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2019 IL App (4th) 190139-U

NO. 4-19-0139

FILED
June 19, 2019
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re T.B. Jr., a Minor	)	Appeal from the
	)	Circuit Court of
(The People of the State of Illinois,	)	Champaign County
Petitioner-Appellee,	)	No. 17JA10
v.	)	
Toby B.,	)	Honorable
Respondent-Appellant).	)	Brett N. Olmstead,
	)	Judge Presiding.

JUSTICE DeARMOND delivered the judgment of the court.
Justices Steigmann and Knecht concurred in the judgment.

ORDER

¶ 1 *Held*: The appellate court affirmed, finding the trial court did not err in (1) finding him unfit, (2) denying his motion to continue, (3) denying his request for new counsel, and (4) terminating his parental rights.

¶ 2 In February 2017, the State filed a petition for adjudication of neglect with respect to T.B. Jr. (T.B.), the minor child of respondent, Toby B. The trial court made the minor a ward of the court and placed custody and guardianship with the Department of Children and Family Services (DCFS). In August 2018, the State filed a motion to terminate respondent's parental rights. The court found respondent unfit and determined it was in the minor's best interests that respondent's parental rights be terminated.

¶ 3 On appeal, respondent argues the trial court erred in (1) finding him unfit, (2) denying his motion to continue the best-interests hearing, (3) conducting an inadequate analysis of his *pro se* claim of ineffective assistance of counsel, and (4) terminating his parental rights.

We affirm.

¶ 4 I. BACKGROUND

¶ 5 In February 2017, the State filed a petition for adjudication of neglect with respect to T.B., the minor child of respondent and Kristen K. The State alleged the minor was neglected pursuant to sections 2-3(1)(b) and (1)(c) of the Juvenile Court Act of 1987 (705 ILCS 405/2-3(1)(b), (c) (West 2016)) because of being (1) an infant whose blood, urine, or meconium contained any amount of a controlled substance or a metabolite of a controlled substance at the time of his birth, the presence of which was not the result of medical treatment administered to the mother or the infant and (2) a minor whose environment was injurious to his welfare when he resided with Kristen K. in that said environment exposed him to substance abuse. The petition indicated respondent resided in the Illinois Department of Corrections.

¶ 6 Respondent waived his right to an adjudicatory hearing. The trial court found the minor neglected for exposure to controlled substances, as stipulated by the State, the guardian *ad litem*, and Kristen K. In its April 2017 dispositional order, the court found respondent and Kristen K. unfit and unable for reasons other than financial circumstances alone to care for, protect, train, or discipline the minor and the health, safety, and best interests of the minor would be jeopardized if he remained in his parents' custody. The court noted respondent "suffers from a severe substance abuse problem" and remained incarcerated. The court adjudicated the minor neglected, made him a ward of the court, and placed custody and guardianship with DCFS.

¶ 7 In its July 2017 permanency order, the trial court found respondent had made reasonable and substantial progress and reasonable efforts toward returning the minor home. In October 2017, the court's permanency order found respondent had made reasonable efforts, but it found he had not made reasonable and substantial progress because of his continued

incarceration.

¶ 8 The trial court also ordered genetic testing in October 2017. Although respondent signed a voluntary acknowledgment of paternity at the time of T.B.'s birth, during the pendency of the case, he corresponded with the court and his counsel, indicating his belief he was not the father of the child. He stated, however, knowing this, he had freely signed the voluntary acknowledgment of paternity and birth certificate and accepted responsibility for the child as his own and was opposed to the genetic testing order. Testing in December 2017 determined respondent is not the biological father of T.B.

¶ 9 Respondent was released from prison on December 28, 2017. In its February 2018 permanency order, the trial court found respondent had made reasonable progress and reasonable efforts toward returning the minor home. The May 2018 permanency order found respondent had made reasonable progress and reasonable efforts but noted he must attend all visits offered to build the bond and attachment with T.B. that will permit a safe transition of custody. In July 2018, the court found respondent had not made reasonable progress or reasonable efforts.

