2016 IL App (2d) 151247-U
No. 2-15-1247
Order filed May 4, 2016

NOTICE: This order was filed under Supreme Court Rule 23(c)(2) and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

In re J.O., a Minor	)	Appeal from the Circuit Court
	)	of Lake County.
	)	
	)	No. 15-JA-3
	)	
(The People of the State of Illinois, Petitioner-Appellee, v. Joshua O., Respondent-Appellant).	)	Honorable
	)	Valerie Boettle-Ceckowski,
	)	Judge, Presiding.

JUSTICE SPENCE delivered the judgment of the court.
Justices Hutchinson and Hudson 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 his parental rights.

¶ 2 After finding respondent, Joshua O., unfit, the trial court terminated his parental rights to minor J.O. Respondent appeals the trial court's finding that he was unfit and the order terminating his parental rights. We affirm.

¶ 3 I. BACKGROUND

¶ 4 The minor girl, J.O., was born August 3, 2012. The case came into care because J.O. tested positive for opiates at birth.[1] The Department of Children and Family Services (DCFS) took J.O. into temporary custody on September 7, 2012, and the court found J.O. to be a neglected minor on October 23, 2012. J.O. was placed with respondent's mother.

¶ 5 On January 9, 2015, the State filed a petition to terminate respondent's parental rights. The State alleged that respondent was unfit on four grounds: (1) he had failed to protect the minor from conditions within her environment injurious to her welfare (750 ILCS 50/1(d)(g) (West 2014)); (2) he 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)); (3) he failed to make reasonable progress towards the minor's return within nine months after the neglect adjudication, which occurred on October 23, 2012 (750 ILCS 50/1(D)(m)(ii) (West 2014)); and (4) he failed to make reasonable progress towards the return of the minor during any nine-month period after the initial nine-month period following the neglect adjudication, which was from July 2013 to April 2014, and from April 2014 to January 2015 (750 ILCS 50/1(D)(m)(ii) (West 2014)).[2]

¶ 6 A. Fitness Hearing

¶ 7 A fitness hearing took place on June 18 and August 20, 2015. Julie Cohn, a foster care supervisor of Uhlich Children's Advantage Network (UCAN), testified as follows. Cohn supervised the caseworkers handling respondent's case. Respondent's first service plan, which ended in March 2013, required him to engage in substance abuse treatment, random drug testing (drops), counseling, and meetings with the caseworker. In addition, he was required to verify

[1] J.O.'s mother surrendered her parental rights and consented to the minor's adoption.

[2] The State's citation to 1(D)(m)(iii) is based on an outdated version of the statute. See Pub. Act 85-532 (eff. Jan. 1 2014) (amending 750 ILCS 50/1(D)(m) (West 2014)).

housing and employment. Respondent's visitation was supervised in the beginning and then progressed to unsupervised visitation. Respondent received a satisfactory rating on the first service plan, and the goal was return home. After receiving that satisfactory rating, however, respondent was arrested for possession of heroin that same month, and visitation returned to supervised.

¶ 8 UCAN caseworker Morgan Diaz testified as follows. Diaz completed an integrated assessment with respondent in March 2013, at which time he admitted he had a history of substance abuse. Initially, respondent had been addicted to prescription pain pills. Then, when he could no longer obtain prescription pills, respondent used heroin as a pain medication. In addition, respondent's criminal history included an arrest for driving under the influence.

¶ 9 The second service plan, which spanned from March to September 2013, continued the goal of return home. The plan required respondent to participate in substance abuse treatment, random urine screens, recovery meetings such as Alcoholics Anonymous or Narcotics Anonymous, and individual therapy. Respondent received an unsatisfactory rating on the second plan. In particular, he failed to engage in any substance abuse treatment since March or April 2013. Also, as stated above, in March 2013, respondent was arrested for a felony involving heroin and incarcerated for one week. Though respondent re-enrolled in the Rosecrance treatment facility, he missed two of the four sessions and provided no excuse for his absences. In addition, respondent failed to: (1) secure appropriate housing; (2) participate in random drops; and (3) attend recovery meetings. According to Diaz, respondent did participate in individual therapy, but only "marginally."

