

NOTICE
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2018 IL App (5th) 170086-U

NO. 5-17-0086

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

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

<i>In re</i> O.A.W., a Minor)	Appeal from the
)	Circuit Court of
(Travis W. LaBlance,)	Madison County.
)	
Petitioner-Appellee,)	
)	
v.)	Nos. 15-P-648 & 14-F-151
)	
Erica R. Weatherford,)	
)	
Respondent-Appellee)	
)	
(Judith M. Matthews,)	Honorable
Intervening Petitioner-Appellant)).)	Maureen D. Schuette,
)	Judge, presiding.

JUSTICE OVERSTREET delivered the judgment of the court.
Justices Goldenhersh and Moore concurred in the judgment.

ORDER

¶ 1 *Held:* The circuit court’s finding that grandmother had no standing to petition for guardianship is affirmed where the record supports the trial court’s determination that the grandmother failed to rebut presumption that mother was willing and able to make and carry out day-to-day child-care decisions for her daughter.

¶ 2 The intervening petitioner, Judith M. Matthews, filed a petition for guardianship of O.A.W., her granddaughter, in the circuit court of Madison County. The circuit court determined that Judith lacked standing to petition for guardianship because the

respondent, Erica R. Weatherford, O.A.W.'s mother and Judith's daughter, was willing and able to make and carry out day-to-day child-care decisions for O.A.W. On appeal, Judith argues that the circuit court erred in finding that she lacked standing to seek guardianship. For the following reasons, we affirm.

¶ 3 BACKGROUND

¶ 4 O.A.W. was born July 7, 2013, to Erica and Travis LaBlance, who never married. On August 5, 2014, Judith filed a petition for grandparent visitation, alleging that Erica was unreasonably denying her the ability to visit with O.A.W. Thereafter, on June 24, 2015, the circuit court entered an agreed order and judgment for grandparent visitation, allowing Judith visitation with O.A.W. on alternating weekends, some holidays, and three nonconsecutive one-week periods each summer.

¶ 5 On November 17, 2015, Judith filed a petition for guardianship and an emergency motion for temporary guardianship. In her petition, Judith alleged that Erica did not want custody of O.A.W., had been physically abusing O.A.W., and had threatened to kill herself. In her amended petition for guardianship, filed on August 15, 2016, Judith alleged that neither Erica nor LaBlance was willing and able to make and carry out day-to-day child-care decisions concerning O.A.W. Judith alleged that LaBlance was a registered sex offender who pled guilty to aggravated sexual abuse in 2008. Judith alleged that Erica and her wife, Brooke Monigan, were raising O.A.W. in an environment that was emotionally, physically, and mentally injurious to her. Judith alleged that Erica and Brooke engaged in sexual relations in front of O.A.W. and Brooke's three children, they bathed with the children, they physically assaulted one another in front of the

children, and they failed to utilize child safety seats in their vehicles. Judith alleged that Erica failed to keep O.A.W. clean and free from physical injuries, Erica verbally abused O.A.W., Erica refused to take O.A.W. to medical providers when necessary, Erica repeatedly threatened suicide, and Erica admitted to physically abusing O.A.W. Judith alleged that O.A.W. had reported being sexually abused by the other children in Erica's household, that O.A.W. had been physically attacked and injured while in Erica's care, and that O.A.W. stayed with Judith the majority of 2014, 2015, and 2016.

¶ 6 On December 14, 2016, Alicia J. Downs, the court-appointed guardian *ad litem*, filed her report recommending that Judith's amended petition for guardianship be denied and that the consent order allowing Judith visitation with O.A.W. be modified to terminate Judith's court-ordered visitation. Downs' report concluded that Erica was willing and able to make and carry out the day-to-day child-care decisions concerning O.A.W. Pursuant to her report, Downs found that Judith's allegations, including those of sexual abuse against Brooke and Erica, were not credible.

¶ 7 The court held a hearing on February 6, 2017, and February 10, 2017, wherein Judith was represented by counsel and Erica and LaBlance appeared *pro se*. At the hearing, the evidence revealed that Erica, Brooke, and O.A.W. lived with Judith after O.A.W.'s birth, until March 2014, when they moved into the home of Mindy Britton, Brooke's grandmother. They lived with Mindy for approximately 18 months, until they moved into their own mobile home in October 2015.