¶ 10 In August 2018, the State filed a motion to terminate the parental rights of respondent and Kristen K. The State alleged both parents were unfit because they failed to make reasonable progress toward the return of the minor to their care during any nine-month period following the adjudication of neglect, namely October 24, 2017, to July 24, 2018 (750 ILCS 50/1(D)(m)(ii) (West 2016)).

¶ 11 In November and December 2018, the trial court conducted a hearing on the State's motion. Syretta Butler testified she is a caseworker at Center for Youth and Family Solutions and has been T.B.'s caseworker since June 2017. At the start of the case, respondent

resided in prison. He sent letters to T.B. and completed services related to substance abuse and parenting. Once he was released from prison in December 2017, he was required to cooperate with the agency and attend visits. From December 2017 to January 2018, respondent cooperated with the agency and attended weekly visits. Butler stated she had no trouble contacting respondent during that time. She also stated respondent cooperated with the agency and attended visits in February and March 2018.

¶ 12 Butler stated she last talked with respondent on April 19, 2018. She called him, and respondent said he was working out of state for a power company. She did not receive any pay stubs or a letter of employment from him. At that time, respondent stated he wanted to put his visits on hold and would call to let Butler know when he wanted them to resume. Between April 19, 2018, and August 9, 2018, Butler had no in-person contact with respondent and spoke with him less than five times. Respondent contacted Butler to restart the visits in July 2018. Respondent visited with T.B. in August 2018, but he also became incarcerated again.

¶ 13 On cross-examination, Butler testified respondent maintained contact with the agency while incarcerated, contacted her once he was released, and had appropriate visits starting in January 2018. Butler stated a bond existed between respondent and T.B.

¶ 14 Respondent testified he lived with Kristen K. and T.B. during the "first few months of his life." When T.B. was approximately three months old, respondent was sentenced to four years in prison. Believing substance abuse was an issue for him, he placed himself in a substance-abuse program while incarcerated. He also took parenting courses, contacted the agency, and wrote T.B. every week.

¶ 15 Respondent stated he was released from prison on December 28, 2017, and "set up an impromptu visit" with T.B. on that day. Thereafter, respondent "established a regular

visitation schedule" with T.B. until he "took a job that caused [him] to suspend the visits temporarily." Respondent stated he began working as an independent contractor for Evaptech and "built observation decks for cooling towers at power companies." He stated it was "an excellent job opportunity," could earn him "almost a hundred thousand dollars a year," and required him to "travel across the United States." Prior to taking the job in Ohio, respondent called Butler and told her he "would need to temporarily suspend [his] visits due to employment purposes." Respondent, however, did not notify his parole officer, knowing "the bureaucracy of the parole office" would take weeks to get approval to leave Illinois. During his 90-day stay in Ohio, respondent contacted Butler "two or three times" and even texted a picture of a negative drug screen he had taken for his employment. Respondent stated he was working 12-hour days and had little time to make phone calls while on the job.

¶ 16 When he returned to Illinois in July 2018, respondent contacted Butler. After a meeting with the agency, visits resumed in August 2018. Also in August 2018, respondent returned to custody after his parole was revoked for leaving the state without notifying his parole officer. He also reported being charged with retail theft in August 2018 and stated he had 60 days left on his stay in prison.

¶ 17 Called as a witness by respondent, Butler testified respondent informed her of taking an out-of-state job in April 2018 and maintained "very minimal" contact with her thereafter. He contacted her in July 2018 and visits resumed. Butler stated respondent had no contact with T.B. while he was working.

¶ 18 In its ruling on unfitness, the trial court noted respondent had two requirements upon his release from prison in December 2017—maintain contact with the agency and visit with T.B. Respondent visited with T.B., and the court assumed the bond between them was growing.

However, respondent left in April 2018 and, "by choosing to remove himself" from T.B.'s life, it created a problem for respondent in "making progress toward return of his child to his custody." While respondent restarted the visits when he returned in July 2018, "there was another problem" because he had left the state without notifying his parole officer, which ultimately led to his return trip to prison. The court found respondent unfit.