¶ 10 After respondent received an unsatisfactory rating in September 2013, a permanency hearing was held, and the goal was changed to guardianship. Diaz explained that, based on

respondent's lack of participation over the past 10 months, guardianship with the paternal grandmother was in J.O.'s best interest. Respondent agreed with this change in goal.

¶ 11 For the third service plan, which encompassed the period between September 2013 and March 2014, respondent received another unsatisfactory rating. Diaz explained that although substance abuse was the major issue for this six-month period, respondent failed to participate in substance abuse treatment, inpatient or outpatient treatment, or random drops. In addition, he did not attend recovery meetings or provide proof of employment. Also, respondent's housing was not appropriate because he was sleeping on a mattress in his sister's living room. Respondent did participate in individual therapy.

¶ 12 Chaleise Jackson, another UCAN caseworker, handled respondent's case from May to December 2014. Her handling of the case overlapped with the fourth service plan, which spanned from March to September 2014. Respondent, again, received an unsatisfactory rating on this plan. The concern was that respondent was using drugs because "he was refusing drops," and respondent was asked to complete random drug drops twice a month. Also, respondent did not participate in substance abuse treatment and had not completed a substance abuse evaluation. Jackson explained that she did not have respondent sign any releases because respondent refused all services. Moreover, respondent "barely" participated in individual therapy; it was once a month. After Jackson spoke to respondent and his therapist about increasing his therapy, respondent was ultimately discharged from therapy, unsuccessfully, in November 2014. In addition, respondent's housing was still not stable, and he provided no proof of employment. At some point, possibly after the March to September 2014 service plan, respondent was placed on probation. Respondent complied with the terms of probation but was not doing drug tests as often as UCAN requested. Overall, during the eighth-month period that Jackson handled the case, respondent refused all services, which rendered his progress unsatisfactory.

¶ 13 Also, on September 30, 2014, J.O. was removed from her paternal grandmother's home due to a violation of the visitation plan. After respondent's May 2013 arrest, his mother was not allowed to supervise visitation. However, UCAN supervisor Cohn observed a violation of this policy when she saw respondent, his mother, and J.O. together at a Walgreens on September 28, 2014. There were also concerns that respondent was living with them. As a result, J.O. was moved to traditional foster care. The following month, on October 14, 2014, the goal changed from guardianship to substitute care pending termination of parental rights.

¶ 14 Diaz took over respondent's case again in December 2014. At some point, Diaz was advised by respondent's probation officer that respondent had had a positive drop for heroin on December 12, 2014. Respondent also admitted, at a court hearing, to using heroin on January 8, 2015. Because defendant had violated his probation, he was incarcerated for several weeks. Having handled respondent's case two different times, Diaz testified that respondent was cooperative at first. Respondent's participation deteriorated over time, however, largely because of substance abuse. Throughout the case, respondent had received all of the service plans and had been instructed what was required in order to have J.O. returned to him. Diaz had also explained to respondent that even though he performed drops for probation, he needed to perform drops for UCAN as well.

¶ 15 Respondent testified on his own behalf at the fitness hearing. He had attended Rosecrance in August or September of 2012. He spent nine days as an inpatient and then underwent nine months of intensive outpatient treatment. Respondent stopped attending Rosecrance based on a confidentiality breach in which a member of his class was arrested and shared information with J.O.'s mother, who was also incarcerated. When respondent confronted personnel at Rosecrance about the situation, they agreed that the breach should not have happened and decided that he was ready to graduate to the aftercare program. Respondent then

found a job and was told he could call Rosecrance when he needed to miss, which he did. However, respondent received a call saying he had been discharged. Respondent did not understand why he was discharged when he had attended recovery meetings and heroin anonymous (HA) meetings. After respondent's arrest in May 2013, he was re-evaluated by Rosecrance and told that he did not need to complete the Rosecrance program again. Currently, respondent was in good standing with his substance abuse treatment. In addition, when respondent was placed on probation, he performed every drop requested, which was once per month or once every two months. Respondent knew that his caseworker would talk to his probation officer.

