2015 IL App (2d) 150432-U
No. 2-15-0432
Order filed September 16, 2015

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

In re E.R., a Minor	)	Appeal from the Circuit Court
	)	of DeKalb County.
	)	
	)	No. 13-JA-029
	)	
(The People of the State of Illinois, Petitioner-Appellee, v. Dorian A., Respondent-Appellant).	)	Honorable
	)	Ronald G. Matekaitis,
	)	Judge, Presiding.

JUSTICE SPENCE delivered the judgment of the court.
Justices Hutchinson and Burke concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court properly found that respondent was unfit and that it was in the minor's best interests to terminate her parental rights.

¶ 2 After finding respondent, Dorian A., unfit, the trial court terminated her parental rights to minor E.R. Respondent appeals the trial court's finding that she was unfit and the order terminating her parental rights. In addition, respondent argues that the trial court erred in considering E.R.'s best interests when ruling on the fitness hearing; that the petition for termination of rights failed to a state of cause of action with respect to one ground; and that the trial court erred by allowing counsel for the Department of Children and Family Services (DCFS) to participate in the proceedings. We affirm.

¶ 3 I. BACKGROUND

¶ 4 The minor boy, E.R., was born April 10, 2013. The case came into care based on a domestic violence incident that occurred on July 5, 2013, when E.R. was about three months old. While in their car at a gas station, E.R.'s father repeatedly punched respondent when she was holding E.R. E.R. was not injured but respondent suffered a black eye and bruises on her body. Both respondent and E.R.'s father were intoxicated, and the police were called.

¶ 5 On July 17, 2013, the State filed a neglect petition against respondent. On October 11, 2013, respondent stipulated to count III, which alleged that E.R.'s environment was injurious to his welfare because respondent and E.R.'s father had engaged in domestic violence while she was holding him. A dispositional order, dated November 22, 2013, indicated that respondent was unfit based on issues with alcohol and domestic violence.

¶ 6 A permanency order, dated April 18, 2014, indicated that respondent had not made reasonable progress or efforts toward returning E.R. home. Respondent needed to be consistent with services and to cooperate with and stay in contact with the agency. In a second permanency order, dated October 17, 2014, the court again found that respondent had not made reasonable progress or efforts towards E.R.'s return home.

¶ 7 On December 16, 2014, the State filed a petition to terminate respondent's parental rights. The State alleged that respondent was unfit on three grounds: (1) she had an addiction to alcohol and drugs for at least one year (750 ILCS 50/1(D)(k) (West 2014)); (2) she failed to make reasonable efforts to correct the conditions that led to the removal of the minor (750 ILCS 50/1(D)(m)(i) (West 2014)); and (3) she failed to make reasonable progress toward the minor's return within nine months after the neglect adjudication, which occurred on October 11, 2013 (750 ILCS 50/1(D)(m)(ii) (West 2014)).

¶ 8 A. Fitness Hearing

¶ 9 A two-day fitness hearing took place in February and March of 2015. It was a joint hearing for respondent and for E.R.'s father. Because E.R.'s father is not a party on appeal, however, we summarize only the evidence pertaining to respondent.

¶ 10 The caseworker, Kristina Ochoa, testified as follows. After respondent's case opened in July 2013, Ochoa became the caseworker in October 2013. She had been the caseworker for the past 18 months.

¶ 11 A November 2013 service plan required respondent to provide truthful and accurate information to the service providers, to obtain a substance abuse assessment and a psychiatric evaluation, and to attend individual therapy and domestic violence counseling. Respondent made attempts to attend services in the beginning but did not progress. Ochoa testified that respondent "dropped the ball" at the beginning of 2014 because she did not participate in services.

¶ 12 The service plan indicated that respondent had completed an initial alcohol/substance abuse assessment at Ben Gordon on August 6, 2013, but had not begun therapy. On September 20, 2013, respondent completed a psychiatric evaluation, but she had not started the recommended services. According to the service plan, respondent was diagnosed with alcohol dependence, major depressive disorder, and generalized anxiety disorder. Respondent had also completed a domestic violence screen but had attended only two of six domestic violence counseling service appointments. As a result, she was unsatisfactorily discharged from that program.