¶ 19 On February 8, 2019, respondent's counsel filed a motion to continue, stating respondent was set to be released from prison on February 22, 2019. Respondent requested a bonding study, a psychological evaluation of T.B., and a study of respondent's rehabilitative potential be conducted before a decision on termination was made.

¶ 20 On February 11, 2019, the trial court conducted the best-interests hearing. While first ruling on respondent's motion to continue, the court noted there was evidence of a bond between T.B. and respondent. The court did not see how a psychological evaluation of T.B. would "add substantially to the factual record." The court also believed respondent "has a lot of rehabilitative potential" and a study would not add to the record. Noting a continuance would not serve the interests of T.B. or the public, the court denied the motion.

¶ 21 The best-interests report indicated T.B. has resided with his foster parents since April 2017. He appeared bonded to his caregivers, who provide a stable living environment for him. His foster parents are also willing to provide permanency for T.B. T.B. last visited with respondent in August 2018. As of February 2019, respondent remained incarcerated.

¶ 22 Respondent's counsel stated he had reviewed the best-interests report and did not have any additions or corrections. However, counsel stated respondent wanted the trial court to vacate counsel's appointment and grant respondent a continuance to hire new counsel. Respondent stated it was in T.B.'s best interests to allow counsel to withdraw. Respondent

complained "we have not retained the appropriate professionals, their testimonies, witnesses, and other applicable evidence, all of which are pretty fundamental to these types of proceedings." The court denied respondent's request to obtain another attorney.

¶ 23 The trial court found respondent had not had any contact with T.B. since August 2018. Throughout the case, respondent "has been unable to provide for the physical safety and welfare of the child." While he only had a short time left in prison, "he's going to need some time to establish himself, to establish a home, to establish stability both in residence and employment." Moreover, for "the foreseeable future," he would not be able to provide for the physical safety and welfare of T.B.

¶ 24 The trial court found T.B. has been in the care of his foster parents since April 2017 and their home has provided him with meaningful community ties. The court mentioned T.B.'s need for permanence and stated his current living situation "is the place where he sees as his home." The court found it in T.B.'s best interests that the parental rights of respondent and Kristen K. be terminated. This appeal followed.

¶ 25 II. ANALYSIS

¶ 26 A. Unfitness Finding

¶ 27 Respondent argues the trial court's finding of unfitness was against the manifest weight of the evidence. We disagree.

¶ 28 Initially, we note again that respondent is not the biological father of T.B. However, he signed a voluntary acknowledgment of paternity, which established a parent-child relationship. See 750 ILCS 46/201(b)(2) (West 2016); see also *In re Parentage of G.E.M.*, 382 Ill. App. 3d 1102, 1109, 890 N.E.2d 944, 954 (2008) ("Consent is as legally binding on a parent as a [genetic] determination when that unconditional acceptance of the role of parent is

voluntarily accepted for purposes of an adoption or a voluntary acceptance of paternity."). A valid voluntary acknowledgment of paternity "is equivalent to an adjudication of the parentage of a child and confers upon the acknowledged father all of the rights and duties of a parent." 750 ILCS 46/305(a) (West 2016). Those rights, however, can be taken away.

¶ 29 In a proceeding to terminate a respondent's parental rights, the State must prove unfitness by clear and convincing evidence. *In re Donald A.G.*, 221 Ill. 2d 234, 244, 850 N.E.2d 172, 177-78 (2006). " 'A determination of parental unfitness involves factual findings and credibility assessments that the trial court is in the best position to make.' " *In re Richard H.*, 376 Ill. App. 3d 162, 165, 875 N.E.2d 1198, 1201 (2007) (quoting *In re Tiffany M.*, 353 Ill. App. 3d 883, 889-90, 819 N.E.2d 813, 819 (2004)). A reviewing court accords great deference to a trial court's finding of parental unfitness, and such a finding will not be disturbed on appeal unless it is against the manifest weight of the evidence. *In re N.T.*, 2015 IL App (1st) 142391, ¶ 27, 31 N.E.3d 254. " 'A court's decision regarding a parent's fitness is against the manifest weight of the evidence only where the opposite conclusion is clearly apparent.' " *In re M.I.*, 2016 IL 120232, ¶ 21, 77 N.E.3d 69 (quoting *In re Gwynne P.*, 215 Ill. 2d 340, 354, 830 N.E.2d 508, 517 (2005)).

