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2016 IL App (4th) 150964-U

NO. 4-15-0964

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
August 26, 2016
Carla Bender
4th District Appellate
Court, IL

In re: B.K., a Minor, THE PEOPLE OF THE STATE OF ILLINOIS, Petitioner-Appellee, v. CALEB J. PRIMMER, Respondent-Appellant.	))))))))	Appeal from Circuit Court of Livingston County No. 11JA9 Honorable Robert M. Travers, Judge Presiding.

JUSTICE APPLETON delivered the judgment of the court.
Presiding Justice Knecht and Justice Turner concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court did not make a finding that was against the manifest weight of the evidence when finding it would be in the best interest of the minor to terminate respondent's parental rights.

¶ 2 Respondent, Caleb J. Primmer, appeals from the termination of his parental rights to B.K., born March 3, 2005. (The mother voluntarily surrendered her parental rights and is not a party to this appeal.) Respondent does not challenge the trial court's finding that he was an "unfit person" within the meaning of sections (D)(b), (D)(m)(i), and (D)(m)(ii) of the Adoption Act (750 ILCS 50/1(D)(b), (D)(m)(i), and (D)(m)(ii) (West 2014)). Instead, he challenges the court's subsequent finding that terminating his parental rights would be in B.K.'s best interest. We are unconvinced that the best-interest finding is against the manifest weight of the evidence. Therefore, we affirm the judgment.

¶ 3 I. BACKGROUND

¶ 4 The trial court held the best-interest hearing on November 13, 2015, immediately after the unfit-person hearing. The evidence in the best-interest hearing tended to show the following.

¶ 5 A. The Foster Parents

¶ 6 There had been only one foster placement for B.K. For the past four years, he had been living in Dwight, Illinois, with his maternal grandfather, Bernard Kelleher (age 49); Bernard Kelleher's domestic partner, Tammy Jameson (age 47); and B.K.'s half-sister Isabella (age 8), of whom they also were the foster parents.

¶ 7 B. The Foster Parents' Intention To Adopt B.K. and Isabella

¶ 8 Bernard Kelleher and Tammy Jameson had signed a "permanency commitment form," which informed the Illinois Department of Children and Family Services (DCFS) of their intention to adopt B.K. and Isabella if the two children became available for adoption.

¶ 9 C. The Foster Parents' Employment, Supplemented by Governmental Compensation for Raising the Foster Children

¶ 10 Bernard Kelleher worked at Vactor Guzzler Manufacturing, Inc., in Streator, Illinois, from 6 a.m. to 2 p.m. Monday through Friday. Tammy Jameson worked from 8 a.m. to 4:30 p.m. at Edward Jones. A family friend provided before- and after-school day care.

¶ 11 In addition to their employment income, the foster parents received, from the State of Illinois, $400 per month for B.K. and another $400 per month for Isabella. Adoption would have no effect on these payments, which would continue until the children turned 18.

¶ 12 D. The Foster Home

¶ 13 A licensing worker visited the foster home every month to confirm it remained safe for the children. Also, a caseworker, Natalie Roberts, had been in the foster home several times, and she testified it was "neat and orderly." She described it as follows: "One-story,

semifinished basement where the kids have a game room and a playroom. On the main floor, there's a living/dining area, open floor plan in the kitchen; and then both foster children have their own bedrooms and the master bedroom for the foster parent [*sic*]."

¶ 14 E. B.K.'s Developmental Disabilities

¶ 15 Roberts and Bernard Kelleher testified that B.K. had attention deficit/hyperactivity disorder and that, in the spring of 2015, Easter Seals diagnosed him with autism spectrum disorder. The autism caused him to feel overwhelmed by big crowds and to suffer sensory overload when he was exposed to bright lights or lots of noise. He was hypersensitive to food texture. His extreme directness and matter-of-factness made socialization difficult.

¶ 16 Bernard Kelleher testified, however, that B.K. had made friends, two or three of whom sometimes came over to the foster home, and that he was engaged in school and extracurricular activities, *e.g.*, Cub Scouts, baseball, and wrestling. Initially, when he came into foster care, he was very defiant, very combative—so much so that, the previous school year, he attended an alternative school in Pontiac, Illinois, a school for students with behavioral problems. But he now had calmed down enough that he could attend a special-needs class at Dwight Grade School, where he was a C student (according to Roberts) or an A and B student (according to Bernard Kelleher). He had an individualized education plan, with many accommodations. He struggled with reading, but he received plenty of help at school and home. There was homework time at the foster home, and often, when Roberts stopped by, a foster parent and B.K. were in the midst of homework.

