she went to Haymarket on four occasions but never stayed for the recommended time or successfully completed the program. Her longest stay was approximately 45 days, but she left because she felt she "was being talked down to" and was accused of taking heroin even though her drug of choice was actually marijuana. Although she never completed the program, Candace L. testified that she did attend Parenting and Anger Management sessions during her stays at Haymarket, and that she learned useful information and coping techniques that she was successfully able to apply to her everyday life.

¶ 15 Candace L. acknowledged that she also was directed to submit to a Domestic Violence Assessment and to engage in Individual Therapy, but indicated that she did not follow through with those additional service requirements. She explained that she elected not to undergo therapy because she "could not get the same therapist" with whom she had previously worked and she did not submit to a domestic violence assessment because she and her "ex-husband were no longer together so [she] really didn't need it." Candace L. also acknowledged that she did not comply with the requirement that she demonstrate her ability to provide stable housing, but explained that she "los[t] like two apartments because [she] couldn't keep [her] job" while she was completing other services. She testified, however, that she did undergo a mental health

assessment and that she was diagnosed with "major depression with possibility of bipolar" disorder and was prescribed three different types of medication to treat those disorders. Although Candace L. took those medications "for a while," she elected to stop taking them after she left Haymarket for the last time.

¶ 16 Candace L. confirmed that she was aware that she was required to complete all the recommended services to be reunited her son. She further confirmed that K.S. has remained in the physical custody of her aunt Miss J. while she was attempting to complete the recommended services and that she was permitted regular visitation with her son. Her visits were initially supervised by Husick, but later her aunt simply oversaw the visits. Candace L. testified that she initially "was pretty much visiting [her] son every day" and estimated that she saw him "four and six days out of the week." Her visits later "dwindled to maybe three to four times a week" when she stopped receiving bus tickets or other funding for her visits from One Hope United due to her failure to complete services. In April 2014, however, Candace L. moved to California to attend the Art Institute of California to study to become a chef. Her move to California also allowed her to be with her oldest son, who had been living in that state with his grandmother for the past three years, but had begun "acting out." Although her move to California made visitation with K.S. more difficult, Candace L. testified that "would not let a month go by without seeing him." In addition, she used SKYPE to communicate with her son through the computer. She did not, however, sent K.S. any cards, gifts, or letters while she lived in California, but testified that prior to leaving Chicago, she had purchased various gifts for her son, including a "drum stick," action figure toys, a tent, and various items of clothing. To her knowledge, her aunt has not allowed K.S. to play with the action figures. Candace L. further testified that she has begun looking to

transfer to another school so she can move back to Chicago to continue her education and be closer to her youngest son.

¶ 17 Husick, a long-time foster care case manager, testified that in September 2011, he was employed by One Hope United and was assigned to K.S.'s case in response to concerns that had been raised regarding K.S.'s failure to thrive and potential medical neglect. After the circuit court granted the State's motion for temporary custody and removed K.S. from Candace L.'s care, Husick and other members of an Integrated Assessment Team met with Candace L. and identified a number of services that she needed to complete in order to be reunited with her son. Specifically, Husick recommended that Candace undergo substance abuse treatment, domestic violence services, and individual therapy. After putting together her Client Service Plan, Husick sat down with Candace L. and explained "what need[ed] to be done in order for reunification to be achieved."

¶ 18 Husick recalled that he made "numerous referrals" for substance abuse treatment; however, Candace L. did not complete treatment and her compliance with random drug screenings was "inconsistent." Moreover, during his time as Candace L.'s case manager, all of her random screenings "were either missed or tested positive for cannabis." Husick testified that he also made "more than on[e]" referral for a domestic violence assessment, but Candace L. also failed to comply with that service requirement. As the case moved forward, Husick explained that he added additional service requirements to Candace L.'s service plan. Specifically, he added a component requiring Candace L. to take part in Narcotics Anonymous/Alcoholics Anonymous meetings as well as another component requiring her to maintain stable employment and housing. Candace L. also failed to satisfy both of those additional requirements.