¶ 30 In the case *sub judice*, the trial court found respondent unfit for failing to make reasonable progress toward the return of the minor to him during any nine-month period following the adjudication of neglect. The State specified the nine-month period to be October 24, 2017, to July 24, 2018.

¶ 31 "Reasonable progress" is an objective standard that "may be found when the trial court can conclude the parent's progress is sufficiently demonstrable and of such quality that the child can be returned to the parent in the near future." *In re Janine M.A.*, 342 Ill. App. 3d 1041,

1051, 796 N.E.2d 1175, 1183 (2003).

> "[T]he benchmark for measuring a parent's 'progress toward the return of the child' under section 1(D)(m) of the Adoption Act encompasses the parent's compliance with the service plans and the court's directives, in light of the condition which gave rise to the removal of the child, and in light of other conditions which later become known and which would prevent the court from returning custody of the child to the parent." *In re C.N.*, 196 Ill. 2d 181, 216-17, 752 N.E.2d 1030, 1050 (2001).

"The law does not afford a parent an unlimited period of time to make reasonable progress toward regaining custody of the children." *In re Davonte L.*, 298 Ill. App. 3d 905, 921, 699 N.E.2d 1062, 1072 (1998). Moreover, "[t]ime in prison is included in the nine-month period during which reasonable progress must be made." *In re F.P.*, 2014 IL App (4th) 140360, ¶ 89, 19 N.E.3d 227. "At a minimum, reasonable progress requires measurable or demonstrable movement toward the goal of reunification." *In re Daphnie E.*, 368 Ill. App. 3d 1052, 1067, 859 N.E.2d 123, 137 (2006).

¶ 32 In this case, Butler stated respondent was required to cooperate with the agency and attend visits. Respondent was in prison until December 28, 2017. While he contacted the agency and attended visits after his release from prison, respondent's commitment to his son was short-lived. He left to work in Ohio in April 2018. In doing so, he violated his parole by failing to notify his parole officer of his move out of state. While on the job for approximately three months, he only contacted his caseworker two or three times and did not provide her with an address. Other than an alleged drug test for employment, he provided no proof of his out-of-state

job. He also had no visits or any contact with T.B. while in Ohio, and he did not return until July 2018. Respondent was eventually found to have violated his parole, charged with retail theft, and sent back to prison.

¶ 33 While he was in prison and out of state during much of the nine-month period, respondent contends he had cooperated with the agency, arranged for visitation, and took the job in Ohio to provide for his girlfriend, her two children, and T.B. He argues his actions show he made reasonable progress. On the contrary, respondent's decisions did little to show measurable or demonstrable movement toward the goal of reunification. As the trial court found, when respondent left the state, visits with T.B. were suspended and respondent lost "that regular contact" with T.B. The court stated as follows:

> "There was no time to lose here, and by choosing to remove himself from [T.B.'s] life in order to earn what sounds like good money, with a good job opportunity, that was a problem for [respondent] to be making progress toward return of his child to his custody."

Along with his decision to leave the state, he put himself in the position to be in violation of his parole, which, along with committing another offense, led to further time away from T.B. The court found that, at the end of the applicable time frame, "it couldn't be said that [T.B.] was going to be returned to [respondent's] custody in anywhere close to the near future." The court's finding of unfitness was not against the manifest weight of the evidence.

¶ 34 B. Motion to Continue

¶ 35 Respondent argues the trial court abused its discretion in denying his motion to continue the best-interests hearing. We disagree.