¶ 16 Respondent further testified that the visitation violation at Walgreens was due to him not having a license and needing a ride from his mother. He thought that after his mother had guardianship of J.O, all he would need to do was file something to regain custody of her. Respondent admitted that he was irritated with UCAN because his caseworkers had switched so many times. According to respondent, he could take care of J.O. because he already had a 10-year-old son whom he cared for and loved. He also had a good support system of his mother and his son's mother.

¶ 17 The trial court found respondent unfit on three of the four grounds alleged by the State: (1) he 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)); (2) he failed to make reasonable progress towards the minor's return within nine months after the neglect adjudication, which occurred on October 23, 2012 (750 ILCS 50/1(D)(m)(ii) (West 2014)); and (3) he failed to make reasonable progress towards the return of the minor during any nine-month period after the initial nine-month period following the neglect adjudication, which was from July 2013 to April 2014, and April 2014 to January 2015 (750 ILCS 50/1(D)(m)(ii) (West 2014)).

¶ 18 Regarding the first ground of reasonable efforts, the court noted that even though it was J.O.'s mother who caused the minor to be born "opiate positive," respondent would have been a placement resource had he also not been addicted to heroin throughout the case. Nevertheless, respondent did not make any reasonable efforts to correct his substance abuse, which prevented him from ever caring for J.O. after her birth. Respondent had "multiple relapses" and still had not successfully completed treatment. Regarding the remaining three grounds of failing to make reasonable progress during the relevant nine-month periods, the court found that with the exclusion of the first service plan, respondent was "rated unsatisfactory overall, failed to successfully comply with services and work towards the return home of the minor." Rather than working on his addiction and attempting to become a full-time father and provider for J.O., he chose to continue using drugs and "thought that the easy way out would be through guardianship with his mom." Even when guardianship with his mother was changed, however, respondent's situation did not change, in that he still failed to participate in services and treatment as required for a return home goal. For all of these reasons, the court found respondent unfit.

¶ 19 B. Best Interests Hearing

¶ 20 Following the court's unfitness findings, the case proceeded to a best interests hearing on October 8 and 28, 2015. Mary Ellicson, a court appointed special advocate (CASA) for J.O., testified first. She was appointed in October 2012, when J.O. was 2½ months old. J.O. was originally placed with her paternal grandmother, Barbara Hall, where she remained until September 2014. When J.O. was placed with Hall "at the very beginning," Ellicson observed one visit between respondent and J.O. When Ellicson tried to observe additional visits, she left messages with respondent, but he never returned her calls. Ellicson visited J.O. twice per month and then once per month. During the visits, Hall showed love and affection to J.O. Ellicson's concern with Hall was the lack of outside activity for J.O.; Ellicson had found a lot of free library

programs and park district programs, but Hall did not involve J.O. in any of these activities. Hall always said " 'no' " when Ellicson asked if she had taken J.O. to the park or to a free program; Hall claimed it was " 'too hot or this or that.' " Hall also asked for respite care in regard to J.O. When UCAN removed J.O. from Hall's care, Ellicson agreed with that decision for J.O.'s "betterment and security." Ellicson testified that J.O. never asked her about respondent.