¶ 13 The service plan stated that respondent had been sober based on random urine toxicology reports. However, she had not completed the alcohol/substance abuse assessment or started services. Respondent's November 26, 2013, drug drop testified positive for Benzodiazepines, and in 2014, she failed to complete drug drops on February 16 and March 12. Respondent's

March 27 drug drop tested positive for Benzodiazepines and Alprazolam. In addition, respondent missed two drugs drops in May 2014.

¶ 14 According to the service plan, respondent had an emergency order of protection against E.R.'s father that was based on him showing up on the weekends during her visits with E.R. The order of protection remained in existence until February 2014, at which time respondent was supposed to renew it. Respondent received an overall unsatisfactory rating on the first service plan.

¶ 15 Ochoa testified that respondent was again rated unsatisfactory for the second service plan, dated June 2014. Respondent did not keep in contact with the agency and missed appointments that she had made. She missed 5 out of 11 group counseling sessions, was inconsistent with the mental health recommendations, and was inconsistent with domestic violence counseling, having missed two visits. Respondent said she was attending AA meetings, which were not required.

¶ 16 Although respondent was not supposed to have contact with E.R.'s father and was supposed to re-file an order of protection against him, she had not done so and occasionally stayed with him. In October 2014, respondent and E.R.'s father were involved in a domestic violence dispute that led to his arrest for domestic violence and unlawful restraint.

¶ 17 Ochoa further testified that at the beginning of the case, respondent said that she was prescribed Xanax and a pain medication, which contained the active ingredients of Alprazolam and Benzodiazepines. At the September 25, 2014, meeting, Ochoa told respondent to bring in a copy of her medications, but respondent did not do so. Respondent did not keep Ochoa updated on what medication she was taking. Ochoa testified that respondent completed drug drops when she came to court. On October 17, 2014, respondent's drug drop tested positive for cannabis and

opiates. In November 2014, respondent's drug drop tested positive for cannabis, cocaine, and Benzodiazepines.

¶ 18 Ochoa further testified that respondent's license had been revoked, and she had no car. Respondent indicated that she had trouble finding transportation to and from services and relied on her mother and a friend for transportation. As a result, Ochoa offered respondent gas cards for the people transporting her. They also discussed the use of bus passes. Ochoa testified that respondent had obtained her GED and had "different jobs on different occasions."

¶ 19 Regarding visitation, respondent had good visits with E.R., and Ochoa had no concerns during visits. Respondent was consistent with visits in the beginning but then became inconsistent. Respondent was likewise inconsistent with overnight supervised visits.

¶ 20 Ochoa's overall opinion was that respondent did not make adequate progress. Although respondent was determined to comply in the beginning, she became inconsistent.

¶ 21 In addition, Ochoa was notified that respondent was involved in a drug incident on September 25, 2014. Aurora police detective Edgar Gallardo investigated that incident and testified as follows.

¶ 22 When Gallardo questioned respondent at the police station, she told him that she had come to Aurora earlier that day for a meeting with her caseworker. She was with a friend, T.J. Respondent and T.J. called some people to purchase drugs, and they showed up with heroin. The people threatened T.J., and respondent was scared. The people took respondent to a hotel, and she snorted heroin. The incident resulted in T.J. and another person, but not respondent, being arrested.

¶ 23 Gallardo testified that when he spoke with respondent at the station, she appeared to be under the influence of drugs in that she slouched in her chair, had droopy eyes, had difficulty focusing on the conversation, and spoke in a low tone.

¶ 24 Respondent testified on her own behalf. She was 23 years old. Before E.R. was removed, she lived with a sister. Then, after he was removed, she moved in with another sister and her mother for about one year. After that, respondent did not have a stable place to live and stayed with different friends and relatives. She had trouble completing services based on her transportation and financial issues. She did not have a driver's license or a job and depended on her mother for rides.

¶ 25 Respondent received her first alcohol/drug abuse evaluation at Ben Gordon Center in DeKalb and then obtained a second one in Kendall County. Respondent was supposed to complete 75 hours of group therapy, and she had 27 hours remaining. Respondent had been taking prescription medication throughout the case through her own doctor, Dr. Armani, in Aurora. Over the past year, she had taken 8 to 10 drug tests. Aside from her medication, many of her tests had been negative, and she never refused to take a test. Respondent admitted that her recent drug drops, taken in court, were positive. She did not believe that she had been diagnosed with an alcohol dependency. She had been attending AA meetings once or twice a week and found them more beneficial than the alcohol and drug treatment required in her service plan.