¶ 36 "Because a delay in the adjudication of a termination proceeding can cause grave harm to a child and the family [citation], parental termination cases must be resolved expeditiously." *In re Charles A.*, 367 Ill. App. 3d 800, 803, 856 N.E.2d 569, 573 (2006). In Illinois, a litigant has no absolute right to a continuance. *In re Tashika F.*, 333 Ill. App. 3d 165, 169, 775 N.E.2d 304, 307 (2002). Continuances in juvenile cases may be granted "[u]pon written motion of a party filed no later than 10 days prior to hearing, or upon the court's own motion and only for good cause shown." 705 ILCS 405/2-14(c) (West 2016). "The court may continue the hearing 'only if the continuance is consistent with the health, safety and best interests of the minor.' " *In re K.O.*, 336 Ill. App. 3d 98, 104, 782 N.E.2d 835, 841 (2002) (quoting 705 ILCS 405/2-14(c) (West 2000)); see also Ill. S. Ct. R. 901(c) (eff. Mar. 8, 2016) (stating continuances in child custody cases shall not be granted except upon a showing of good cause and if the continuance "is consistent with the health, safety and best interests of the child").

¶ 37 The trial court's decision denying a motion to continue will not be overturned on appeal absent an abuse of discretion. *Tashika F.*, 333 Ill. App. 3d at 169, 775 N.E.2d at 307. Further, "the denial of a request for a continuance is not a ground for reversal unless the complaining party has been prejudiced by the denial." *In re A.F.*, 2012 IL App (2d) 111079, ¶ 36, 969 N.E.2d 877.

¶ 38 On February 8, 2019, respondent's counsel filed a motion to continue the best-interests hearing set for February 11, 2019. The motion indicated respondent was scheduled to be released from prison on February 22, 2019, and he asked for time to have a bonding study, a psychological evaluation of T.B., and a study of respondent's rehabilitative potential conducted. The motion claimed it was in T.B.'s best interests that the requested information be available prior to any decision being made on respondent's parental rights.

¶ 39 In considering the motion, the trial court stated the record showed evidence of a bond between respondent and T.B. and it believed respondent "has a lot of rehabilitative potential." The court did not see how a psychological evaluation of T.B. was "going to add substantially to the factual record." While the court acknowledged having more information was always better, it found the requested information would not play a "key role" in the case and "would take months and months" to complete. Concluding a continuance would not serve the best interests of T.B. or the public, the court denied the motion.

¶ 40 Here, respondent has not demonstrated he was prejudiced by the trial court's denial of his motion to continue. The material requested by respondent was duplicative, irrelevant, or unhelpful to the court's ultimate decision regarding whether it was in T.B.'s best interests to terminate respondent's parental rights. Moreover, the court had ample evidence before it to adequately address the concerns raised by respondent. Accordingly, we find the court did not abuse its discretion in denying the motion to continue.

¶ 41 C. Ineffective Assistance of Counsel

¶ 42 Respondent argues the trial court conducted an inadequate analysis of his *pro se* claim of ineffective assistance of counsel and, thus, prematurely decided against appointing independent counsel to represent him on the claim. We disagree.

¶ 43 At the best-interests hearing, the trial court first considered respondent's motion to continue and denied it. Thereafter, the court asked the attorneys if they had any additions or corrections to the best-interests report. Respondent's counsel stated he had no additions or corrections, but he passed along respondent's request that counsel's appointment be vacated and a continuance be granted to hire private counsel. The court then allowed respondent to state his concerns. Respondent claimed "[w]e weren't fully prepared at trial," "[w]e're not prepared fully

prepared today," and "we have not retained the appropriate professionals" for the hearing. While respondent stated he and counsel "don't have a problem working together to retain [*sic*] the appropriate evidence and testimonies that we need," he stated he wanted to make certain claims that could be substantiated by "professional witnesses." Respondent stated he was "really left with no choice" but to ask the court to allow counsel to withdraw and then appoint new counsel. If the court denied the request to appoint counsel, respondent indicated he would have to retain counsel or proceed *pro se*. Thus, respondent was "forced to ask the Court for a 60-day continuance to have all of the evidence, the testimonies of professionals prepared and ready to go."

