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I. BACKGROUND

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A. The Petition and Adjudication

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On May 5, 2016, respondent was arrested for stalking a male employee at Jewel-Osco and following him in her vehicle when he left work. This was a violation of a valid order of protection. As a result of her arrest, respondent was in jail for five days, leaving J.S., age 13, home alone. After approximately 30 hours of being alone, a relative retrieved J.S. from the home.

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On May 12, 2016, the State filed a two-count petition, alleging J.S., born August 2, 2002, was a neglected minor. The State alleged (1) respondent left J.S. alone for an unreasonable amount of time while respondent was in jail without regard for J.S.'s mental or physical health, safety, or welfare (705 ILCS 405/2-3(1)(d) (West 2014)) (count I) and (2) J.S. was living in an environment injurious to her welfare due to respondent's unresolved mental-health issues, which created a risk of harm to J.S. (705 ILCS 405/2-3(1)(b) (West 2014)) (count II). J.S. was taken into protective custody by the Illinois Department of Children and Family Services (DCFS). The trial court granted DCFS temporary custody. J.S. was placed with her maternal grandmother. After ordering a paternity test, the trial court discovered the putative father, Robert S., was J.S.'s biological father. Although he is involved, he is not a party to this appeal.

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At the August 10, 2016, adjudicatory hearing, respondent admitted to the allegations as stated in count I and the State dismissed count II.

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B. Dispositional Hearing

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On October 6, 2016, the trial court, the Honorable Kevin P. Fitzgerald presiding, conducted a dispositional hearing where it considered the September 2016 dispositional report of

the case-management agency, Children's Home and Aid (CHA), and its October 2016 amendment.

¶ 11 *1. Dispositional Report*

¶ 12 The dispositional report indicated respondent lived in a two-bedroom apartment in Normal, Illinois. Although the apartment was clean, there was a lack of furniture except for a kitchen table, a fish tank, three lawn chairs in J.S.'s room, and a television. Respondent's work history included sporadic employment at local fast-food restaurants. Her income consisted of \$233 per month on a Link card and \$733 from social security disability. Respondent reported J.S.'s father had no involvement in her life, which included his failure to pay child support.

¶ 13 Respondent had been diagnosed with major depression, psychosis, obsessive compulsive disorder, anxiety, panic disorder with agoraphobia, and post-traumatic stress disorder. She had chosen to receive treatment sporadically. She had been prescribed Zoloft and Xanax (alprazolam). She was currently involved in mental-health treatment from the McLean County Center for Human Services with Nicolas Gudino. She had also been diagnosed with fibromyalgia, chronic pain, and sleep difficulties.

¶ 14 Respondent acknowledged a history of domestic violence with a prior paramour and also with J.S.'s father. She had previously been arrested but had no criminal convictions.

¶ 15 J.S. lived with respondent's mother, and respondent visited every week for two hours. Respondent expressed a desire to regain custody of J.S. Overall, the visits went well, with respondent being attentive and affectionate toward J.S.

¶ 16 The report also included respondent's service plan objectives, which were as follows: (1) respondent was to complete a substance-abuse assessment (which had occurred in September 2016 with no treatment recommendation), (2) she was to maintain appropriate

housing and stable income, (3) she was to participate in a mental-health assessment and counseling, (4) she was to participate in a domestic-violence assessment and treatment if recommended, and (5) she was to participate in a psychological evaluation.

¶ 17 According to the report, J.S. enjoyed living with respondent. She described moving often, as they had been in their current apartment for only one month. J.S. had always been home schooled and entered a school building for the first time in August 2016 for entry into the seventh grade. An academic assessment indicated J.S. functioned at a second and third grade level. J.S. has no noted medical issues.

¶ 18 *2. Amendment to Report*

¶ 19 CHA attached a copy of respondent's September 2016 substance-abuse assessment completed by Erin McQuirter at Chestnut Health Systems. Respondent tested positive for benzodiazepines, which was attributed to her prescribed dose of alprazolam (Xanax). McQuirter noted that respondent had limited engagement in the process, which made a true assessment difficult. Based on the information available to McQuirter, respondent did not meet criteria for treatment.

¶ 20 Also attached was a copy of a letter dated October 4, 2016, from Gudino regarding respondent's individual counseling. Respondent had consistently participated in sessions twice per month since June 2016. Gudino anticipated that respondent would be successfully discharged on November 27, 2016.

¶ 21 *3. The Trial Court's Dispositional Order*

¶ 22 The trial court found respondent unfit and the father unable to care for J.S. The court stated: "I think mom is unfit for where she's at in services. She kind of got off to a slow start. Now we may have to wait a while. I'm not sure the disposition of the criminal matter will

hold up a fitness finding for her, but she does need to get better engaged in the services.” The court made J.S. a ward of the court. The court found the father unable to parent J.S. due to a lack of a bond or relationship between them, though he was participating in twice-weekly visits.