¶ 26 Respondent was also required to attend individual counseling sessions. She was not sure how many of those she had attended; she was looking for a nearby location to complete the appointments. Respondent attended about five to seven domestic violence services in Aurora; her mother drove her to those appointments. Respondent testified that she was ready, willing, and able to complete the services.

¶ 27 Following the parties' arguments, the court took the case under advisement, stating that it would review the testimony and render its decision at a later date in April 2015. According to the court, if it found respondent unfit, the parties "should be prepared to proceed to best interest." When the parties next appeared on April 17, 2015, the court stated that "this matter comes before

the Court for ruling on the best interest portion of the State's petition to terminate the parental rights of [respondent] and father." The court then summarized its findings regarding respondent's unfitness.

¶ 28 According to the court, the case came into care based on substance abuse issues and domestic violence. Regarding drug drops, in 2014, respondent "failed to drop" on February 16, March 19, May 26, and May 27, and all missed tests were considered positive. "Most disturbing" for the court was the September 2014 incident in which respondent bought and snorted heroin from a stranger after a meeting with her caseworker. In addition, at an October 2014 court appearance, respondent's drug drop tested positive for cannabis and opiates, and at a November 2014 court appearance, respondent's drug drop tested positive for cannabis and cocaine. Though respondent found AA meetings more beneficial than the alcohol and drug counseling mandated by her service plan, "the issue [was] not so much what" respondent believed but what was required. Again, respondent had "tested dirty as recently as November 2014" and was rated unsatisfactory for drug treatment based on the missed and/or positive drops and her inconsistency in attending treatment.

¶ 29 In addition, respondent was "unsatisfactorily discharged from her first domestic violence counseling because of inconsistent attendance." Respondent "dropped" the order of protection she had against E.R.'s father and then was in "another situation of domestic violence" with him in October 2014. Regarding counseling, respondent did not know the last time she attended or how many appointments she needed to attend to complete that service.

¶ 30 Based on these findings, the trial court found respondent unfit on all three grounds alleged by the State: (1) an addiction to alcohol and drugs for at least one year (750 ILCS 50/1(D)(k) (West 2014)); (2) failure to make reasonable efforts to correct the conditions that led to the removal of the minor (750 ILCS 50/1(D)(m)(i) (West 2014)); and (3) failure to make

reasonable progress toward the minor's return within nine months after the neglect adjudication (750 ILCS 50/1(D)(m)(ii) (West 2014)).

¶ 31 At this point, the court asked the State if it was ready to proceed to the best-interest portion of the proceedings. The State answered ready and called Ochoa as its sole witness.

¶ 32 Ochoa testified that E.R. was placed with his maternal aunt (respondent's sister), Regina Zwart, in January 2014. E.R., who had just turned two, had been with Zwart for more than one year. E.R. was "extremely happy" there. He was a "very happy baby, always playful," and "never moody." Since Ochoa became the caseworker in October 2013, she had heard E.R. cry only once, and it was when he had just awakened from a nap. At times, E.R. called Zwart "mama."

¶ 33 E.R.'s maternal grandmother and Zwart's seven-year-old daughter also lived in the home, and E.R. was bonded to them as well. The maternal grandmother watched E.R. during the day. E.R. was treated as part of the family and was involved in all of their activities, such as eating at Chuck E. Cheese and going on walks. When E.R. turned two, they had a little party for him. Overall, the environment was safe and appropriate, and Ochoa had no concerns with this placement.

¶ 34 Regarding respondent's visitation with E.R., there was a bond between the two, and their interactions were loving, happy, and playful. E.R. knew that respondent was his mother. Respondent had overnight weekend visitation but she was not consistent. She would be consistent for months at a time and then not stay overnight. Visits were supervised by Zwart, who reported to Ochoa that sometimes, " 'something was not right.' " Zwart would request respondent to do a drug test, but she never did. Twice over the course of 18 months, respondent showed up to visits under the influence of something and was asked to leave.

¶ 35 Ochoa opined that it was in E.R.'s best interest to stay in Zwart's home given that he had moved there before he turned one; he was very connected to Zwart's daughter; and it had been a "good, appropriate living situation" with no issues. E.R. was young and needed permanency, and respondent had not shown progress during the entire case. In addition, Zwart had agreed to permanency.