¶ 19 In addition to overseeing Candace L.'s efforts at completing her service requirements, Husick also oversaw her initial weekly visits with K.S. The initial visits took place at One Hope United's offices and Husick confirmed that Candace L. was "consistent[ly]" present for her scheduled visitation with K.S. During those visits, Husick observed a strong bond between mother and child and classified those initial visits as safe and appropriate. He explained that Candace L. would "get on the floor" to play with her son and would help change and feed him. Later, however, when K.S. was placed in the care of a relative after being in the temporary care of DCFS, Candace L.'s visits "became inconsistent."

¶ 20 During his tenure as Candace L.'s case manager, Husick acknowledged that he never recommended that her weekly supervised visitation be increased to unsupervised contact with K.S. because she failed to "make any substantial progress in her services or have any clean random urine drops." He explained that he met with Candace L. multiple times during scheduled Child and Family Team Meetings and reiterated that she needed to complete these services in order to be reunited with her son. On those occasions, Candace L. acknowledged understanding the requirements and consistently expressed her desire to work to regain custody of her son. Husick did not recall that Candace L. ever voiced an objection to the propriety of any of the requirements contained in her service plan. She did, however, state that she only wanted to do individual therapy if she could work with a specific therapist; however, Husick informed her that the therapist was not available to meet with her and that she would need to work with another qualified therapist. Husick confirmed that due to Candace L.'s repeated failure to comply with her service requirements, One Hope United stopped furnishing her with bus cards or other forms of financial support to facilitate her visits with K.S.

¶ 21 Miss J., Candace L.'s paternal aunt, confirmed that K.S. has been in her care since October 2011. Since assuming care of her niece's youngest son, Miss J. testified that she has employed an open-door policy with respect to Candace L. and her niece has been "welcome to come anytime" to her house to visit K.S. Miss J. confirmed that Candace L. has exercised her right to visit her son; however, she denied that her niece ever stopped by four, five or six days a week. Instead, she testified that her niece initially stopped by "[m]aybe once or twice" a week. Later, Candace L. would regularly go a month without seeing her son. Miss J. confirmed that she made efforts to ensure that Candace L. continued to have some contact with K.S. after she moved to California in June 2014, explaining: "I would SKYPE her so that [K.S.] c[ould] talk to her."

¶ 22 Miss J. testified that Candace L. has recently returned to the Chicagoland area.² Since her return, Candace L. has visited K.S. one to three times. Although the visits have not been frequent or very long, Miss J. confirmed that K.S. knows that Candace L. is his mom and testified that he referred to her as "Sexy Mommy." She explained that Candace L. told him to refer to her that way after she heard K.S. call Miss J. "Mommy" during one of their visits. Miss J. testified that K.S. initially called her "Ti-Ti Mommy," but that he began calling her "Mommy" within the last year. She confirmed that Candace L. was "upset" and "not amused" when she heard K.S. refer to her as "Mommy," but testified that she tried to reassure Candace L. that the title did not mean anything because her children, grandchildren, and everyone in the house called her "Mommy."

¶ 23 During the three years that Miss J. has cared for K.S., she confirmed that Candace L. has never provided her with any financial support to be used for his care. Candace L. has, however,

² Candace L. was called by the State to testify at the fitness hearing on November 21, 2014. The matter was continued until February 19, 2015, when Miss J. was called upon to testify. It appears that Candace L. moved back to Chicago sometime during the months that the matter was continued.

supplied K.S. with "two pairs of shorts, two shirts, a pair of gym shoes, two robots, a little canvas thing for him to sleep and play in; and a drum set." The robots, however, were not an age appropriate gift as they were designated for children "five and plus." Nonetheless, Miss J. testified that because she did not want to deny K.S. the toys that his mother gave him, she has allowed K.S. to play with the robots when she has time to watch him closely to ensure that he does not put them in his mouth and that the attachments do not come loose. Miss J. acknowledged that K.S. loved his mom and always enjoyed when she visited him because she "always play[ed] with him." Candace L. also bathed her son and put him to bed during some of their visits.