¶ 23 C. August 2018 Permanency Hearing

¶ 24 In August 2018, the trial court, the Honorable J. Brian Goldrick presiding, conducted a continued permanency hearing from the one scheduled on June 13, 2018. At that prior hearing, the court, the Honorable Kevin P. Fitzgerald presiding, continued the permanency hearing when the court discovered that CHA would be required to discontinue J.S.’s counseling at the end of June 2018. The court stated: “I’m not real comfortable closing the case if we don’t have a confirmed method of maintaining the counseling for [J.S.]”

¶ 25 The trial court declined to close the case until such time as counseling was arranged. Thus, the hearing was continued until August 2018, at which time Judge Goldrick considered the following evidence.

¶ 26 1. *CHA’s Permanency Report*

¶ 27 On June 6, 2018, CHA filed a permanency report indicating J.S. was returned home to her father on January 26, 2018. The caseworker conducted weekly in-home visits for one month and then biweekly visits thereafter. She found no concerns.

¶ 28 Respondent had moved into a Bloomington Housing Authority home. She was unemployed. She continued to receive a \$233 Link card and \$733 in social security income each month. Respondent was attending weekly individual counseling sessions with Lily Anderson at CHA, as well as family counseling with J.S. She was visiting with J.S. every week at respondent’s home. According to Anderson, respondent had made minimal progress on her counseling goals. She continued to struggle with understanding appropriate versus inappropriate

topics for discussion with J.S. Further, respondent's unknown potential reactions caused J.S. reluctance in discussing various things with respondent. Overall, respondent demonstrated an inability to communicate appropriately with J.S. Further, Anderson noted respondent refused to discuss anything about her past relationship with J.S.'s father and she continued to be unable to engage in any appropriate conversation with him.

¶ 29 The caseworker noted J.S. also regularly met with Anderson at CHA for counseling. J.S. reportedly was "very happy to be placed with her father." He had "continued to build a healthy relationship with [J.S.] th[r]ough counseling and consistent communication with his daughter. He has shown that he is fully capable of meeting her needs."

¶ 30 According to the report, respondent had "significantly regressed since the last court hearing. Her mental health concerns have increased, including significant increase in her level of paranoia and mistrust with the agency and this worker." She remained unstable in terms of her mental and emotional state, as she displayed questionable behavior during visits and counseling sessions.

¶ 31 DCFS and CHA recommended that legal guardianship of J.S. be returned to her father and the case be "successfully closed."

¶ 32 *2. CHA's Status Report*

¶ 33 The trial court also considered a status report filed on July 25, 2018. According to the reporter, there were "no new updates" for respondent. She "ha[d] not had any form of contact with [the] agency since the last court hearing."

¶ 34 The caseworker stated she had provided respondent with the information required to establish third-party visitation through the Family Visitation Center at CHA. Respondent had not visited in person with J.S. since May 25, 2018. However, J.S. continued "making phone calls

to her mother.” Further, there were no new updates for the father except that someone had placed a call to the DCFS hotline complaining that the father’s house was inadequate and that there was inadequate food in the home. The father cooperated with the DCFS investigation. The CHA caseworker spoke with the DCFS investigator, who indicated the report would be closed as unfounded.

¶ 35 J.S. had been referred to the Center for Youth and Family Solutions for continued counseling and was first on the waiting list.

¶ 36 According to the status report, the recommended permanency goal was for J.S. to remain home with her father and to close the case.

¶ 37 *3. The Trial Court’s Ruling*

¶ 38 Following the August 2018 permanency hearing, the trial court found respondent remained unfit, while the father was fit and able to safely exercise guardianship over J.S. The court “discharge[d] and release[d] wardship.” The court stated: “Court does not believe it necessary that there be court involvement at this point in time and given that permanency has been achieved.”

¶ 39 This appeal followed.

¶ 40 **II. ANALYSIS**

¶ 41 On appeal, respondent argues the trial court erred by closing this neglect case “allowing the purchase of service agency to abdicate its duties under the Juvenile Court Act and DCFS regulations.” As the State points out, respondent’s brief is less than a straightforward and clear representation of her argument. The State requests we disregard respondent’s arguments as forfeited pursuant to Illinois Supreme Court Rule 341(h) (eff. May 25, 2018) because she has not (1) clearly defined her issues on appeal, (2) cited pertinent authority, or (3) presented a

cohesive argument to this court. Although we agree with the State's assessment, we will address respondent's arguments due to the important nature of the issues presented relating to child custody. See *In re Dal. D.*, 2017 IL App (4th) 160893, ¶ 28 (the forfeiture rule is a limitation on the parties, not on this court's jurisdiction). Thus, we will review the substance of the trial court proceedings and determine whether any error occurred pertaining to an alleged delay in the conduct of respondent's psychological evaluation or the agency's failure to file respondent's initial service plan.