¶ 44 The trial court asked respondent what information he was seeking. Respondent wanted professionals to substantiate the emotional bond between him and T.B. He also wanted a child psychologist to talk about the resilience of children and how T.B. would not be emotionally damaged if returned to him. Respondent wanted to present evidence of his financial situation and have a caseworker who monitored the majority of the visits testify. While respondent stated he and counsel had "been working together for a long time" and they had not "had a problem with that, *per se*, in the past," he did not feel prepared to proceed without "the appropriate evidence and testimony."

¶ 45 The trial court stated a claim relating to the effectiveness of an attorney in a criminal context often leads to a hearing pursuant to *People v. Krankel*, 102 Ill. 2d 181, 464 N.E.2d 1045 (1984). While noting the issue is usually brought posttrial, the court believed respondent was complaining of missing information that, "if a change of counsel were to be had, that new counsel could obtain this information." The court noted "it's not that there's any relationship that's broken down with [counsel] or that [counsel] hasn't been doing an effective

job. It's that that additional time is needed; and if [counsel] doesn't have that time, he just can't—couldn't do that job."

¶ 46 The trial court then proceeded to look at the information sought by respondent. As to the bonding assessment, the court found a bond existed, although the lack of contact between respondent and T.B. could have had a negative impact. In regard to evidence of a child's resilience, the court stated juvenile cases are to "proceed with dispatch and without delay" and "the longer a case drags on with a child not knowing what that final decision is, the more and more harmful it is to a child." As to the financial information, the court had no doubt that respondent "has financial wherewithal or will when he's released." The court also stated having a different caseworker testify about visits would have little evidentiary value because it appeared the visits "have all been positive."

¶ 47 After considering the information requested, the trial court noted respondent's request was "not really based on the need for another attorney." Instead, it was respondent's "desire to have an attorney that is more prepared and has more ammunition built up" and was, in reality, "a request for a continuance." The court denied the request.

¶ 48 After reviewing the record, we find *Krankel* inapplicable in this case. The law emanating from *Krankel* provides that, when confronted with a defendant's posttrial allegations of ineffective assistance of counsel, courts are to follow certain procedural steps. See *People v. Moore*, 207 Ill. 2d 68, 797 N.E.2d 631 (2003) (noting the rule that had developed since *Krankel*).

> "New counsel is not automatically required in every case in which a defendant presents a *pro se* posttrial motion alleging ineffective assistance of counsel. Rather, when a defendant presents a *pro se* posttrial claim of ineffective assistance of counsel, the trial court

> should first examine the factual basis of the defendant's claim. If the trial court determines that the claim lacks merit or pertains only to matters of trial strategy, then the court need not appoint new counsel and may deny the *pro se* motion. However, if the allegations show possible neglect of the case, new counsel should be appointed." *Moore*, 207 Ill. 2d at 77-78, 797 N.E.2d at 637.

¶ 49 Putting aside whether *Krankel* applies in cases involving the termination of parental rights, our supreme court has noted "*Krankel* is limited to posttrial motions." *People v. Ayres*, 2017 IL 120071, ¶ 22, 88 N.E.3d 732; see also *In re T.R.*, 2019 IL App (4th) 190051, ¶ 31 (finding *Krankel* applies in juvenile delinquency proceedings). Respondent only made passing reference to any work previously done by counsel, and the information he was requesting would have had no bearing on the question of unfitness. Moreover, respondent was complaining about counsel's representation for a hearing that had yet to take place. As the trial court found, respondent was not seeking the appointment of new counsel for something that occurred in the past. Instead, having just had his motion to continue denied, he wanted new counsel and more time to provide that same sought-after evidence at the best-interests hearing. As stated, respondent had no absolute right to a continuance and, given the evidence he sought was insufficient to grant the motion to continue, the court did not err in denying his request to appoint new counsel to provide that same evidence.