¶ 21 J.O. was placed in a traditional foster home, and Ellicson visited once per month. The house had three bedrooms, and J.O. had her own room. About three or four months later, the foster parents accepted another foster child into their home, a girl who was one year old. J.O. had a good relationship with the other foster child. The foster dad worked nights and the foster mom worked days, and they would see each other a few hours in the middle. There was always a parent at home with the children, and they also had a neighborhood babysitter when needed. J.O. called her foster parents "mommy" and "daddy." The foster parents were very loving towards J.O., and she was treated as part of the family. J.O. also had a relationship with the foster parents' extended family in Boston and Michigan; they all visited regularly. The neighborhood had other children; J.O. had a friend across the street with whom she liked to play. In addition, the foster parents engaged in a lot of community activities such as pumpkin fests, walks, Christmas celebrations, gymnastics, ballet, group readings at the local library, and swimming lessons. According to Ellicson, J.O. was flourishing in the foster family's care. J.O. was a well-adjusted three-year-old with no special needs. In Ellicson's opinion, it would be detrimental to remove J.O. from the foster parents' home.

¶ 22 Diaz testified next as follows. She handled J.O.'s case from November 2012 to April 2014, and then she received the case again in December 2014. J.O. was about one month old when she was placed with Hall, and she had just turned two when she was moved to traditional foster care. During the time J.O. resided with Hall, Diaz saw her twice a month. Once Hall

became licensed, Diaz saw J.O. once a month. Diaz had concerns about J.O. while in Hall's care "about developmental and social aspects of things." Oftentimes, Hall would ask about respite care, because she was tired, but then she would not want J.O. to be in other people's homes. Hall, who was in her mid-60's, was on "heavy medication" for panic attacks and anxiety. Diaz encouraged Hall to join a library program or a Mommy and Me class for more social interaction with other children J.O.'s age, but Hall never enrolled in anything.

¶ 23 After J.O. was moved into the traditional foster home, Diaz visited monthly. The foster parents showed love for J.O., and J.O. called her foster parents "mommy" and "daddy." Also, J.O. had a very close sibling relationship with the other one-year-old who had been placed with the foster parents; they had lived together about seven months. According to Diaz, J.O.'s developmental growth had blossomed in the foster family's care. She was very smart and could do simple addition, and her vocabulary was much improved. In addition, J.O. was involved in ballet, swimming, gymnastics, and a library program, and she would be placed in preschool soon. The foster parents would have story time, go to the park, and go on vacations with J.O. J.O. was bonded to the foster parents and had a relationship with their extended family as well. Diaz opined that it would be detrimental to remove J.O. from the foster parents' care. The foster parents were willing to adopt J.O., as well as the other minor girl in their care, and Diaz opined that it was in J.O.' best interest to achieve permanency with them.

¶ 24 Diaz testified that J.O. never asked about Hall, and the foster parents never reported J.O. asking about Hall either. In addition, J.O. never asked about respondent. Though respondent had been visiting J.O. since Diaz took back the case in December 2014, visits were monthly, and Diaz did not see "any bond during their visiting time." J.O. played with respondent and had a good time, but she did not cry when leaving or show any signs of being upset. Diaz further testified that at a visit the previous day, at which respondent, Hall, and J.O.'s half-brother were

present, J.O. was quieter than normal on the ride home. That night, the foster father reported that J.O. had nightmares.

¶ 25 The foster father, Justin, testified as follows. Justin and his wife lived in a northwest suburb in a three-bedroom house; the neighborhood had lots of parks and trees. He and his wife received J.O. on September 30, 2014, and two months later they received a five-month old foster daughter. J.O. was currently three years old, and the other daughter was 15 months old. J.O. loved her foster sister; they were very close; and they played together all the time. Justin's wife worked during the day, and he worked evenings, which meant that someone was always with J.O. J.O. was scheduled to start preschool the next day. They exposed J.O. to different activities such as gymnastics, swimming, and ballet. Justin and his wife had taken J.O. and the other child to visit family in Boston, and both of their extended families visited regularly and used Skype. Justin had a "very close" fatherly relationship with J.O. J.O. felt at ease with them from the first day she arrived, and they had had her for more than one year. Justin and his wife were willing to adopt her and the other foster child.