¶ 36 Respondent testified on her own behalf. She was living with her sister Zwart when E.R. was born, and they lived there until E.R. was taken away at the age of three months. After E.R. was removed, he was placed with a different foster care family for six to nine months before being placed with Zwart.

¶ 37 Respondent had overnight weekend visitation with E.R. Respondent missed no more than 10 days of visits and would advise Zwart of when she needed to miss; it was due to work. During weekend visitation, respondent was responsible for his daily care, including feeding him, changing his diapers, and doing laundry. They would go on walks and do activities. Respondent's bond with E.R. was "very strong," loving, and happy. If she went outside for even a second, E.R. was scared that she was going to leave. He also ran to her whenever he was hurt. E.R. would call respondent "mommy." Though he called other people "mommy" too, he knew that respondent was his mother.

¶ 38 Respondent wished to remain E.R.'s mother. She did not have her own place and would move back in with Zwart if she retained custody. Respondent worked at a restaurant and planned on completing her counseling and enrolling in school.

¶ 39 Following the testimony, the court rendered its decision, finding as follows. The court had no doubt that respondent loved E.R. However, that was not what the instant hearing was about. Having found respondent unfit, the court had to determine what was in E.R.'s best interests.

¶ 40 The court noted that E.R. had been in care the majority of his life. It was "telling" that even though respondent had spent weekends overnight at the foster parent's home, she never progressed to unsupervised contact outside the premises of the foster home. The court stated, "That's telling for as long as this case has been in care." E.R. was not a 13-year-old; he was two years old and needed permanency. According to the court, the lack of progress in visitation spoke to the depth of respondent's issues.

¶ 41 It was also "telling" that on the very same day respondent met with the caseworker, in regard to the return of E.R., she ended up engaged in a drug transaction and snorting heroin. This incident had "criminal overtones" which was why it was investigated as such. In addition, domestic violence issues had brought the case into care and still existed; respondent had placed herself in situations that allowed her to be the alleged victim of abuse by E.R.'s father.

¶ 42 When the court looked at E.R.'s age and time in care, and the issues respondent still faced, she was not ready now or in the near term to care for him, and the child needed permanency. For all of these reasons, the court found that it was in E.R.'s best interests to terminate respondent's parental rights. The permanency goal was changed to adoption.

¶ 43 Respondent timely appealed.

¶ 44 II. ANALYSIS

¶ 45 A. Proper Standard

¶ 46 Respondent's first argument on appeal is that the trial court erred by confusing the standards and the relevant evidence in the fitness and best-interests hearings.

¶ 47 The termination of parental rights is a two-step process: first, the trial court must find that the parent is unfit, and second, the court must find that termination is in the minor's best interests. *In re Julian K.*, 2012 IL App (1st) 112841, ¶ 63. Because the termination of parental rights constitutes a complete severance of the relationship between the parent and child, proof of

parental unfitness must be clear and convincing. *In re Shauntae P.*, 2012 IL App (1st) 112280, ¶ 88. "Following a finding of unfitness, however, the focus shifts to the child." *In re D.T.*, 212 Ill. 2d 347, 364 (2004). At the best-interest stage of termination proceedings, the 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. *Id.* At this stage, the State bears the burden of proving by a preponderance of the evidence that termination is in the minor's best interest. *In re Jay H.*, 395 Ill. App. 3d 1063, 1071 (2009).

¶ 48 Respondent's argument is based on a single statement by the trial court, although she failed to object when the statement was made. Nevertheless, respondent argues that the issue should be reviewed under plain error because it affects a substantial right. See *In re G.W.*, 357 Ill. App. 3d 1058, 1061 (2005) (applying the plain-error doctrine where the trial court repeatedly invoked the best interests of the minors at the conclusion of the fitness hearing).

¶ 49 The plain-error doctrine contained in Illinois Supreme Court Rule 615(a) (eff. Jan. 1, 1967) provides a narrow exception to the general rule of procedural default. *People v. Lewis*, 234 Ill. 2d 32, 42 (2009). The doctrine allows a reviewing court to consider an unpreserved error when (1) a clear or obvious error occurs and the evidence is so closely balanced that the error alone threatened to tip the scales of justice against the defendant, regardless of the seriousness of the error, or (2) a clear or obvious error occurs and that error is so serious that it affected the fairness of the defendant's trial and challenged the integrity of the judicial process, regardless of the closeness of the evidence. *Id.* at 42-43. The defendant bears the burden of persuasion under both prongs of the plain-error test. *Id.* at 43. Before analyzing the individual prongs, however, our first inquiry under plain-error review is to determine whether any error occurred. *Id.*

