2015 IL App (2d) 150419-U
Nos. 2-15-0419, 2-15-0420, 2-15-0460, 2-15-0473 cons.
Order filed October 6, 2015

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

In re DRAVEN W. and PRECIOUS W., Minors,	)	Appeal from the Circuit Court of Lee County.
	)	Nos. 08-JA-16 & 08-JA-17
(The People of the State of Illinois, Petitioner-Appellee v. Patricia W., Alicia B., and Jonathan W., Respondents-Appellants).	)	Honorable Daniel A. Fish, Judge, Presiding.

JUSTICE BURKE delivered the judgment of the court.
Presiding Justice Schostok and Justice Hutchinson concurred in the judgment.

ORDER

¶ 1 *Held*: Once trial court properly removed Patricia W., as the minor, Precious W.'s guardian, at the dispositional hearing, Patricia lacked standing to challenge any subsequent orders regarding Precious. Trial court's finding of Patricia's unfitness, regarding the minor, Draven W., was not against the manifest weight of the evidence. Trial court's finding of Alicia B.'s unfitness, regarding Precious, was not against the manifest weight of the evidence. The evidence presented at the best-interest hearing was more than sufficient to support the court's determination that it was in Draven's and Precious's best interest to terminate Patricia's, Alicia's, and Jonathan W.'s parental rights. Affirmed.

¶ 2 These consolidated appeals concern the minor cousins, Draven W. and Precious W., who were raised by their paternal grandmother, respondent Patricia W. Precious, born July 14, 2001,

was placed in the legal guardianship of Patricia by her birth mother, respondent Alicia B., and her father, respondent Jonathan W., who is Patricia's son. Around the same time, Draven, born on August 30, 2001, also was placed with Patricia when he was a few months old. His biological parents, Lucas W., who is Patricia's son, and Jeanette W., surrendered their parental rights and Patricia adopted Draven. Those parents are not parties to these proceedings.

¶ 3 Precious and Draven were adjudicated neglected. Following a dispositional hearing, custody and guardianship of the minors were awarded to the Department of Children and Family Services (DCFS) guardianship administrator. The State filed motions to terminate Patricia's parental rights to Draven and Alicia and Jonathan's parental rights to Precious. After unfitness and best interest hearings, the court found Alicia and Jonathan unfit and ordered termination of their parental rights as to Precious. The court also found Patricia unfit and ordered termination of her parental rights as to Draven. Consistent with the prior transfer of guardianship of Precious to DCFS, the court also found Patricia unfit and ordered termination of her guardianship. Respondents brought separate appeals and we consolidated them for review. Patricia appeals the trial court's orders finding her unfit and terminating her parental rights as to Draven, and terminating her guardianship as to Precious. Alicia appeals the termination of her parental rights concerning Precious. Jonathan only contests the best interest ruling terminating his parental rights of Precious but not his unfitness determination. We affirm.

¶ 4 BACKGROUND

¶ 5 Precious and Draven have lived together with Patricia and a third son of Patricia's, Mark W., until the minors were separated and placed in foster care sometime in 2011. Draven is scholastically at grade level. He is on psychotropic medication. Precious is scholastically at

grade level. She is on psychotropic medication and was diagnosed on June 10, 2014, with severe PTSD and Bipolar Disorder mixed.

¶ 6 Alicia has a history of relationships characterized by domestic violence and substance abuse. She has given birth to three substance-exposed children in the last five years. Alicia also has a history of incarceration and, in fact, was incarcerated during a portion of these proceedings. Jonathan also has an extensive history of substance abuse and criminal history. He too was incarcerated during a portion of these proceedings. Jonathan attempted to surrender his parental rights, but the court declined to accept and he was subsequently found unfit and his parental rights were terminated.

¶ 7 Patricia has a history of alcohol abuse and was undergoing alcoholism counseling during the pendency of the proceedings.

¶ 8 Prior to their initial removal from Patricia's care in 2008, on September 19, 2006, Draven and Precious were left home alone unsupervised and were taken to the police department. Patricia later called the police department and was described as "extremely intoxicated." Patricia was indicated by DCFS and an intact family case was opened. Patricia failed to participate in a substance abuse assessment.