¶ 24 Once the State rested its case, Candace L. was recalled by her attorney. She testified that she did not agree with Miss J.'s statements regarding the frequency of her visits. Candace L. explained that in 2013, she worked at a McDonald's that was located near Miss J.'s residence and testified that "there wasn't a day that [she] did not try to visit [her] son." She acknowledged, however, that sometimes "they weren't available" when she stopped by Miss J.'s house unannounced and that she was not always able to visit with K.S. even though she made an effort to see him every day. On those occasions that she was unable to see K.S., Candace L. testified that she would call and leave messages for Miss J. but explained that Miss J. would not always get the messages because she had a "magic jack" that did not always work correctly. Candace L. further testified that when One Hope United stopped providing her with bus cards, it "put a damper" on her ability to see her son because she did not have money to pay for bus tickets.

¶ 25 Nonetheless, Candace L. testified that she made an effort to remain an active part of her son's life even though it was not always been easy to coordinate with Miss J. For example, she testified that she made arrangements to go with Miss J. to enroll K.S. in school, but stated that

Miss J. "left without [her]" and she was not able to be a part of that process. More recently, Candace L. testified that she came back to Chicago one day before her son's latest birthday and made an effort to celebrate with him. She explained that she called Miss J. when she got back into town but was unable to reach her. When Miss J. returned her call the following day, she explained that she had been "having a bad day," and they made arrangements for Candace L. to see K.S. after his birthday. Candace L. testified that she also took the initiative to reach out to Miss J. via Facebook while she was in California because Miss J. had changed her phone number and had not provided Candace L. with the new number. Once she had the correct number, Candace L. testified that she "would call every day while [she] was away from [her] son" even though her calls were not actually answered every day.

¶ 26 After hearing the aforementioned testimony and the arguments of both parties, the circuit court found Candace L. unfit pursuant to several grounds set forth in the Adoption Act and explained its findings in open court as follows:

"With respect to the mother, [I] find her unfit under *** Ground (B) in that she has failed to maintain a reasonable degree of interest, concern or responsibility for the child's welfare.

Ground (C), she has deserted the child for more than three months next preceding the commencement of the termination proceedings.

Ground (M), she has failed to make reasonable efforts to correct the conditions which were the bases for the removal of the child from her and has failed to make reasonable progress towards the return of the child to her within nine months after the adjudication of neglect or abuse.

With respect to the mother, there was a lot of conflicting testimony between the mother and the guardian or between the mother and [Miss J.]. I find [Miss J.'s] testimony to be credible. The child has been placed with –was placed with [Miss J.] on October 10, 2011. By mom's own testimony, she only saw the minor a few times; four to six times in 2012. Then after that she said she had transportation issues; however, she never appealed those transportation issues. She never brought them to the attention of her attorney so he could help her with it. She never brought that to the attention of this Court so that the Court could help her with those issues during the pendency of this case. She has failed to complete any of the services that were offered to her. She failed to complete the substance abuse [treatment]; I believe she was in [Haymarket] at least four times; and each time she failed—she failed to complete the D.V. or Domestic Violence Training because she quote didn't understand why she had to do it.

She failed to do the Individual Therapy. She stopped taking her medications that were prescribed. Her visitations have been minimal at best even believing what the mother has testified to versus what [Miss J.] testified to. They still have been minimal. For all of those reasons [I] find that the mother is unfit under Grounds (B), (C), and (M)."

¶ 27 After the circuit court made its fitness ruling, the cause proceeded to the best interest portion of the termination of parental rights action.

¶ 28 Best Interest Hearing

¶ 29 At the best interest hearing, Felicia Shell, another case worker from One Hope United, testified that she took over K.S.'s case in August 2014. Since assuming control of his case, Shell

has visited him at Miss J.'s home, where he has been living without interruption since October 2011. During her monthly visits, she has always found Miss J.'s house to be a physically safe and appropriate placement and testified that he appeared to be "thriving" in that environment. During her visits, Shell observed that K.S. appeared to be "very bonded" and "very attached" to Miss J. He would frequently seek out Miss J.'s attention and referred to her as "Mommy." Shell further testified that K.S. also appeared to be attached to the three other foster children who reside in Miss J.'s home and stated that they appeared to have a "sibling" type of relationship. In addition, K.S. has become "fully integrated with [Miss J.'s] extended family" and was "extremely happy and just very loving, caring in [her] home." Shell acknowledged that prior to assuming control over K.S.'s case, a hotline call was been made to DCFS in which the caller accused Miss J. of medical neglect. She explained, however, that the claim was fully investigated by both DCFS and One Hope United and was ultimately found to be "unfounded." Moreover, Shell opined that all of K.S.'s medical, dental, vision and hearing needs have been met while he has been in Miss J.'s care.