¶ 17 F. The Relationship Between B.K. and His Foster Parents

¶ 18 There is a "strong bond" between B.K. and his foster parents, Roberts testified. He "[g]oes to them for emotional support, for guidance," and he is "very affectionate with [them]." He appears to be healthy and well-cared for. In his testimony, Bernard Kelleher stated his love for B.K.

¶ 19 G. His Ties to Other Family Members

¶ 20 B.K. is very close to his half-sister, Isabella.

¶ 21 Roberts testified that B.K. had expressed to her a desire to live with his mother. But that was not an option anymore, since she had surrendered her parental rights.

¶ 22 The guardian *ad litem* asked Roberts:

> "Q. Does [B.K.] ever make inquiries about [respondent]?
>
> A. He does.
>
> Q. What sort of things?
>
> A. It's typically that he's worried about not seeing his younger brother, Hunter. He wants to visit [respondent], he wants to restore a car with [respondent], he talks about that a lot. Doesn't really ever make mention of wanting to live with him but indicates, you know, concern and worry and a desire to know that they're okay and to visit."

¶ 23 Ever since 2013, when respondent broke off contact with Baby Fold (a DCFS-contracted organization) and went to Wisconsin for several months to be near his mother, there had been no visitation.

¶ 24 H. Contact With Other Siblings

¶ 25 B.K. had another brother, Landon, who lived in a foster home with Tracy Evans. Roberts testified: "[Evans] is actually the [day care] provider. So, [B.K.] occasionally sees

Landon at day[]care. And also they, Tracy and Bernard[,] have times where the siblings all get together and visit."

¶ 26 In his own testimony, Bernard Kelleher testified that Landon was three years old, and he disagreed that Landon, who lived in Morris, Illinois, attended the same day care as B.K. Nevertheless, Kelleher testified: "I would love to see [B.K.] growing up knowing his brothers and sisters and have no problem with them having some kind of visits. We hold a visit now, just so everyone knows, [and] Landon is another sibling [whom] we see regularly."

¶ 27 I. Respondent's Struggle With Prescription Drug Addiction, Which He Has Gotten Under Control, and His Success in Putting His Life Back in Order

¶ 28 One of respondent's witnesses was Andrea Langley, his ex-wife, with whom he had reunited. (Langley is not B.K.'s mother, although she testified she regarded him as her own child.) She testified that, in 2008 or 2009, after his brother passed away, respondent began developing an addiction to prescription medication. At first, it was a mild problem, but gradually it turned into a severe problem. Eventually, the bills stopped getting paid, and home life became stressful.

¶ 29 Respondent testified that, one day, he and Langley got into an argument and he physically sat her down. The police were called. At the end of 2012, as a result of this misdemeanor domestic battery, DCFS removed the children, and Baby Fold required Langley and respondent to separate from one another.

¶ 30 In 2013, respondent told Langley he was going to Wisconsin. He did not give her an address in Wisconsin where he could be reached. He did not give her any money to tide her over while he would be gone. He had no money, because he was obligated to pay $300 a month in child support to B.K.'s mother even though B.K. no longer was in her custody. His driver's

license was suspended because of nonpayment of child support. (Langley had unsuccessfully tried to persuade him to petition for a modification of the child-support order.) Before leaving for Wisconsin, he did not make any arrangements regarding the children: he knew that B.K. was with Bernard Kelleher and that Hunter was with Langley. Because of drugs, he was not thinking clearly. For a little less than four months, he stayed in Wisconsin to maintain sobriety and to avoid some people in Illinois who were a bad influence on him. He knew that, unless he put some distance between himself and these people and unless he stayed away from drugs, he would end up either in prison or in the grave, and he did not want his children to see him in either place.

¶ 31 After pulling himself together in Wisconsin, he returned to Illinois and lived with his cousin for a while, in Decatur, Illinois, saving up some money. He still was drug-free. He had used no drugs at all since the end of 2012 or the beginning of 2013.

¶ 32 Now he, Langley, six-year-old Hunter, and infant brother Cash lived in a trailer in Mount Sterling, Illinois. The trailer was too small for the four of them, but in a week, they would move a couple of miles down the road, into a four-bedroom house with a full basement. He was buying the house on a contract for deed. Langley described the house as follows: "It's a country home with a big yard, four bedrooms, a basement, a garage, plenty of space for everyone, large dining room, large living room."