¶ 26 Justin had an email account with Hall in which they shared pictures. J.O. never asked about Hall or respondent. J.O. had monthly hour-long visits with respondent. At the visit the day before, J.O. came back more clingy than usual; she seemed afraid. She also woke in the night and came into their room, which she had never done before. J.O. asked if she had to go anywhere, and they said no. Justin would continue emailing pictures to Hall if they were allowed to adopt J.O.

¶ 27 Jamie Gallo testified next on behalf of respondent. Gallo knew respondent after supervising two visits between respondent and J.O. in April of 2014, when she was still placed with Hall. At both visits, J.O. was happy to see respondent. The two were affectionate; she would kiss him, hug his leg, and smile. Respondent never needed to discipline her. They played

together and ate together. When asked if J.O. identified respondent as dad, Gallo respondent, "not that I recall."

¶ 28 Hall testified next. J.O. lived with her a little over two years. At the beginning, respondent was allowed three-hour visitation periods in her home. J.O. was so happy to see respondent; she called him "daddy." She would kiss and hug respondent, and they would sing together. Typically, respondent would read to her or play with her, and they would go to the park together. Respondent's visits were three hours until September 2014, when J.O. was removed.

¶ 29 Hall, age 63, suffered from fibromyalgia and was under a doctor's care; she was doing well. She denied ever asking for respite care when she had J.O. She admitted sending the foster parents two emails saying she hoped J.O. could have an open adoption because she missed her terribly but knew that she could not give her what they could give her. Hall testified that the foster parents provided for J.O. in a way she could not.

¶ 30 Respondent's sister, Missy, testified as follows. She had seen respondent together with J.O. "a lot," most recently one month ago. The visitation was at a library, and Missy attended because she had not seen J.O. in a while. J.O. smiled, ran up to respondent, and called him "daddy." The two played together at the library doing various activities; the visit lasted one hour. They also hugged, held each other, and read together in each other's arms; the affection was mutual. J.O. was "absolutely" bonded to respondent.

¶ 31 The final witness, Crystal Krotky, grew up with respondent. She also transported respondent to visits when J.O. lived with Hall. During the visits, respondent would change J.O.'s diaper, feed her, and give her a bath. J.O. would get very upset when he left. The two hugged and shared affection. When questioned, Krotky was not aware that she was not approved by UCAN to attend visitation.

¶ 32 The trial court issued its decision on November 19, 2015, and it determined that it was in J.O.'s best interest to terminate respondent's parental rights. The court found as follows. The State presented credible testimony from Ellicson and Diaz that J.O. was a well-adjusted little girl who was bonded to her foster parents. She felt love from them and was a part of their family. The foster parents were able to care and provide for her and were also willing to adopt her. J.O. sought love and affection from them, and they involved her in activities and their extended family. Also, there was another foster child in the home that J.O. identified as a sister. Though J.O. knew respondent and was comfortable with visits and happy to see him, Diaz testified that she was not upset when visits were over. Diaz did not observe a bond between respondent and J.O. According to the court, simply having a relationship with J.O. was not enough; the question was what was in J.O.'s best interests. The court found that it would be detrimental to J.O. to move her and delay permanency, and respondent was not in a position to care for her at that time. Thus, the State had met its burden, and the court terminated respondent's parental rights. Following the court's ruling, the permanency goal was changed to adoption.

¶ 33 Respondent timely appealed.

¶ 34 II. ANALYSIS

¶ 35 A. Unfitness

¶ 36 Respondent's first argument on appeal is that the trial court erred by finding him unfit. 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.