¶ 9 On February 14, 2008, Precious and Draven brought marijuana-laced brownies to school. The children reported that the brownies were given to them by Patricia. Draven consumed part of a brownie and was hospitalized. Patricia, Jonathan, and Mark, who is the minors' uncle and lived with the minors, were indicated by DCFS for substantial risk of physical injury/environment injurious to the health and welfare of the minors, and for substance misuse by neglect.

¶ 10 On June 16, 2008, Patricia's residence was observed to be very dirty with food in Precious's bed and garbage and beer cans piled on the back porch. The minors were found to be in the care of a babysitter, Delores Ramos, who could not locate Draven. Draven was later found hanging out the window of a neighboring residence on a mattress.

¶ 11 On August 8, 2008, Patricia was discovered to be homeless and staying at a motel in Dixon without Precious or Draven. The Dixon police department took protective custody of the minors on August 12, 2008, after Precious became lost outside while in the care of Ramos. Patricia was indicated by DCFS for inadequate supervision and the minors were taken into custody by DCFS.

¶ 12 A petition for adjudication of wardship was filed by the State in the interest of both minors, and a dispositional hearing was held and an order was filed on October 2, 2008, finding Patricia unfit because she had not been cooperative with DCFS services, failed to cooperate with requested urine screens, and was previously indicated in September 2006 for inadequate supervision. The court found Precious and Draven neglected and ordered that they be made wards of the court and be placed under the guardianship of DCFS.

¶ 13 On September 28, 2009, the minors were again placed in Patricia's care because Patricia had made sufficient progress in complying with the DCFS service plan. Numerous allegations about the minors' safety while in Patricia's care were brought to the attention of the DCFS hotline, and a safety plan was developed permitting only DCFS/Lutheran Social Services of Illinois (LSSI) supervised contact between the biological fathers, Jonathan and Lucas, and the minors.

¶ 14 Subsequently, on June 1, 2010, Patricia and Mark failed to participate in a requested drug drop. Precious was not transported to the recommended counseling by Patricia, and, on June 3,

2010, Patricia allowed unsupervised visits with the fathers and the minors. On June 21, 2010, the State placed in evidence a DCFS permanency hearing report based on a service plan put into place on March 1, 2010. The report stated that "due to numerous concerns, a safety plan was implemented to preserve placement and Patricia admits to violating the safety plan by allowing her two sons at her home while [Precious] was there. As a result, [Precious] was placed back in foster care on 06/10/10."

¶ 15 On June 20, 2011, the minors again were returned to Patricia's care but then removed on July 5, 2011, after Precious contacted her LSSI worker, Leigh Terrell, crying that she needed help because her caretakers, including Patricia and Mark were intoxicated and she and Draven were afraid to return to the residence. A wellness check by Officer Lehman of the Dixon police department noted that Patricia and Mark were "highly intoxicated." Patricia and Mark admitted drinking beers in violation of service plan interventions and court orders, but they denied being intoxicated.

¶ 16 As a result, the minors were removed from the home. According to a DCFS report, Precious began displaying behavioral issues and had to be hospitalized at a behavioral health center. While hospitalized, she was diagnosed with Axis I Depressive Disorder, NOS and Attention Deficit Hyperactivity Disorder, Attention Type and Axis IV Problem with primary support group. She was prescribed several medications and met with a psychiatrist at the center. Both Mark and Patricia were told to get substance abuse assessments and follow all recommendations and to engage in individual counseling.

¶ 17 Following several more permanency review hearings, the State file a motion for termination of parental rights and power to consent to adoption of Precious on November 18, 2013. The motion was directed to Alicia, Jonathan, and Patricia. Specifically, the State alleged

Alicia, Jonathan, and Patricia: (count I) failed to maintain a reasonable degree of interest, concern, or responsibility as to the child's welfare; (count II) failed to protect the child from conditions within her environment injurious to the child's welfare; (count III) failed to make reasonable efforts to correct the conditions that were the basis for the removal of the child within nine months after the adjudication of neglect or within any nine month period thereafter; (count IV) failed to make reasonable progress within nine months after the adjudication of neglect or within any nine month period thereafter. Count V was solely directed against Alicia and Jonathan and alleged that he or she was depraved.