¶ 33 Respondent and Langley were financially able to provide housing, food, clothing, and medical coverage for B.K. Respondent had two jobs. He worked 45 to 50 hours a week for Gary Wilkerson, who was a farmer and the road commissioner for Elkhorn Township (the farming part of the work was seasonal). He also worked 30 hours every weekend for Dot Transportation, which had "wonderful insurance and benefits." He earned $300 a week from

Wilkerson and $800 a week from Dot Transportation. Also, Langley worked 35 hours a week for Casey's General Store in Mount Sterling, Illinois.

¶ 34 Susan Pierce, a caseworker at Quincy Catholic Charities, testified that respondent and his family were referred to her organization in January 2015, because of respondent's being back in the home with Langley and the two children, Hunter and Cash. Respondent had been cooperating with services, he had completed the substance-abuse program, and now he was working on the domestic-violence program (all his absences, three out of six sessions thus far, were excused because he was holding down two jobs). In her opinion, respondent had strong parenting skills, and the children, *i.e.*, six-year-old Hunter and the infant brother, Cash, were safe with him and responded positively to him. All he had to do was complete 24 sessions of domestic counseling.

¶ 35 Wilkerson had written a letter of recommendation for respondent, who had been working for him for 2 1/2 years. He said respondent was an excellent worker. Respondent testified that Wilkerson was like a father to him.

¶ 36 J. The Father-Son Relationship Between Respondent and B.K.

¶ 37 Respondent, age 27, testified that before B.K. was taken into custody in 2012, he had lived with respondent off and on since 2007. The mother would complete remedial services and regain custody of B.K., but then she would "mess up," and B.K. would be returned to respondent's custody. At first, when B.K. moved back in with them, he would have a little bit of an attitude, but they would work with him, and he would come out of it and start doing well in school. They learned the ins and outs of special education. Then the mother would get him back, and she would mess up again, and the process would start all over again. From 2007 to 2013, B.K. was with respondent and Langley most of the time. Respondent loved every minute

of it, and he believed that B.K. felt the same way. B.K. enjoyed playing with Hunter. He had not even met his infant brother, Cash, as of yet.

¶ 38 B.K. wanted to help restore and repaint a 1969 Camaro parked in the garage of respondent's former father-in-law, Tim Langley. Ever since Tim Langley gave the car to respondent, B.K. had been talking about restoring it.

¶ 39 K. Respondent's Desire To See B.K.

¶ 40 Respondent admitted it was only recently that his desire to visit B.K. had "amped up," to use the assistant State's Attorney's phrase. He explained, however, that he had first wanted to establish a home, find a reliable job, reunite with his ex-wife, and obtain transportation. Dwight, Illinois was a long way away from Mount Sterling, Illinois, and it was hard for him to do anything if he lacked a vehicle and a driver's license.

¶ 41 It sounded to respondent as if B.K. was in a pretty good home, a home where he was loved. Respondent had no problem with Bernard Kelleher. He was B.K.'s grandfather. B.K. had been living with him for four years, and respondent knew that Bernard Kelleher would continue to do whatever he could to provide food, clothing, and shelter for B.K. Respondent just wanted to see B.K.; he wanted to spend time with him. But whenever he asked Bernard Kelleher if he could see B.K. on a certain date, that date just would not work: Bernard Kelleher had a medical appointment or something was on the calender.

¶ 42 Bernard Kelleher testified that, even if he were allowed to adopt B.K., he would have no objection to respondent's visiting B.K. and spending time with him. (B.K.'s mother saw him regularly.) Bernard Kelleher's only condition was that respondent be consistent. He was very protective of B.K. in that regard because he did not think that B.K. would cope well with

disappointed expectations. If respondent arranged for a time to be with B.K., he had to follow through and show up, without fail.

¶ 43 Respondent testified he never had arranged with Bernard Kelleher for a visitation with B.K. and then failed to show up, and he insisted he never would do that. So far, in his telephone conversations with Bernard Kelleher, he had been unsuccessful in nailing down a visitation date, although he had tried. Every date respondent proposed had been, for some reason or other, unworkable. It is not that Bernard Kelleher had denied him visitation; it is just that whenever respondent proposed a date, there seemed to be a schedule conflict. He had not even been allowed to talk with B.K. on the telephone, even when he could hear B.K. in the background.