¶ 50 In order to determine whether error occurred, we summarize the sequence of events. After the fitness hearing, the court reserved its ruling, stating it would review the testimony and

render its decision at a later date. The court noted that if it found respondent unfit, the parties should be prepared to proceed to a best-interests hearing. When the parties reconvened in April 2015 for the court's fitness ruling, the court began by stating that "this matter comes before the Court for ruling on the best interest portion of the State's petition to terminate the parental rights of" respondent. The court then listed its findings as to why respondent was unfit under the different grounds alleged by the State. After the court announced its decision that respondent was unfit, it asked the State if it was ready to proceed to the best-interests portion of the proceeding, to which the State replied yes. A best-interests hearing was held, after which the court immediately rendered its decision that it was in E.R.'s best interests to terminate respondent's parental rights.

¶ 51 It is the court's one reference to the best-interests hearing, prior to rendering its fitness finding, which leads respondent to conclude that the court weighed and relied on irrelevant evidence of E.R.'s best interests in finding her unfit. Respondent argues that at the very least, the court "possibly misused" a best interests preponderance-of-the-evidence standard in determining fitness when the appropriate standard was clear and convincing evidence.

¶ 52 Respondent likens this case to *In re G.W.*, 357 Ill. App. 3d at 1061, where the trial court mistakenly ordered the termination of parental rights at the fitness hearing. *Id*. at 1061. In *In re G.W.*, the trial court repeatedly confused the standards on the record but made no factual findings illustrating that its statements were mere slips of the tongue. *Id*. at 1060-62. While this court noted that the trial court could have inadvertently misused the standards to be applied and findings to be made, the absence of any factual findings by the trial court prevented this court from ascertaining whether it merely misspoke or was truly confused. *Id*. at 1061-62.

¶ 53 Contrary to respondent's argument, we find no confusion or misuse of standards by the trial court in this case. The trial court's ruling at the fitness hearing properly focused on

respondent, and the trial court's ruling at the best-interests hearing properly focused on E.R. Significantly, respondent does not refer this court to one statement by the trial court from either the fitness hearing or the best-interests hearing that reflects a misunderstanding of the standards or a consideration of improper evidence. Rather, the trial court properly noted that in the event that it found respondent unfit, then the parties should be ready to proceed to a best-interests hearing. This is exactly what occurred. When the parties appeared for the court's fitness ruling, the court was aware that it would rule that respondent was unfit and that the case would proceed to a best-interests hearing. Therefore, technically, the court was correct when it stated that "this matter comes before the Court for ruling on the best interest portion of the State's petition to terminate the parental rights of [respondent] and father," in that the court did hold a best-interests hearing and then terminate the parents' rights immediately thereafter.

¶ 54 But, even if we assume, for argument's sake, that the court misspoke, in that it meant to say that the matter came before the court for a ruling on the fitness portion of the proceedings, the record makes clear that this was nothing more than one, inadvertent slip of the tongue. As stated, the court conducted two separate hearings, applied the correct standards, and considered the appropriate evidence for each. As a result, this case is a far cry from *In re G.W.*, 357 Ill. App. 3d at 1060-62, where the trial court repeatedly confused the standards but made no factual findings, thereby preventing this court from determining whether the misstatements were merely slips of the tongue. Therefore, even if we assume that error occurred in this case, in that the court misspoke, it does not rise to the level of plain error. See *id*. at 1061 (the plain-error doctrine encompasses those errors that are obvious, that affect substantial rights, and that would be an affront to the integrity and reputation of the judicial system).

¶ 55 B. Fitness

¶ 56 Respondent next argues that the trial court erred by finding her unfit. As stated, the trial court found respondent unfit on three grounds: (1) an addiction to alcohol and drugs for at least one year (750 ILCS 50/1(D)(k) (West 2014)); (2) the failure to make reasonable efforts to correct the conditions that led to the removal of the minor (750 ILCS 50/1(D)(m)(i) (West 2014)); and (3) the failure to make reasonable progress toward the minor's return within nine months after the neglect adjudication, which occurred on October 11, 2013 (750 ILCS 50/1(D)(m)(ii) (West 2014)).