¶ 18 The State also filed a motion for termination of parental rights and power to consent to adoption of Draven, which was directed at Patricia. The allegations were the same as those in the case of Precious, but in Draven's case, specific nine-month periods were directed to Patricia.

¶ 19 In Precious's case, the trial court found, *inter alia*, Alicia and Jonathan unfit parents on the grounds of depravity. In Draven's case, the trial court found Patricia an unfit parent for failure to protect Draven from conditions within his environment injurious to his welfare and that she failed to make reasonable efforts to correct the conditions that were the basis for the removal of Draven or failed to make reasonable progress toward Draven's return home during any nine-month period following the adjudication of neglect.

¶ 20 Following a best interest hearing, the court found that it was in the best interests of Precious that the parental rights of Alicia and Jonathan be terminated, and that it was in the best interests of Draven that the parental rights of Patricia be terminated. The court also found that it was in the best interests of Precious that Patricia's guardianship be terminated. Patricia and Alicia appeal the trial court's order finding them unfit and terminating their parental and

guardianship rights in the minors. Jonathan only contests the best interest ruling terminating his parental rights of Draven but not the unfitness determination.

¶ 21 ANALYSIS

¶ 22 A. Patricia's Standing to Challenge Unfitness as Guardian of Precious

¶ 23 Before addressing Patricia's argument regarding the unfitness finding of her guardianship of Precious, we turn to the State's contention that Patricia's appeal concerning Precious should be dismissed because the trial court removed Patricia as Precious's guardian following the dispositional hearing and therefore, Patricia no longer remained a party to the proceedings regarding Precious. Patricia responds that she does have standing to appeal the termination of her guardianship of Precious. She points out that she was treated both as the guardian and as a party throughout the pendency of the case, was at all times represented by appointed counsel, was referred by the court as Precious's guardian, and neither the State nor any other party filed a motion to dismiss her from the case as guardian.

¶ 24 Pursuant to section 2-27(1) of the Juvenile Court Act of 1987 (JCA) (705 ILCS 405/2-27(1) (West 2012)), a trial court may commit a minor to wardship upon a determination that the guardian is unable, for some reason other than financial circumstances alone, to care for, protect, train, or discipline the minor and that the health, safety, and best interests of the minor will be jeopardized if the minor remains in the custody of the guardian. *In re Gabriel E.*, 372 Ill. App.3d 817, 828 (2007). "The trial court's determination regarding this will be reversed only if the factual findings at the dispositional hearing are against the manifest weight of the evidence or if the court abused its discretion by selecting an inappropriate dispositional order." *Id.*, 372 Ill. App. 3d at 828.

¶ 25 We agree with Patricia that she does have standing to challenge the termination of her guardianship. Thus, her argument is whether we should reverse the dispositional order in which the court found Precious was neglected and placed her under DCFS guardianship. Assuming this order is appealable at this time, our review of the record shows that the trial court's finding was not against the manifest weight of the evidence and the dispositional order was not an abuse of discretion. Patricia had been uncooperative with DCFS services, failed to submit to requested urine screens, and previously was indicated in September 2006 for inadequate supervision.

¶ 26 However, because we find that the court properly directed the removal or dismissal of Patricia as guardian of Precious and appointed DCFS guardian following the dispositional hearing, she no longer remained her guardian, and thus, once the court removed her as guardian, Patricia no longer was a party respondent to the proceedings as to Precious. See *In re C.C.*, 2011 IL 111795, ¶ 54 (holding that section 1-5(1) of the JCA (705 ILCS 405/1-5(1) (West 2012)) does not require a guardian remain a party to proceedings after DCFS is appointed guardian following dispositional hearing).

¶ 27 While the trial court may have treated Patricia as Precious's guardian through the remainder of the case, the court merely afforded her the opportunity to participate even though there was no statutory basis entitling her to participate. Accordingly, we affirm the trial court's dispositional order and conclude that Patricia lacks standing to challenge any subsequent orders as to Precious.