¶ 44 L. The Guardian *Ad Litem*'s Recommendation

¶ 45 At first, the guardian *ad litem* suggested it would be in the best interest of B.K. to remain with his grandfather and his sister and for visitation to occur. Accordingly, he recommended the termination of parental rights.

¶ 46 Shortly thereafter, the guardian *ad litem* changed his recommendation. He told the trial court:

> "When I finished up my comments to the [c]ourt, I whispered to [the assistant State's Attorney], ['D]amn, I wish I hadn't said that,['] meaning that the termination should go forth. And [respondent's attorney] reminded me of one thing that I had forgotten[,] that this is not a custody dispute; it's not a custody battle; it is what is best for [B.K.] and that he is not going to be moved today or even right away and that it is best and it is good for him to be able to maintain the

contact with the father and with the brothers. So, I think I'm going to change my recommendation; it would not be in the best interest to terminate."

¶ 47 M. The Trial Court's Decision

¶ 48 After hearing the guardian *ad litem*'s recommendation and the arguments of the attorneys, the trial court went through each of the factors in section 1-3(4.05) of the Juvenile Court Act of 1987 (705 ILCS 405/1-3(4.05) (West 2014)).

¶ 49 The first factor was "the physical safety and welfare of the child, including food, shelter, health, and clothing." 705 ILCS 405/1-3(4.05)(a) (West 2014). The trial court considered that factor to be a "wash." The court said: "Nobody's suggesting that the child is going to be abused or is going to be physically in danger if placed with [respondent or if he] remain[s] with [the] grandfather. [The] [g]randfather has been there, [and respondent] has not been there for extended periods; but physical safety is a nonissue."

¶ 50 The second factor was "the development of the child's identity." 705 ILCS 405/1-3(4.05)(b) (West 2014). The trial court said: "This is a nonfactor for me. Nobody's citing any case law or any argument as to what I should do with that particular factor; so, it's a nonfactor."

¶ 51 The third factor was "the child's background and ties, including familial, cultural, and religious." 705 ILCS 405/1-3(4.05)(c) (West 2014). The trial court said: "We know the dates that the child was living with [respondent], [and] we know the dates that the child has been in care *** for the last four years. We know that the child has not forgotten [respondent]; he has mentioned [respondent] and asked about [him]. And either by reason of [respondent's] making himself unavailable or arguably by reason of DCFS['s] interfering with the contact, [he] has not had contact for a substantial period of time. So, here I believe this favors the current placement with [the] grandfather in the fact that that's been developing over the last four years."

¶ 52 The fourth factor was as follows:

> "(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; [and]
>
> (v) the least disruptive placement alternative for the child."
>
> 705 ILCS 405/1-3(4.05)(d) (West 2014).

The trial court said: "I don't know what the child feels. I know the child is doing well; I know the child is stabilized in the home with the grandfather." The child's "sense of security" was "a nonfactor." The child's "sense of familiarity" "favor[ed] [the] grandfather." The court continued:

> "And I have to look at continuity of affection for the child. Is the experience that the child's now going through going to continue if the argument is placement with the grandfather or is going to continue with [respondent]? We'll talk about that in just a second; there's another continuity factor coming up.
>
> I have to look at the least disruptive placement alternative for the child. Well, that's obviously with the grandfather."

¶ 53 The fifth factor was "the child's wishes and long-term goals." 705 ILCS 405/1-3(4.05)(e) (West 2014). The trial court said: "This is a 10-year-old. His long-term goal is probably being in the next Star Wars movie or, you know, batting in the National League or

something; and that's great, okay, that's fantastic, that's what kids need, but it's not much help to me. And no one's given me any information about the child's wishes; so, that's a nonfactor."

¶ 54 The sixth factor was "the child's community ties, including church, school, and friends." 705 ILCS 405/1-3(4.05)(f) (West 2014). The trial court said:

> "And that, once again, favors the [the] grandfather. [Respondent has] been moving around, God bless him[;] he's come from behind here in this particular effort; but it's been hit or miss with him for an extended period of time. It's been a scramble, let's put it that way. He's been on the top now; but in the past, he's been on the bottom. But certainly for the last four years, the child has a sense of stability with the grandfather."