¶ 8 Erica testified that she was 28 years old and lived in the three-bedroom, two-bathroom mobile home with Brooke, Brooke's three children, and O.A.W. Erica testified

that after O.A.W.'s birth, she suffered from postpartem depression and twice sought treatment at a counseling center. Erica characterized her relationship with O.A.W. as difficult because Judith criticized her parenting. Erica testified, however, that she loved O.A.W., was willing and able to care for her, and that she financially provided for O.A.W.

¶ 9 Erica testified that she agreed to grandparent visitation for Judith because Judith “kept hounding [her] and telling [her] she was going to take [her] to court if she didn’t get to see her grandkid.” Erica acknowledged, however, that Judith cared for O.A.W. in Judith’s home on more occasions than court-ordered as grandparent visitation, including 225 days in 2014 and 291 days in 2015, and that Judith primarily took O.A.W. to her doctor’s appointments.

¶ 10 Erica testified that O.A.W. and Brooke have a good relationship but that Judith had referred to Brooke as a “nigger.” Erica acknowledged that she was involved in a car accident as a result of failing brakes, and her car hit a train. Erica did not remember an incident referenced in Judith’s petition wherein Brooke hit her in the eye. With regard to an allegation that Erica and Brooke brought a prostitute to Judith’s home, Erica testified that the prostitute was a friend of Brooke’s, and they did not know that she was a prostitute until they returned home. Erica acknowledged that she and Brooke argue about the court proceedings and the resulting stress.

¶ 11 Erica testified that she was trying to work and support her family and be a great parent. Erica testified that she had recently installed child safety seats in her vehicle and had recently changed employment positions so as to work between 40 to 60 hours a

week, as opposed to 80 to 90 hours a week. Erica testified that she did not approve of O.A.W. calling Judith “mommy” and Judith’s husband “daddy.” Erica testified that she was able to make day-to-day child-care decisions for O.A.W.

¶ 12 Brooke testified that she was 27 years old and lived with Erica, her three biological children, and O.A.W. Brooke testified that she met Erica in 2012 when Erica was pregnant with O.A.W. and that she and Erica had been married for almost two years. Brooke testified that she had cared for O.A.W. since her birth. Brooke testified that Erica loved O.A.W. and provided for her financially, working over 40 hours per week. Brooke testified that she stayed home with the children but that Erica helped when she was home. Brooke testified that Erica was able to care for O.A.W.

¶ 13 Brooke acknowledged that in August 2011 (prior to meeting Erica and prior to O.A.W.’s birth), she physically assaulted a minor, while in the course of physically assaulting the minor’s mother, and was criminally charged for the incident. Brooke also acknowledged that in June 2014, she was charged with telephone harassment, to which she later pled guilty, because she called Judith a “cunt” because Judith was unable to babysit O.A.W. Brooke further acknowledged that in November 2015, she texted Judith, saying, among other things, that Erica did not want O.A.W., that she had blackened Erica’s eye as Erica fought over O.A.W.’s head, and that Erica had called O.A.W. “retarded.” Brooke testified that she considered it inappropriate for Erica to call O.A.W. “retarded.” Brooke admitted that O.A.W. had not always been restrained with an appropriate child safety seat.

¶ 14 Travis LaBlance testified that he was 27 years old, was married, and had three biological children, including O.A.W. LaBlance testified that in December 2008, he pled guilty to aggravated sexual abuse of a 10-year-old female and was sentenced to 6½ years in prison. LaBlance testified that in January 2014, Brooke and Erica prompted his visitation with O.A.W., bringing her to his home to visit approximately three times a week. LaBlance testified that Brooke and Erica consumed alcohol and listened to loud music during the visitation, and when LaBlance objected to the parties, Erica terminated his visitation with O.A.W. LaBlance testified that in 2014, he heard Erica tell O.A.W. to “[s]hut the fuck up” and refer to O.A.W. as a “spoiled little bitch.” LaBlance also testified that on the day of Erica’s train accident, he witnessed Erica drinking 16- to 24-ounce cans of beer, in addition to dark whiskey, within a two- to three-hour period prior to the accident. LaBlance testified that he requested court-ordered visitation with O.A.W., and on June 24, 2015, the court granted his request, allowing him supervised visitation with O.A.W. at Judith’s home. LaBlance testified that on July 5, 2015, Brooke had left a voice mail message for him at 3 a.m., stating that he needed to get O.A.W. because Erica was walking down the streets of Granite City “drunk as [a] skunk” while holding O.A.W.