¶ 30 Based on her review of the records kept by her predecessor as well as her own observations of K.S. while he has been in Miss J.'s care, Shell testified that it was her opinion as well as the opinion of One Hope United that "it [wa]s in the best interests [of K.S.] to have [Candace L.'s] parental rights terminated." She explained the basis for her opinion as follows: "K.S. has been in the home *** for almost four [years]. He's extremely bonded to the foster parent. He acknowledges the foster parent as his parent. He appears to be very comfortable in the home and appears to want to remain in the home."

¶ 31 Miss J. was also called to testify during the best interest hearing. She confirmed Shell's assessment that K.S. "love[d]" living with her and her other foster children and testified that they

have "family nights on Fridays once a week. " Miss J. further testified that K.S. has learned "all his alphabets; all his colors; [and] all his numbers" during the time that he has lived with her. He has also learned to dress himself and is a "happy little boy" who "loves everybody." Miss J. acknowledged that Candace L. loved her son, but stated: "I love that little boy just like she does. I didn't have him; but I love him ***he grows on you." Although she expressed a willingness and desire to formally adopt K.S. and "keep him for the rest of [her] life," Miss J. reiterated that she will always maintain "an open-door policy" for Candace L. and will always allow her to visit K.S. She confirmed that K.S. loved his mother and testified that she believed that it would be a positive thing if Candace L. remained in his life.

¶ 32 After hearing this testimony as well as arguments from the parties, the circuit court concluded that the termination of Candace L.'s parental rights was in K.S.'s best interest. The court explained its decision as follows:

"I do find that it is in the best interest so for the minor K.S. to terminate the parental rights of [Candace L.], the mother, and Jason B[], the father, and to appoint Debra Dyer-Webster as the Guardian with the right to consent to [adoption]; and though I have no doubt, [Candace L.] that you love your son and he probably loves you just as much, I have to do now what is in his best interest. He deserves some permanency in his life. He has been in that home since he was a little over a year. He's been there for over three-and-a-half years. He's bonded and attached to the foster parents.

That's been his only placement. He seems to be happy. He's thriving. He's doing well and for those reasons [I] find it is in his best interests to terminate those parental rights and appoint Miss [Dyer-]Webster as the guardian in this case.

*** The Court finds that the appropriate goal in this case is adoption. The minor has been placed in his current home for three-and-a-half years of his four-and-a-half years. He's grown and happy there. He's thriving."

¶ 33 This appeal followed.

¶ 34 ANALYSIS

¶ 35 On appeal, Candace L. seeks reversal of the circuit court's order terminating her parental rights, arguing that the State failed to prove by a preponderance of the evidence that that it was in K.S.'s best interest to do so. She argues that evidence presented during the lower court proceedings established that: she loved her son; they shared a "strong bond;" their visits were always been "safe and appropriate," and "it would be a positive for K.S. for his mother to remain in his life."

¶ 36 The State and Public Guardian both respond that the circuit court carefully weighed the relevant statutory best interest factors and properly determined the termination of Candace L.'s parental rights was in K.S.'s best interests.