¶ 55 The seventh factor was "the child's need for permanence[,] which include[d] the child's need for stability and continuity of relationships with parent figures and with siblings and other relatives." 705 ILCS 405/1-3(4.05)(g) (West 2014). The trial court said:

> "This is a big paragraph; this is important to the [c]ourt. As far as permanence, continuity of relationships, this favors [the] grandfather. He has been there, he has never failed. [Respondent] has failed, [he] has failed big[-]time. If we're to look at this in the grand scheme of things, present, past[,] and future, all right, which I believe I'm supposed to, here we are, we're at the airport[,] and we have two planes[,] and we're about to put our 10-year-old on one of those two planes[.] [I]t's our choice; we can put the child on the plane that crashed four years ago[—] it's been repaired[,] but there's a risk it may crash again[—]or we can put the child on the plane that's been flying for the last four years, has never crashed, never had a problem. Okay. What do we do? I guess it depends on how much we love the

child. All right? But I suspect the choice that's made by most parents is going to be, ['L]ook, I don't want any risk in relation to this child.['] The analogy is good here for placement with the grandfather and placement with [respondent]. [Respondent has] come back, God bless him; but not too long ago, [he] fell apart completely, to the point where he abandoned his child, his wife, his friends, [his] family[,] and [his] residence and simply took off so he could get his act together. Maybe *** the only reason he bounced back is because he put himself first at that particular time, but he fell apart. Now, has he been repaired to the extent that stress in the future isn't going to get to him? I don't know. But I know, based on what the professionals have told us, that he is at a higher risk than somebody else, in this instance, the grandfather.

I am also touched[,] and I always am[—]I don't know if it's been apparent to counsel[;] you guys usually watch me pretty close[—]but at some point, if I were to return the child to [respondent's] care, the child is going to live with [him]. That's what we're here for, okay? We're not here to establish [respondent's] rights so that the kid can live with somebody else, no. And if that child *** is going to live with [respondent], *** Isabella will be on her own; and he, in this case, [B.K.], would be leaving his sister. And I have heard testimony that the two of them are close; and, once again, continuity and permanence with his sister versus his two brothers or half[-]brothers, what have you. I believe this factor, these factors favor placement with the grandfather."

¶ 56 The eighth factor was "the uniqueness of every family and child." 705 ILCS 405/1-3(4.05)(h) (West 2014). The trial court regarded that factor as a "[n]onfactor."

¶ 57 The ninth factor was "the risks attendant to entering and being in substitute care." 705 ILCS 405/1-3(4.05)(i) (West 2014). The trial court said: "And I have considered those."

¶ 58 The tenth factor was "the preferences of the persons available to care for the child." 705 ILCS 405/1-3(4.05)(j) (West 2014). The trial court said: "And those preferences, obviously, are a wash; each of the, each person involved wants the child."

¶ 59 Finally, the trial court said:

> "I can also consider the nature and length of the child's relationship with his present caretaker and the effect that a change in placement would have upon his emotional and psychological well-being. That is, *In re Tiffany M.*, 353 Ill. App. 3d 883 [(2004)]. If I pull this child out now and he goes back to [respondent], it doesn't matter if we do that in the course of six months[—]I know counsel will be arguing it should be done much faster[—]but if I do it in the course of three months, six months, nine months, whatever it is, we're going to go through the process of breaking ties, removing the child from the school and community, removing the child from his grandfather and sister, [and] removing the child from where he has improved and done well; and I believe that that would be a detriment and would not be in the best interests of the child.
>
> So, overall, I find that it is in the best interests of this child that [respondent's] parental rights be terminated, and they are so terminated."

¶ 60 This appeal followed.

¶ 61 II. ANALYSIS

¶ 62 To terminate parental rights, the trial court must make two separate and distinct findings: (1) the biological parents of the child have validly executed a voluntary surrender of

their parental rights and a consent to adoption, or, alternatively, it has been proven, by clear and convincing evidence, that the parents are "unfit persons" within the meaning of section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2014)); and (2) it has been proven, by a preponderance of the evidence, that it would be in the best interest of the child to terminate parental rights and to appoint a guardian and authorize that guardian to consent to an adoption of the child. 705 ILCS 405/2-29(2) (West 2014); *In re D.T.*, 212 Ill. 2d 347, 366 (2004); *In re M.M.*, 226 Ill. App. 3d 202, 209 (1992).