¶ 15 Judith Matthews testified that she was 47 years old and had been married to Doug Matthews for 16 years. Judith testified that when O.A.W. was born, the medical staff placed her on Erica, and Erica said, “Somebody get this fucking kid.” Judith testified that she took O.A.W. from Erica and held her. Judith testified that after O.A.W.’s birth, Erica and O.A.W. moved into her home, with Brooke joining them soon thereafter. Judith

testified that when O.A.W. was six weeks old, Brooke was cutting O.A.W.'s nails while children were jumping on the bed and cut through O.A.W.'s skin, causing O.A.W. to scream, and Erica told O.A.W. to "shut the fuck up" and called her a "little cunt and a spoiled little bitch."

¶ 16 Judith testified that when Erica and Brooke lived with her, she cared for O.A.W. the majority of the time. Judith testified that a baby monitor placed in the basement where Erica and Brooke stayed transmitted Erica's verbal abuse of O.A.W. Judith testified that when O.A.W. was six to eight months old, Erica would tell her to "shut the fuck up" and "quit screaming." Judith testified that the baby monitor also transmitted Brooke and Erica having sexual relations while O.A.W. was present, until Brooke and Erica removed the baby monitor from the basement bedroom. Judith testified that in February 2014, Erica and Brooke drove to Pennsylvania and returned to Judith's home with a prostitute who carried drugs on her person. Judith testified that O.A.W. went with them to Pennsylvania, and when O.A.W. returned, she was covered in feces and smelled bad so Judith gave O.A.W. a bath and fed her.

¶ 17 Judith testified that Brooke and Erica moved from her home in March 2014. Judith testified that shortly thereafter, O.A.W. began acting out sexually, gyrating on the bed while making grunting noises. Judith testified that she was not allowed to visit O.A.W. from May 7, 2014, through May 27, 2014, so she filed a petition for guardianship. Judith testified that she would not have filed the petition if she would have been allowed to visit O.A.W.

¶ 18 Judith testified that in 2014, she kept O.A.W. for 225 days; in 2015, she kept O.A.W. for 291 days; and in 2016, she kept O.A.W. for 250 days. Judith testified that, while caring of O.A.W. over these years, there were occasions she would keep O.A.W. for two to three weeks at a time without hearing from Erica. Judith testified that she had taken O.A.W. to almost every doctor's appointment but that Erica took her to the dentist.

¶ 19 Judith testified that on May 24, 2014, Erica called her at 2:30 a.m. and told her they had hit a train. Judith testified that she drove to the scene and saw that Brooke's eyes were glassy and that she smelled like alcohol. Judith also testified that in June 2014, Brooke called Judith and told her that O.A.W. had a fever of 104.2, but neither Erica nor Brooke planned to take O.A.W. to the doctor. Judith testified that she took O.A.W. to the doctor, who told Judith to give O.A.W. ibuprofen and Tylenol.

¶ 20 Judith testified that in the spring of 2015, O.A.W. had a bite mark on her cheek; in the summer of 2015, O.A.W.'s eye was blacked, and Erica and Brooke said she had hit it on a bed frame; and in the summer of 2015, O.A.W. also had a rash on her arm that spread to her face and a rug rash on her nose. Judith testified that in the fall of 2015, O.A.W. had bruising on her cheek. Judith testified that in February 2016, O.A.W. had claw marks and blood spots on her neck, which resulted in the involvement of the Illinois Department of Children and Family Services (DCFS).

¶ 21 Judith testified that in November 2015, Erica telephoned her to take O.A.W. because she and Brooke were physically fighting over O.A.W.'s body. Near the same time, Brooke told Judith that Erica had jumped out of a moving van. When Brooke and

the kids arrived at Judith's, Erica followed and said she wanted to kill herself, in front of Brooke's daughter, Judith, and O.A.W.

¶ 22 Judith identified, *inter alia*, a summer 2015 photo showing facial bruising of O.A.W., another summer 2015 photo showing abrasions on O.A.W.'s nose, a photo of a February 5, 2016, abrasion on O.A.W.'s neck, a May 2016 photo of scratch marks on O.A.W.'s thigh, and a July 2016 photo of a bruise on O.A.W.'s shoulder blade. Judith also identified a May 2016 video showing Dustin Rayl, who was smoking a cigarette, and Brooke in the front seat of a vehicle, with Brooke's children and O.A.W. in the back seat of the vehicle without proper child safety seating. Judith testified that she believed that O.A.W. was not safe living with Brooke and Erica.