¶ 37 It is well-recognized that "[a] biological parent's right to raise his or her child is a fundamental liberty interest." *In re Gwynne P.*, 215 Ill. 2d 340, 353 (2005). Because Illinois law favors natural parents retaining custody of their children (*In re Haley D.*, 2011 IL 110886, ¶ 90), the involuntary termination of a party's parental rights has been deemed a "drastic measure" (*People v. Phyllis B.*, 231 Ill. 2d 459, 463 (2008)) since it "permanently and completely" severs the natural parent-child relationship (*People v. Brenda T.*, 212 Ill. 2d 347, 356 (2004)). In Illinois, the authority to involuntarily terminate parental rights is purely statutory and the scope of the court's authority is based on a two step-process set forth in the Illinois Juvenile Court Act (705 ILCS 405/1-1 *et seq.* (West 2012)) and the Illinois Adoption Act (705 ILCS 50/0.01 *et seq.*

(West 2012)). See *In re J.L.*, 236 Ill. 2d 329, 337 (2010); *In re E.B.*, 231 Ill. 2d 459, 463 (2008). In accordance with that process, once a petition to terminate parental rights is filed in the circuit court pursuant to section 2-29 of the Juvenile Court Act, the cause proceeds first to a fitness hearing. 705 ILCS 405/2-29 (West 2010); *In re J.L.*, 236 Ill. 2d at 337; *In re Julian K.*, 2012 IL App (1st) 112841, ¶ 63. If, at the conclusion of the fitness hearing, the court finds by clear and convincing evidence, that the parent is unfit, as that term is defined in section 1 of the Adoption Act, the cause then proceeds to a best interest hearing. 705 ILCS 405/2-29(2), (4) (West 2012); 750 ILCS 50/1(D) (West 2012); *In re J.L.*, 236 Ill. 2d at 337; *In re Julian K.*, 2012 IL App (1st) 112841, ¶ 63.

¶ 38 At a best interest hearing, "[t]he issue is no longer whether parental rights *can* be terminated; the issue is whether, in light of the child's needs, parental rights *should* be terminated." *In re D.T.*, 212 Ill. 2d 347, 364 (2004). Accordingly, because a parent's lack of fitness to have physical custody of her child does not automatically mean that termination of her parental rights is in the best interest of that child (*In re Tajannah O.*, 2014 IL App (1st) 133119, ¶ 18; *In re M.F.*, 326 Ill. App. 3d 1110, 1115 (2002)), it is incumbent upon the State to prove by a preponderance of the evidence that the termination of parental rights is in "the best interest" of the child. 705 ILCS 405/2-29(2) (West 2010); *In re J.L.*, 236 Ill. 2d at 337-38; *In re Gwynne P.*, 215 Ill. 2d at 354; *In re N.T.*, 2015 IL App (1st) 142391, ¶ 28. When called upon to make a determination regarding a minor's best interest, the circuit court is required to "to look to all matters bearing on [the child's] welfare," including the factors delineated in section 1-3 of the Juvenile Court Act. 705 ILCS 405/1-3 (4.05) (West 2012); *In re Tajannah O.*, 2014 IL App (1st) 133119, ¶ 19. Pursuant to that provision, "the trial court is required to consider and balance [the] different factors, and to do this multifactor-balancing while keeping in mind the child's age and

developmental needs." *In re Julian K.*, 2012 Ill App (1st) 112841, ¶ 81. Specifically, section 1-3 provides as follows:

"Whenever a 'best interest' determination is required, the following factors shall be considered in the context of the child's age and developmental needs:

- (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 love, attachment, and a sense of being loved);
 - (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 2012).

¶ 39 Although the court must consider each of these factors in ascertaining the best interest of the child, no single statutory factor is dispositive. *In re Austin W.*, 214 Ill 2d 31, 50 (2005); *In re Tajannah O.*, 2014 IL App (1st) 133119, ¶ 19. Moreover, the court need not make explicit reference to each of these factors when setting forth its best interest finding. *In re N.T.*, 2015 IL App (1st) 142391, ¶ 28; *In re Tajannah O.*, 2014 IL App (1st) 133119, ¶ 19. In addition to these statutory factors, our supreme court has instructed that "[o]ther important considerations when deciding a child's best interests are 'the nature and length of the child's relationship with the present caretaker' and the effect a change of placement would have upon the emotional and psychological well-being of the child." *In re Austin W.*, 214 Ill. 2d at 50, quoting *In re Violetta B.*, 210 Ill. App. 3d 521, 534 (1991). Ultimately, a trial court's best interest determination will not be reversed unless it is against the manifest weight of the evidence. *In re N.T.*, 2015 IL App (1st) 142391, ¶ 28; *In re Julian K.*, 2012 IL App (1st) 112841, ¶ 64. "A finding is against the manifest weight of the evidence only if the opposite conclusion is clearly evident or if the lower court's determination is 'unreasonable, arbitrary, or not based on [the] evidence presented.'" *In re Angela D.*, 2012 IL App (1st) 112887, ¶ 28, quoting *In re J.Y.*, 2011 IL App (3d) 100727, ¶ 21.