¶ 63 In this case, the mother voluntarily surrendered her parental rights and consented to adoption, and the trial court found respondent father to be an "unfit person" within the meaning of section 1(D) of the Adoption Act, a finding he does not challenge. He challenges only the finding that it was in the best interest of B.K. to terminate his parental rights.

¶ 64 After an unfit-person finding, the focus of the inquiry shifts to the child. *D.T.*, 212 Ill. 2d at 364. Having found the respondent to be an "unfit person," the trial court may thereafter consider only the best interest of the child (*In re M.C.*, 197 Ill. App. 3d 802, 805 (1990))—specifically, whether termination of parental rights would best serve the child's needs (*D.T.*, 212 Ill. 2d at 364). "Accordingly, at a best-interests hearing, the parent's interest in maintaining the parent-child relationship must yield to the child's interest in a stable, loving home life." *Id.*

¶ 65 We will overturn the trial court's best-interest finding only if it is against the manifest weight of the evidence. *In re Daphnie E.*, 368 Ill. App. 3d 1052, 1072 (2006). A finding is against the manifest weight of the evidence only if it is "clearly evident, plain, and indisputable" that the evidence called for the opposite finding. *Upper Salt Fork Drainage District v. DiNovo*, 385 Ill. App. 3d 1083, 1097 (2008).

¶ 66 With that deferential standard of review in mind, we consider respondent's arguments.

¶ 67 A. Respondent's Self-Reformation

¶ 68 Respondent observes that he has "turn[ed] his life around." He has "reunited with his former wife and his two children with her," and he has "been a good father to those children." He has "obtained excellent employment." He has "established a new and proper home in [Mount] Sterling." He has "successfully completed substance abuse counseling and [has] maintained a sober lifestyle." He has "beg[u]n domestic violence counseling[,] as requested." Pierce and Wilkerson have nothing but compliments about him.

¶ 69 All true, and it is good to hear that respondent has turned his life around. Even so, a reasonable argument could be made that it would be in B.K's best interest for Bernard Kelleher to continue raising him, and to become his adoptive father, because Bernard Kelleher's life, apparently, never had to be turned around. In this regard, the trial court's airplane analogy is apt. All in all, Bernard Kelleher has been the more consistent, more reliable caretaker, and, arguably, keeping B.K. with him minimizes risk.

¶ 70 B. Continuing Ties to Respondent, Hunter, and Langley

¶ 71 It is undisputed that B.K. is close to respondent and Hunter. He asks about them frequently. He probably also is close to Langley, since, according to her testimony, she regards him as her own child. B.K. has repeatedly expressed a desire to visit respondent and Hunter. Respondent argues the trial court "err[ed] in not taking these important statements and B.K.'s feelings into consideration."

¶ 72 But the trial court did expressly take into consideration these statements by B.K. and his feelings toward respondent and Hunter. The court said: "We know that the child has not

forgotten [respondent]; he has mentioned [respondent] and asked about [him]." Also, the court expressly weighed "continuity and permanence with [B.K.'s] sister versus his two brothers or half-brothers." Granted, at one point, the court said: "I don't know what the child feels," but that was in connection with the statutory factor in section 1-3(4.05)(d)(i) (705 ILCS 405/1-3(4.05)(d)(i) (West 2014)): "where the child actually feels love, attachment, and a sense of being valued," which had to do with *where* B.K. felt the *most* "love, attachment, and a sense of being valued" as opposed to *whether* he felt love for respondent, Hunter, and Langley (evidently, he does—just as, evidently, he feels love for his foster parents).

¶ 73 Thus, we disagree that the trial court "ignore[d] the statements of the caseworker as to B.K.'s constant inquiry about his father and half-brother, and his desire to see them." ("Constant" is an exaggeration: Roberts testified that B.K. inquired about them "recurr[ently]" but "[n]ot every month.") Just because the court declined to give B.K.'s relationship with respondent and Hunter the weight that respondent believes it deserved, it does not follow that the court ignored the relationship. Respondent argues the court "simply us[ed] the time the foster father ha[d] been with the minor, rather than balancing the other issues." Actually, in its remarks at the conclusion of the best-interest hearing, the court expressly did balance continuity with the foster father and Isabella against B.K.'s attachment to respondent and Hunter.