¶ 23 On cross-examination, Judith acknowledged that O.A.W. referred to her as "mommy" and "nana," that she encouraged O.A.W. to call her husband, Doug, "daddy," and that O.A.W. also called Brooke and Brooke's mother "mommy." Judith also testified that she did not believe that Erica abused O.A.W. Judith testified that if she were granted guardianship of O.A.W., she would allow Erica to spend as much time with O.A.W. as possible. Judith testified that she believed that O.A.W. needed one-on-one time with Erica.

¶ 24 Travis Laws, Erica's brother and Judith's son, testified that when Erica and O.A.W. lived in Judith's home, when O.A.W. was a couple of months old, Erica would scream at O.A.W., telling her to "shut the fuck up." Laws further testified that when O.A.W. was about 2½ years old, he gave her a bath and she put a razor to her vaginal area. Laws took the razor from O.A.W., who stated that Brooke shaved her down there.

Laws testified that in February 2016, after picking up O.A.W. from Erica's home, he noticed laceration marks on O.A.W.'s neck.

¶ 25 Dustin Rayl testified that he was 34 years old, that he lived with Brooke and Erica for about six months, until he moved from their home on December 25, 2016, and that his and Brooke's son, J.R., continued to live with Brooke and Erica. Dustin testified that while living with Brooke and Erica, he smoked in the home, but not when the children were present. Dustin testified that he at no time witnessed Erica treat O.A.W. poorly and would characterize their relationship as loving. Dustin testified that Brooke and O.A.W. also have a good relationship. Dustin testified that Judith's relationship with O.A.W. was also good.

¶ 26 Dustin acknowledged that on May 11, 2013 (prior to O.A.W.'s birth), he entered the bathroom where Brooke was giving her six-year-old daughter a bath and stabbed a knife into the wall. He testified that he also ripped off his shirt and pushed Brooke when she came at him. Dustin acknowledged that Brooke acquired an order of protection against him as a result of this incident.

¶ 27 Mindy Britton, Brooke's grandmother, testified that Erica and Brooke and O.A.W. lived with her for approximately 18 months, after they moved from Judith's, and she never witnessed any abuse or neglect of O.A.W. or any of the other children. Mindy testified that since Brooke and Erica moved from her home to their mobile home in October 2015, she visited the house daily to wake the children, let the dogs out, feed the cats, and sometimes make breakfast. Mindy acknowledged that Brooke and Erica smoke cigarettes inside their home but testified that she never witnessed Erica and Brooke

physically fight. Mindy testified that she had observed Erica and O.A.W. interact and had no concerns about Erica raising O.A.W. and no concerns about Brooke being left alone with O.A.W.

¶ 28 Tina Britton, Brooke's mother, testified that she had observed Brooke and Erica with O.A.W., that she had not witnessed abuse or neglect of O.A.W., and that O.A.W. is not afraid of Brooke. Tina testified that she visited Brooke's children and O.A.W. on a daily basis at their home. Tina testified that all the children were very well cared for.

¶ 29 Downs, the court-appointed guardian *ad litem*, testified that she interviewed each of the parties and visited Judith's and Erica's homes. During the home visits, Downs witnessed O.A.W. happily playing at her grandparents' home and happily playing at her mother's home. Downs testified that O.A.W. seemed at ease in both environments. Downs testified that during her home visit with Judith and Doug, they spoke negatively about Brooke in front of O.A.W. Downs testified, however, that she had no concern about Brooke watching O.A.W.

¶ 30 Downs testified that Erica supported O.A.W. financially, that Erica loved O.A.W., and that Erica wanted to be a good mother. After interviewing the parties and visiting their homes, Downs found that Erica was willing and able to make and carry out day-to-day decisions for O.A.W. Downs testified that although at one point Erica believed she was unable to care for O.A.W., due to her postpartum depression and failure to bond with O.A.W., Erica did not indicate to Downs that she was unable to care for O.A.W. at the present time. Downs considered Judith as not credible and recommended that Judith's petition for guardianship be denied.