¶ 57 Before turning to the merits, the State points out that respondent, in her brief, challenges only two of the trial court's unfitness findings; namely, the failure to make reasonable efforts and the failure to make reasonable progress within nine months. According to the State, because respondent failed to challenge the unfitness finding under 1(D)(k), habitual drunkenness or addiction to drugs for at least one year, we may affirm on this basis, given that only one ground of unfitness is required. See *In re Shauntae P.*, 2012 IL App (1st) 112280, ¶ 89 (although section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2014)) sets forth several grounds under which a parent may be deemed unfit, any one ground, properly proven, is sufficient to enter a finding of unfitness).

¶ 58 In her reply brief, respondent disputes that she has conceded that ground. Respondent makes the conclusory assertion that she "has challenged that finding, that a number of the 'dirty drops' were the result of prescription medications, and the manifest weight of the evidence demonstrates periods of sobriety." As proof that she did not concede this ground, respondent claims that, in her brief, she challenged the court's finding of unfitness "for failure to make reasonable efforts to maintaining [*sic*] sobriety" as well as the finding "of failure to make reasonable progress toward maintaining sobriety." Respondent's argument lacks merit.

¶ 59 The grounds set forth in section 1(D) each provide a discrete basis for a finding of unfitness. See *In re C.W.*, 199 Ill. 2d 198, 217 (2002). Although respondent uses her reply brief to add the word "sobriety" to the other two grounds of unfitness, as evidence that she challenged the unfitness finding under section 1(D)(k), she never independently challenged that ground. Accordingly, while evidence of sobriety may have been relevant to respondent's challenges to the other grounds of unfitness, *i.e.*, whether she made reasonable efforts to correct the conditions that led to E.R.'s removal and whether she made reasonable progress toward E.R.'s return, the fact remains that section 1(D)k was an independent ground of unfitness that respondent failed to challenge. Therefore, respondent has forfeited any challenge to the court's finding of unfitness under section 1(D)(k). See *In re Marriage of Diaz*, 363 Ill. App. 3d 1091, 1098 (2006) (Illinois Supreme Court Rule 341(e)(7) (eff. Sept. 1, 2006) provides that issues not properly raised are forfeited).

¶ 60 Moreover, regardless of respondent's failure to challenge her unfitness on this ground, we note that there was sufficient evidence to show that she was unfit under section 1(D)(k). An addiction to drugs pursuant to section 1(D)(k) means the inability or unwillingness to refrain from the use of drugs "where frequent indulgence has cause an habitual craving, manifested by an ongoing pattern of drug use." *In re Precious W.*, 333 Ill. App. 3d 893, 899 (2002). Evidence of indulgence without intermission is not necessary to prove drug addiction; rather, it is sufficient to show that a person has demonstrated an inability to control his or her habitual craving. *Id.*

¶ 61 As the trial court noted, in addition to several missed drug drops that are considered positive, respondent admitted to ingesting heroin in September 2014; her drug drop tested positive for cannabis and opiates in October 2014; and her drug drop tested positive for cannabis and cocaine in November 2014. Given that two positive tests have been held sufficient to

support a finding of drug addiction (see *In re Angela D.*, 2012 IL App (1st) 112887, ¶ 31 (two positive tests have been held sufficient to support a finding of drug addiction)), respondent's two positive tests combined with her admitted use of heroin amounted to clear and convincing evidence of drug addiction under section 1(D)(k). Because one ground is sufficient for a finding of unfitness, we need not address respondent's arguments as to the other two grounds.

¶ 62 C. Best Interests

¶ 63 Respondent's next argument is that it was not in E.R.'s best interests to terminate her parental rights. A reviewing court will not disturb the trial court's decision at a termination hearing unless it is against the manifest weight of the evidence. *In re Julian K.*, 2012 IL App (1st) 112841, ¶ 65. The reason for this deferential standard is that the trial court is in a superior position to assess the witnesses' credibility and weigh the evidence. *Id*. ¶ 66. A trial court's decision is against the manifest weight of the evidence only when the opposite conclusion is clearly apparent. *In re William H.*, 407 Ill. App. 3d 858, 866 (2011).

¶ 64 Under the Juvenile Court Act of 1987 (Act) (705 ILCS 405/1-2 *et seq.* (West 2014)), the best interests of the minor is the paramount consideration to which no other takes precedence. *In re I.H.*, 238 Ill. 2d 430, 445 (2010). A child's best interests is not to be balanced against any other interest; it must remain inviolate and impregnable from all other factors. *In re Austin W.*, 214 Ill. 2d 31, 49 (2005). Even the superior right of a natural parent must yield unless it is in accord with the best interests of the minor involved. *Id*. at 50.