¶ 40 Here, the record reveals that the circuit court engaged in a thoughtful and comprehensive analysis of the best interest factors in determining that the termination of Candace L.'s parental rights was in K.S.'s best interests and we are unable to conclude that its finding is against the manifest weight of the evidence. The evidence presented at the best interest hearing established that K.S. has spent the vast majority of his childhood in Miss J.'s care. The evidence also established that during the time that K.S. has been living with her, Miss J. has ensured that all of

his physical, medical, psychological, educational and emotional needs were met on a consistent basis. By all accounts, K.S. has been happy and thriving in Miss J.'s household. Although there is no dispute that Candace L. loves and shares a bond with her son, we emphasize that the mere existence of a bond between a child and his natural parent, standing alone, does not support a finding that termination of the parent's parental rights is against the manifest weight of the evidence. See, e.g., *In re N.T.*, 2015 IL App (1st) 142391, ¶ 29; *In re Tajannah O.*, 133119, ¶ *In re Angela D.*, 2012 IL App (1st) 112887, ¶ 39; *In re Julian K.*, 2012 IL App (1st) 112841, ¶ 83. Moreover, we note that the record reflects that K.S. has also developed a strong bond with Miss J. Indeed, Felicia Shell, a case manager with One Hope United, testified without equivocation that K.S. was "very bonded" and "very attached" to Miss J. and that he has also begun to establish bonds with Miss J.'s other foster children and her extended family. We further observe that Miss J. has expressed a willingness to facilitate a continued relationship between Candace L. and K.S. if she were permitted to formally adopt him. Although Candace L. is correct that a biological parent is not guaranteed future contact with her child once her parental rights are terminated, courts have nonetheless considered a foster parent's willingness to allow continued contact between the child and natural parent when making a determination as to the child's best interests. See, e.g., *In re Tajannah O.*, 2014 IL App (1st) 133119, ¶ 23; *In re Angela D.*, 2012 IL App (1st) 112887, ¶ 41; *In re Julian K.*, 2012 IL App (1st) 112841, ¶ 83.

¶ 41 Ultimately, after reviewing the record and the pertinent best interest factors, we hold that the circuit court's decision to terminate Candace L.'s parental rights is not against the manifest weight of the evidence. In doing so, we necessarily reject Candace L.'s contention that the court should have ordered a "less drastic best interest determination, such as guardianship," which would have allow K.S. to remain in Miss J.'s care while also allowing him to maintain his

relationship with her. In making its best interest determination, the circuit court specifically emphasized that the termination of Candace L.'s parental rights would allow K.S. the permanency he "deserve[d]." Given that one of the fundamental purposes of the Juvenile Court Act is to secure permanency for the child as soon as possible (705 ILCS 405/1-2(1) (West 2012); *In re Angela D.*, 2012 IL App (1st) 112887, ¶ 41), we cannot agree that the circuit court's decision to provide K.S. with greater permanency by terminating Candace L.'s parental rights is against the manifest weight of the evidence. See *In re Tajannah O.*, 2014 IL App (1st) 133119, ¶ 33 ("[J]ust as with any determination involving a minor's best interest, setting a permanency goal, including one for guardianship, is within the broad discretion of the trial court, and its decision will not be disturbed unless it is contrary to the manifest weight of the evidence, which occurs only where the opposite conclusion is clearly apparent").

¶ 42

CONCLUSION

¶ 43

Accordingly, the judgment of the circuit court is affirmed.

¶ 44

Affirmed.