¶ 37 A finding of unfitness involves factual findings and credibility assessments that the trial court is in the best position to determine. *In re Tiffany M.*, 353 Ill. App. 3d 883, 889-90 (2004). A reviewing court defers to the trial court's factual findings and will not reverse its decision unless the findings are against the manifest weight of the evidence. *Id.* A finding is against the manifest weight of the evidence only if the opposite conclusion is clearly evident or if it is unreasonable, arbitrary, and not based on the evidence. *Id.*

¶ 38 As stated, the trial court found respondent unfit on three grounds: (1) 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)); (2) the failure to make reasonable progress towards the minor's return within nine months after the neglect adjudication, which occurred on October 23, 2012 (750 ILCS 50/1(D)(m)(ii) (West 2014)); and (3) the failure to make reasonable progress towards the return of the minor during any nine-month period after the initial nine-month period following the neglect adjudication, which was from July 2013 to April 2014, and from April 2014 to January 2015 (750 ILCS 50/1(D)(m)(ii) (West 2014)).

¶ 39 We begin by considering the propriety of the trial court's finding of unfitness with respect to the third ground stated above. For that allegation, the State identified two nine-month periods in which respondent failed to make reasonable progress towards J.O.'s return - July 2013 to April 2014, and April 2014 to January 2015. See *In re S.L.*, 2014 IL 115424, ¶ 24 (there may be more than one possible nine-month period from which the State could seek to prove unfitness). Reasonable progress toward the return of the child "may be measured by looking at the parent's compliance with the service plans and the court's directives in light of the conditions that gave rise to the removal of the child and in light of other conditions that later became known and would prevent the court from returning custody of the child to the parent." *In re Janine M.A.*, 342 Ill. App. 3d 1041, 1051 (2003). Whether a parent has made reasonable progress is

judged by an objective standard. *Id*. Reasonable progress may be found when the trial court can conclude that the parent's progress is sufficiently demonstrable and of such quality that the child can be returned to the parent in the near future; it requires measurable or demonstrable movement toward the goal of reunification. *Id*.

¶ 40 As stated, compliance with the service plans is a way to measure respondent's progress, and respondent was rated unsatisfactory on two service plans during the first July 2013 to April 2014 period. For example, the second service plan was rated in September 2013. For that plan, respondent failed to engage in any substance abuse treatment since March or April 2013; he failed to participate in random drops or attend recovery meetings; and he failed to secure appropriate housing. For the third service plan rated in March 2014, Diaz explained that substance abuse was the major issue. However, respondent failed to participate in substance abuse treatment, inpatient or outpatient treatment, random drops, or recovery meetings. In addition, respondent failed to provide proof of employment or secure appropriate housing. Thus, under an objective standard, respondent showed no measurable or demonstrable movement towards reunification during this nine-month period.

¶ 41 For the second nine-month period, from April 2014 to January 2015, respondent again received an unsatisfactory rating on the fourth service plan in September 2014. Jackson, who was now handling respondent's case, testified that respondent was "refusing drops" despite being asked to complete random drops twice a month. Also, respondent did not participate in substance abuse treatment and had not completed a substance abuse evaluation. In addition, respondent's housing was still not stable, and he provided no proof of employment. In fact, there were concerns that respondent was living with his mother and J.O., and he violated the visitation policy by being at Walgreens with the two of them in September 2014.

¶ 42 Respondent concedes that he failed to comply with the service plans but notes that he complied with the terms of probation. However, Diaz testified that she explained to respondent that even though he performed drops for probation, he needed to perform drops for the service plan as well. Moreover, Diaz was advised by respondent's probation officer that respondent admitted to having a positive drop for heroin on December 12, 2014.[3]

¶ 43 Respondent also argues that Jackson overstepped her bounds by suggesting counseling more often than once per month. While this was the only service respondent was complying with, Diaz described him as "marginally" complying, and Jackson described him as "barely" complying. Regardless, respondent was unsuccessfully discharged from individual counseling in November 2014.