¶ 31 At the conclusion of the hearing, the circuit court found that O.A.W. was not abused or neglected in Erica’s home. The circuit court found that Erica provided an environment for O.A.W. that was not physically or mentally injurious to her and that Erica cared for O.A.W.’s basic needs. The circuit court concluded that Erica was willing and able to carry out the day-to-day decisions regarding O.A.W. Accordingly, on February 10, 2017, the circuit court entered an order denying Judith’s amended petition for guardianship, finding that under section 11-5(b) of the Probate Act of 1975 (the Probate Act) (755 ILCS 5/11-5(b) (West 2016)), the court lacked jurisdiction to proceed on Judith’s guardianship petition because Erica was a living parent whose parental rights had not been terminated, whose whereabouts were known, and who was willing and able to make and carry out day-to-day decisions concerning O.A.W. The court found that Judith had not rebutted the statutory presumption that Erica was willing and able to carry out day-to-day child-care decisions concerning O.A.W. by a preponderance of the evidence. On March 9, 2017, Judith filed a timely notice of appeal.

¶ 32 ANALYSIS

¶ 33 “Generally, the question of standing is reviewed *de novo*.” *In re Guardianship of K.R.J.*, 405 Ill. App. 3d 527, 535-36 (2010). However, the circuit court here also heard evidence and made factual findings. “Where a trial court makes factual findings, this court reviews those factual findings under the manifest-weight-of-the-evidence standard.” *Id.* Consequently, this court will review the circuit court’s factual findings under the manifest-weight-of-the-evidence standard and apply those facts *de novo* to the question of whether Judith had standing; that is, whether she rebutted the presumption that Erica

was willing and able to make and carry out day-to-day child-care decisions regarding O.A.W. See *id.* factual finding is against the manifest weight of the evidence where, upon review of all the evidence in the light most favorable to the prevailing party, an opposite conclusion is clearly apparent or the finding is palpably erroneous and wholly unwarranted, is clearly the result of passion or prejudice, or appears to be arbitrary and unsubstantiated by the evidence. *Id.* at 536.

¶ 34 The appointment of a guardian of a minor is governed by sections 11-1 through 11-18 of the Probate Act (755 ILCS 5/11-1 through 11-18 (West 2016)). The Illinois Supreme Court has described section 11-5(b) of the Probate Act (*id.* § 11-5(b)) as providing the standing requirement a petitioner must meet before the trial court has jurisdiction to proceed on the petition and determine the best interests of a child. *In re R.L.S.*, 218 Ill. 2d 428, 436 (2006) (providing that “standing” in this context means the “threshold statutory requirement that had to be met before the court could proceed to a decision on the merits”); see also *In re Guardianship of K.R.J.*, 405 Ill. App. 3d at 534. “To have standing to proceed on a petition for guardianship of a minor where the minor has a living parent whose parental rights have not been terminated and whose whereabouts are known, the petitioner must rebut the statutory presumption that the parent is ‘willing and able to make and carry out day-to-day child[-]care decisions concerning the minor.’ 755 ILCS 5/11-5(b) [(West 2016)] (providing threshold requirements for the petition and the statutory presumption).” *In re Guardianship of K.R.J.*, 405 Ill. App. 3d at 534-35; see also *In re R.L.S.*, 218 Ill. 2d at 436. This statutory “presumption may be rebutted by a preponderance of the evidence.” 755 ILCS 5/11-5(b)

(West 2016); see also *In re R.L.S.*, 218 Ill. 2d at 448; *In re Guardianship of K.R.J.*, 405 Ill. App. 3d at 534-35.

¶ 35 “[T]he standing requirement contained in paragraph (b) protects the superior rights of parents and ensures that guardianship proceedings pass constitutional muster.” *In re Guardianship Estate of Tatyanna T.*, 2012 IL App (1st) 112957, ¶ 21 (quoting *In re Guardianship of A.G.G.*, 406 Ill. App. 3d 389, 394 (2011)). “By allowing a guardianship petition to proceed to a hearing on the merits over the wishes of a parent only when the parent has been established to be unwilling or unable to carry out day-to-day child-care decisions, the Probate Act respects the superior rights of parents while also insuring to protect the health, safety, and welfare of children.” *In re R.L.S.*, 218 Ill. 2d at 441. If the petitioner fails to rebut the presumption, the petitioner lacks standing, and the trial court lacks jurisdiction to proceed on the petition. See 755 ILCS 5/11-5(b) (West 2016); *In re R.L.S.*, 218 Ill. 2d at 448 (petitioners lack standing to proceed with petition unless court determines they have rebutted presumption that respondent is willing and able to make day-to-day child-care decisions).