¶ 42 We begin our analysis with the premise that in general, respondent claims the trial court erred when it terminated the wardship and closed the neglect case. "We will not disturb a trial court's determination in a child custody case unless the court exceeded its broad discretion or unless its determination is against the manifest weight of the evidence." *In re M.M.*, 337 Ill. App. 3d 764, 779 (2003). Respondent seems to argue that the agencies involved failed to do certain things either in a timely manner, or at all, and thus, the court's order was not supported by competent evidence. Because the court was required to weigh the evidence, we will only reverse where the judgment is against the manifest weight of the evidence. *In re Aaron L.*, 2013 IL App (1st) 122808, ¶ 28. "A judgment is against the manifest weight of the evidence only when an opposite conclusion is clearly apparent." *M.M.*, 337 Ill. App. 3d at 779.

¶ 43 Pursuant to section 2-31(2) of the Juvenile Court Act of 1987 (705 ILCS 405/2-31(2) (West 2014)), "[w]henver the [trial] court determines, and makes written factual findings, that health, safety, and the best interests of the minor and the public no longer require the wardship of the court, the court shall order the wardship terminated and all proceedings under this Act respecting that minor finally closed and discharged."

¶ 44 Respondent asserts there was a delay in scheduling her psychological evaluation, which did not occur until June 2017, and that delay prejudiced her overall progress in the case. During this “delayed” evaluation, respondent was diagnosed with a learning disorder, which she claims made it difficult for her to follow through on the agency’s recommendations. However, her counselor, Anderson, reported that a goal for their counseling sessions was to improve respondent’s parenting skills and assist her in establishing appropriate boundaries. The nature of the counseling, according to Anderson’s report, centered on a “discussion” of the issues. There is no indication from Anderson’s progress report that the discovery of respondent’s learning disorder had any effect on respondent’s progress in treatment.

¶ 45 In other words, there is nothing in the record to indicate the timeliness of the psychological evaluation had any effect on the trial court’s finding of unfitness. The court relied on respondent’s lack of progress throughout her counseling appointments as demonstrated in her interactions with others, including J.S. That is, the discovery of respondent’s learning disability, through an earlier psychological evaluation, would have had no effect on the court’s ultimate finding of unfitness.

¶ 46 Further, we find no prejudice to respondent from the State’s alleged failure to file an initial service plan. Respondent’s service plan objectives were set forth in CHA’s dispositional report, and therefore, respondent had sufficient notice of the established goals toward which her progress would be measured. Respondent claims the agency’s “egregious” conduct in failing to file a service plan could feasibly cause her to lose her parental rights. However, respondent’s parental rights were not in jeopardy during the current proceedings.

¶ 47 In this case, during the August 2018 permanency hearing, the trial court found the father remained fit, willing, and able to care for J.S. He provided stability, had completed all of

his service goals, and agreed to enroll J.S. in continued therapy. He met all of J.S.’s needs. Accordingly, both the CHA and DCFS reports recommended J.S. remain in his custody.

¶ 48 Conversely, the trial court found respondent remained unfit and unable to care for J.S. due to issues that required further counseling and treatment. The court found respondent had not made sufficient progress on her goals and any improvement that she may make in the future would take time for her to demonstrate before she could regain fitness. In light of the unresolved issues identified by her counselor, the court expressed concern that respondent’s therapy would take a considerable amount of time and have an impact on when respondent could be restored to fitness. Even though closing the case would prevent respondent from utilizing DCFS services—such as her therapy—nothing prevented her from engaging in services independently. Continuing the proceedings indefinitely where only one parent was fit would not be in the best interest of the child.

¶ 49 “Even when one parent is determined to be unfit under the Juvenile Court Act, and wardship arises, the other parent’s rights are superior to the State’s interest. [Citations.] By analogy, when one parent is found dispositionally unfit and the other parent is without fault and willing to assume the role of parenting the children, a court may not interfere unless the court determines it is in the best interests of the minors to *become* wards of the court.” (Emphasis in original.) *In re C.L.*, 384 Ill. App. 3d 689, 696 (2008).

¶ 50 In this case, as in *C.L.*, respondent did not contest the finding of unfitness against her or assert the father contributed to the factors leading to wardship. Because the trial court believed it would take respondent time to be restored to fitness while the father remained fit, willing, and able, the court found it was in J.S.’s best interest to terminate the wardship and close the neglect case. Under the circumstances, such a finding was not against the manifest weight of

the evidence. Respondent's parental rights have not been terminated, and nothing prevents her from seeking custody in the future.

¶ 51 Accordingly, we conclude the trial court's decision to terminate the wardship and close the neglect case was not against the manifest weight of the evidence.

¶ 52 III. CONCLUSION

¶ 53 For the reasons stated, we affirm the trial court's judgment.

¶ 54 Affirmed.