¶ 50 D. Best-Interests Finding

¶ 51 Respondent argues the trial court's finding it was in the minor's best interests for his parental rights to be terminated was against the manifest weight of the evidence. We disagree.

¶ 52 "Courts will not lightly terminate parental rights because of the fundamental importance inherent in those rights." *In re Veronica J.*, 371 Ill. App. 3d 822, 831, 867 N.E.2d 1134, 1142 (2007) (citing *In re M.H.*, 196 Ill. 2d 356, 362-63, 751 N.E.2d 1134, 1140 (2001)). "[A]t 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." *In re D.T.*, 212 Ill. 2d 347, 364, 818 N.E.2d 1214, 1227 (2004); see also *In re Julian K.*, 2012 IL App (1st) 112841, ¶ 80, 966 N.E.2d 1107 (stating once the trial court finds the parent unfit, "all considerations, including the parent's rights, yield to the best interests of the child"). When considering whether termination of parental rights is in a child's best interests, the trial court must consider a number of factors within "the context of the child's age and developmental needs." 705 ILCS 405/1-3(4.05) (West 2016). These include the following:

> "(1) the child's physical safety and welfare; (2) the development of the child's identity; (3) the child's familial, cultural[,] and religious background and ties; (4) the child's sense of attachments, including love, security, familiarity, continuity of affection, and the least disruptive placement alternative; (5) the child's wishes and long-term goals; (6) the child's community ties; (7) the child's need for permanence, including the need for stability and continuity of relationships with parent figures and siblings; (8) the uniqueness of every family and child; (9) the risks related to substitute care; and (10) the preferences of the person available to care for the child." *Daphnie E.*, 368 Ill. App. 3d at 1072, 859 N.E.2d at 141.

See also 705 ILCS 405/1-3(4.05)(a) to (j) (West 2016).

¶ 53 A trial court's finding that termination of parental rights is in a child's best interests will not be reversed on appeal unless it is against the manifest weight of the evidence. *In re Dal. D.*, 2017 IL App (4th) 160893, ¶ 53, 74 N.E.3d 1185. The court's decision will be found to be "against the manifest weight of the evidence only if the opposite conclusion is clearly apparent or the decision is unreasonable, arbitrary, or not based on the evidence." *In re Keyon R.*, 2017 IL App (2d) 160657, ¶ 16, 73 N.E.3d 616.

¶ 54 In this case, the best-interests report indicated T.B. has resided with his foster parents since April 2017. He appears bonded to his caregivers and they provide a stable living environment for him. He is eating and sleeping well and appears "extremely comfortable" in his surroundings. He appears happy living with his foster parents and they are willing to provide permanency for him. While T.B. resides with foster parents who are not of the same race, they "treat him and love him just the same" and "maintain the cultures" of his biological family. The report stated T.B. had not visited with respondent since August 2018 and respondent was incarcerated.

¶ 55 During the best-interests hearing, the trial court considered the applicable statutory factors. The court noted it has been almost two years that T.B. has looked to his foster parents "for safety, for his welfare, for establishing his home, for establishing his background and ties, for establishing his sense of attachments and where he looks to feel love and attachment and a sense of being valued." The court found the foster parents provide T.B. with the permanence he needs and returning T.B. to respondent or Kristen K. "would cause an extreme disruption to the continuity that [T.B.] has experienced here in his life for almost two years."

¶ 56 The evidence indicates T.B. is in a good home, his needs are being met, and he is

being taken care of by people who love him and want to provide for him on a long-term basis. On the other hand, respondent was in prison at the time of the best-interests hearing and nothing indicated he would be able to provide for T.B. upon his release or in the near future. Considering the evidence and the best interests of the minor, we find the trial court's order terminating respondent's parental rights was not against the manifest weight of the evidence.

¶ 57 III. CONCLUSION

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

¶ 59 Affirmed.