¶ 44 As stated, reasonable progress requires measurable or demonstrable movement toward the goal of reunification. Respondent, however, demonstrated the opposite with a total lack of compliance with three service plans during the two relevant periods, as well as an admitted heroin relapse. As the trial court found, rather than work on his addiction and attempt to become a father and provider for J.O., respondent chose to continue using drugs and bank on his mother having guardianship of J.O. However, even when J.O. was removed from his mother's custody, he still failed to participate in services and treatment as required for a return home goal. For all of these reasons, we cannot say that the trial court's finding that respondent failed to make reasonable progress during these two nine-month periods was against the manifest weight of the evidence.

[3] Respondent's heroin relapse in January 2015 was technically outside the second nine-month period alleged by the State, which ended in December 31, 2014.

¶ 45 Having reached this conclusion, we need not consider respondent's arguments regarding the other two grounds of unfitness. 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).

¶ 46 B. Best Interests

¶ 47 Respondent's second argument is that it was not in J.O.'s best interests to terminate his parental rights. Following a finding of unfitness, the focus shifts to the child. *In re D.T.*, 212 Ill. 2d 347, 364 (2004). Under the Juvenile Court Act of 1987 (Act) (705 ILCS 405/1-2 *et seq.* (West 2014)), the best interests of the child 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.

¶ 48 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). Once the trial court renders its decision as to the best interests of the child, it will not be reversed by a reviewing court 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).

¶ 49 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).

¶ 50 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.

¶ 51 In arguing that the court erred by terminating his rights, respondent points out that his parenting skills were never at issue. He argues that by the time the State filed the petition to terminate parental rights, he was "safe and appropriate" with J.O. In addition, respondent argues that remaining with him is the only way to ensure J.O. has a strong sense of her family roots and is able to maintain family ties. Finally, respondent argues that just as J.O. demonstrated her ability to adjust to the change in placement to the foster family, she would be able to adjust to change a placement to him. We disagree.

¶ 52 Part of the flaw in respondent's argument is that he focuses on himself rather than the best interests of J.O. See *In re D.T.*, 212 Ill. 2d at 364 (once a parent is found unfit, the focus shifts to the child). The fact that respondent was not required to complete parenting classes removes the focus from what is in J.O.'s best interests. Though respondent argues that J.O. has demonstrated an ability to adjust to changes in placements, he ignores the reality that he is in no position to care for her at this time, which would further delay permanency. As the trial court found, it would be detrimental to move J.O. and delay permanency, in light of respondent's inability to care for her anytime soon. Moreover, although respondent is correct that terminating his parental rights would affect J.O.'s family roots and ties, it is but one factor. *Cf. In re Tashika F.*, 333 Ill. App. 3d 165, 170 (2002) (adoption was merely one factor to consider). Admittedly, J.O. had a relationship with respondent and she always seemed happy to see him during visits. However, we agree with the trial court that simply having a relationship was not enough; the issue was what was in J.O.'s best interests.

¶ 53 As we explain, the trial court's decision that it was in J.O.'s best interests to terminate respondent's parental rights was not against the manifest weight of the evidence. J.O. was three years old at the time of the best interests hearing and had never lived with respondent. Although J.O. had lived with Hall for two years, both Diaz and the foster father testified that J.O. never asked about her. Moreover, even Hall admitted that the foster family was able to provide for J.O. in a way that she was not able to do. The evidence showed that J.O. had been living with the foster family for over one year and was flourishing. J.O. called her foster parents "mommy" and "daddy," and she was very bonded to them and felt love for them. She was also bonded to the other foster daughter in the family, whom she identified as a sister. The foster parents treated J.O. as part of the family, involved her in numerous activities, and included her in visits with their extended family. The foster parents were able to care and provide for J.O., and they wanted to adopt her. They were also willing to continue email correspondence with Hall if allowed to adopt J.O. Given the evidence that J.O. was thriving in the foster family's care, both emotionally and developmentally, we cannot say that the trial court's decision terminating respondent's parental rights was against the manifest weight of the evidence.

¶ 54 III. CONCLUSION

¶ 55 For the aforementioned reasons, we affirm the judgment of the Lake County circuit court.

¶ 56 Affirmed.