¶ 65 The Act sets forth the factors to be considered whenever a best interests determination is required, and they are to be considered in the context of the minor'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 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;

(j) the preferences of the persons available to care for the child." 705 ILCS 405/1-3(4.05) (West 2014).

¶ 66 In addition to the above factors, also relevant in a best-interests determination is the nature and length of the minor's relationship with his present caretaker, and the effect that a change in placement would have upon his emotional and psychological well-being. *In re William H.*, 407 Ill. App. 3d at 871.

¶ 67 In support of her argument, respondent points out that she had a loving and happy bond with E.R.; that she visited frequently and stayed overnight; that she was responsible for E.R.'s

care during her weekend visits; that she missed only 10 days of visits; that E.R. referred to her as "mommy"; and that E.R. was scared whenever she left. Respondent also points out that there was no evidence that Ochoa saw her intoxicated in the presence of E.R., and there was no evidence that her relationship and visitation with E.R. would continue if her rights were terminated.

¶ 68 The trial court's decision that it was in E.R.'s best interests to terminate respondent's parental rights was not against the manifest weight of the evidence. At the time of the best-interests hearing, E.R. was two years old and had been living with Zwart for the past 16 months. Ochoa testified that E.R. was extremely happy living with Zwart. According to Ochoa, E.R. was never moody but a very happy, playful baby whom she had seen cry only once. E.R. was also very bonded to Zwart's mother and her seven-year-old daughter. They treated E.R. like part of the family, involving him in all of their activities.

¶ 69 Though respondent argues that the State presented no evidence that visitation would continue, we note that Zwart was respondent's sister and thus a family placement. There was no evidence that Zwart would not continue visitation, especially given Zwart's history of cooperating with overnight visitation and even living with respondent. And while respondent is correct that E.R. called her "mommy," she admitted that she was not the only one he referred to in that way. Ochoa testified that E.R. sometimes called Zwart "mama" as well. Regarding respondent's argument that Ochoa never saw her intoxicated in the presence of E.R., Zwart, who supervised the visits, told Ochoa that respondent showed up to two visits while under the influence of something and was therefore asked to leave. Finally, respondent's strong bond with E.R. was acknowledged by the court. However, E.R. had been in respondent's care a total of three months, meaning he had been in foster care nearly all of his life. At age two, the court found that E.R. deserved permanency, which Zwart was willing to provide. Despite the bond

between E.R. and respondent, the court noted that respondent could not provide permanency now or in the near future.

¶ 70 Given the evidence that E.R. was happy and thriving in Zwart's care, combined with his age and her willingness to provide permanency, we cannot say that the trial court's decision terminating respondent's parental rights was against the manifest weight of the evidence.

¶ 71 D. Attorney Appearance

¶ 72 Respondent's final argument is that this court should reverse the trial court's decision terminating her parental rights based on the lack of a written appearance by the attorney who appeared on behalf of DCFS. Respondent relies on Illinois Supreme Court Rule 13(c)(1) (eff. July 1, 2013), which provides that "[a]n attorney shall file his written appearance or other pleading before he addresses the court unless he is presenting a motion for leave to appear by intervention or otherwise."

¶ 73 The State lists numerous reasons why respondent's argument fails, and we agree that the argument lacks merit. To begin with, respondent never objected to the DCFS attorney appearing at the fitness or best-interests hearing, which results in forfeiture. See *Babikan v. Mruz*, 2011 IL App (1st) 102579, ¶ 13 (failure to object at trial results in forfeiture of the issue on appeal).

¶ 74 In addition, respondent cites no case law whatsoever in support of her argument that the lack of a written appearance should result in a reversal of the order terminating her parental rights. Respondent's failure to properly develop this argument and support it with citation to relevant authority also results in forfeiture. See *Compass Group v. Illinois Workers' Compensation Commission*, 2014 IL App (2d) 121283, ¶ 32 (the failure to properly develop an argument and support it with citation to relevant authority results in forfeiture of that argument).

¶ 75 III. CONCLUSION

¶ 76 For the aforementioned reasons, we affirm the judgment of the DeKalb County circuit court.

¶ 77 Affirmed.