¶ 36 Based on the record before us, the evidence presented at the hearing supported the circuit court’s factual findings and conclusion that Judith failed to meet her burden of overcoming the presumption that Erica was willing and able to make and carry out the day-to-day child-care decisions concerning O.A.W. See *In re R.L.S.*, 218 Ill. 2d at 441 n.3 (2006) (“able” in section 11-5(b) means “possessed of needed powers *** or of needed resources *** to accomplish an objective” (Webster’s Third New International Dictionary 4 (1993))). Pursuant to the evidence presented at the hearing, the circuit court

could find that Erica was employed and provided a home for O.A.W., that Erica cared for O.A.W. when not at work, that Brooke cared for O.A.W. while Erica was at work, that Erica had a support network that assisted her household daily, and that Erica could rely on Judith to care for O.A.W. when necessary. Erica testified that she was willing and able to care for O.A.W., and the evidence determined credible by the circuit court failed to support Judith's allegations of abuse.

¶ 37 Judith asserts that the evidence supported findings that Erica had failed to bond with O.A.W., that Judith was O.A.W.'s primary caretaker, that Erica smoked in the home, that Erica failed to use proper car safety restraints for O.A.W., that Erica endangered O.A.W. in drinking and driving, and that Erica allowed O.A.W. to suffer bruising and abrasions in her home. Judith asserts that these findings support the conclusion that she successfully rebutted, by a preponderance of the evidence, the presumption that Erica was willing and able to make and carry out day-to-day child-care decisions concerning O.A.W.

¶ 38 We recognize the evidence suggesting that Judith had consistently provided a loving, nurturing, and stable environment, free from secondhand smoke and properly utilizing child safety seats, for O.A.W. throughout her life. However, “[w]hether a nonparent petitioner may have the ability to provide a better environment for the child is not a factor to be considered where standing is in issue so long as the presumption that the natural parent is willing and able to care for the child remains unrebutted.” *In re Estate of Johnson*, 284 Ill. App. 3d 1080, 1091 (1996). “To compare the potential of the nonparent against the parent when making a standing determination would jeopardize the

custodial rights of natural parents such that any nonparent with better qualifications, albeit a stranger, could be found to have standing to petition for custody notwithstanding the established threshold adequacy of the natural parent.” *Id.* (showing that father previously lacked financial ability to pay child support and maintain health insurance and visited minor on limited basis did not rebut presumption that father was willing and able to make and carry out day-to-day child-care decisions regarding the minor). A parent’s desire for and right to the companionship, care, and custody of his child is an important interest that undeniably warrants deference and protection. See *Wickham v. Byrne*, 199 Ill. 2d 309, 318 (2002).

¶ 39 Here, we cannot conclude that the circuit court’s factual findings were against the manifest weight of the evidence. The circuit court found no credible evidence that O.A.W.’s injuries were attributable to Erica or that Erica’s home environment was physically or mentally injurious to O.A.W. Although Judith alleged otherwise, the circuit court was in the best position to judge the demeanor and credibility of the witnesses. See *In re Custody of T.W.*, 365 Ill. App. 3d 1075, 1084 (2006). The circuit court recognized the evidence that Erica “was going through some issues” in the past but found that the credible evidence presented did not demonstrate that Erica had failed to properly supervise O.A.W. Indeed, the evidence presented supported a finding that Erica and Brooke cared for O.A.W. during extended periods, thereby resulting in Judith’s complaint that they were keeping O.A.W. from her, which resulted in Judith’s filing the petition for guardianship.

¶ 40 The circuit court was in the best position to judge the witnesses' credibility and to resolve conflicts in the evidence. See *In re Guardianship of K.R.J.*, 405 Ill. App. 3d at 536 (where circuit court found no credible evidence of torture or abuse by parent, it properly found no standing to bring petition for guardianship because petitioners failed to rebut presumption that parent was willing and able to make and carry out day-to-day child-care decisions). Accordingly, viewing the evidence in its entirety, we cannot reverse the circuit court's determination that Judith failed to rebut, by a preponderance of the evidence, the presumption that Erica was willing and able to make and carry out day-to-day child-care decisions concerning O.A.W. Therefore, we cannot reverse the trial court's conclusion that Judith lacked standing to bring the petition for guardianship.

¶ 41

CONCLUSION

¶ 42 For the reasons stated, we affirm the judgment of the circuit court.

¶ 43 Affirmed.