¶ 74 C. The Argument That a "Wash" Is a Failure of Proof

¶ 75 The trial court found that several of the statutory factors were "a wash," that is, they favored neither the foster parents nor respondent. Respondent argues: "The [p]etitioner has the burden of proof, and when matters are equal, as the [c]ourt mostly finds, it further means the State has not met its burden of proof on these important statutory points."

¶ 76 Actually, the State had the burden of proving, by a preponderance of the evidence, that terminating respondent's parental rights would be in B.K.'s best interest. See *In re Jay. H.*, 396 Ill. App. 3d 1063, 1071 (2009). That is not quite the same as saying the State had the burden of proving each of the factors in section 1-3(4.05) (705 ILCS 405/1-3(4.05) (West 2014)). Even if some of the statutory factors were inapplicable, or even if some of them were, as the trial court said, "a wash," the court could have decided that other, weightier factors supported the termination of parental rights. The relative weight of one factor against another was for the trial court to determine. When considering whether the best-interest finding is against the manifest weight of the evidence, we do not conduct a *de novo* trial in which we assign a new weight to each of the statutory factors, as respondent appears at times to be inviting us to do. See *In re Julian K.*, 2012 IL App (1st) 112841, ¶ 65.

¶ 77 D. The Guardian *Ad Litem*'s Recommendation

¶ 78 Respondent points out that the guardian *ad litem* recommended against terminating his parental rights. But a recommendation is just that, a recommendation. Recommendations can be accepted or rejected. We are unaware of any case holding that the trial court's rejection of a guardian *ad litem*'s recommendation makes its best-interest finding against the manifest weight of the evidence—or that the guardian *ad litem*'s recommendation has any relevance to the question of whether the finding is against the manifest weight of the evidence.

¶ 79 E. Jameson's Absence From the Best-Interest Hearing

¶ 80 Respondent says: "The [trial] [c]ourt does not discuss that even though there are two foster parents who supposedly want to adopt B.K., the foster mother never appeared in [c]ourt[,] and it is strange that she would not take the effort to do so if this was in fact her wish."

¶ 81 It is not our place, however, to draw an inference from Jameson's absence at the best-interest hearing. We allow the trial court to draw its own reasonable inferences. See *1472 N. Milwaukee, Ltd. v. Feinerman*, 2013 IL App (1st) 121191, ¶ 39. Instead of questioning the sincerity of Jameson's written commitment to adopt B.K., and instead of questioning the accuracy of Roberts's testimony that there was a "[s]trong bond" between B.K. and his foster parents, the court could have reasonably inferred that Jameson was absent from the best-interest hearing because (1) she worked from 8 a.m. to 4:30 p.m. so as to help support B.K.; and (2) her testimony would have duplicated Bernard Kelleher's testimony.

¶ 82 F. "A Self-Fulfilling Prophecy of Termination"

¶ 83 Respondent argues: "DCFS stopped cooperating and allowing visits with the family in December *** 2014 as DCFS was seeking termination. [Citation.] They stopped the contact and then have a self-fulfilling prophecy of termination because of time which has passed, all of which is unfair to B.K., and to [respondent]."

¶ 84 According to respondent's testimony, however, he did not even begin seeking visitation with B.K. until January 2015. The assistant State's Attorney asked him:

> "Q. Sir, you indicated you've been wanting to visit with [B.K.] for some time now. But it's true that that's only recently amped up?
>
> A. Yes, since I've got and established a home and got a reliable job. And I've got my wife back; well, I got her back, but we're not married yet. And I've got proper transportation to see him.
>
> Q. So, you got your life in order and then you wanted to see [B.K.] more?
>
> A. Yes, sir, because I didn't—

Q. How many times have you tried to see [B.K.], like since the summer, since you've amped it up?

A. I've been trying since the first of the year."

¶ 85 The foster parents, by contrast, have provided a home all along. They have provided parental care all along. They have been there all along. And they have committed to keep doing these things as B.K.'s adoptive parents. Therefore, setting aside the question of what would be fair to respondent (since his best interest is not at issue), the trial court could have reasonably decided it would be unfair to B.K., with his developmental disabilities and his special need for stability and predictability, to uproot him from the good, loving foster home to which he had become accustomed for the previous four years and transplant him to a home which, it was hoped, would remain stable but which had recently broken up in a crisis. See 705 ILCS 405/1-3(4.05)(g) (West 2014).

¶ 86 III. CONCLUSION

¶ 87 For the foregoing reasons, we affirm the trial court's judgment.

¶ 88 Affirmed.