¶ 28 B. Unfitness of Patricia as to Draven

¶ 29 In Illinois, the JCA (705 ILCS 405/1 *et seq*. (West 2012)) provides a two-stage process for involuntary termination of parental rights. Initially, the court holds an "unfitness hearing," during which the State must make a threshold showing of parental unfitness as defined in section

1(D) of the Adoption Act (Act). 750 ILCS 50/1(D) (West 2012). After the court finds the parent to be unfit, the court then conducts a "best interest hearing" to determine whether it is in the best interest of the child to sever the parental rights. 705 ILCS 405/2-29 (West 2012); *In re D.T.*, 212 Ill. 2d 347, 352-53 (2004).

¶ 30 Section 50/1(D) of the Act (750 ILCS 50/1(D) (West 2014)) lists various grounds under which a parent may be found unfit. Any one of the grounds, if proven, is sufficient to enter a finding of unfitness. *In re C.E.*, 406 Ill. App. 3d 97, 107 (2010). Because the termination of parental rights constitutes a complete severance of the parent-child relationship, proof of parental unfitness must be clear and convincing. *In re C.N.*, 196 Ill. 2d 181, 208 (2001).

¶ 31 Patricia contends that the trial court erred in finding that the State showed by clear and convincing evidence that she failed to protect Draven from conditions within his environment injurious to his welfare, pursuant to section 1(D)(g) of the Act (750 ILCS 50/1(D)(g) (West 2012)). She maintains that the court's finding of unfitness based on the evidence that led to Draven's removal from her care, initially in 2008, and after Draven was returned to her care, from June 20, 2011, until July 5, 2011, was against the manifest weight of the evidence because she was not responsible for the initial injurious environment in 2008, and there was "no evidence of immediate or imminent physical harm or danger" to the minor prior to his removal from her care on July 5, 2011. She further asserts that the facts of this case do not rise to the level of an injurious environment because there was no evidence submitted to reflect the condition of Draven before he was removed from her care; *i.e.*, that he was crying or upset, or any indication of physical abuse.

¶ 32 Contrary to Patricia's contentions, a parent may be found unfit under section 1(D)(g) of the Act for the same conduct that resulted in the initial removal of the child. *In re C.W.*, 199 Ill.

2d 198, 212 (2002). "There is no requirement under section 1(D)(g) that a parent be permitted a period of time to correct or improve an injurious environment before he or she may be found unfit on this ground." *Id*. at 213. Moreover, there is no requirement or authority that children must actually be crying or suffer physical injury for a finding of injurious environment. The term "injurious environment" has been recognized to be an amorphous concept that cannot be defined with particularity. *In re N.B.*, 191 Ill. 2d 338, 346 (2000). Generally, it has been construed to include "the breach of a parent's duty to ensure a 'safe and nurturing shelter' for his or her children." *Id*.; *In re Christina M.*, 333 Ill. App. 3d 1030, 1034 (2002).

¶ 33 Here, the service plans, the reports to the court, and the testimony at the hearing demonstrate that the trial court's conclusion that the environment to which Patricia subjected Draven was injurious to his welfare was not against the manifest weight of the evidence. For example: (1) Patricia left Draven unsupervised, and, one time, he was found hanging out of a window of a neighboring residence on a mattress; (2) Patricia gave Draven brownies containing cannabis to take to school, which he consumed and which caused him to be hospitalized; (3) Patricia left Draven in the care of a babysitter who had not been approved of by DCFS; (4) Patricia's house was observed to be very dirty with food in Precious's bed and garbage and beer cans piled on the back porch; (5) Patricia permitted unsupervised contact between Draven and his father, (6) Patricia was discovered homeless and staying at a motel without Precious or Draven; and (7) Patricia and Mark were intoxicated and admitted drinking beers in violation of service plan interventions and court orders. Thus, the environment in which Patricia placed Draven reflects a failure to supervise and protect him. Accordingly, the court's finding that Patricia was unfit because she failed to protect Draven from an environment injurious to his welfare was not contrary to the manifest weight of the evidence.

¶ 34 When parental rights are terminated based upon clear and convincing evidence of a single ground of unfitness, the reviewing court need not consider additional grounds for unfitness cited by the trial court. See *In re D.D.*, 196 Ill. 2d 405, 422 (2001). Therefore, we need not consider whether Patricia was unfit based upon the trial court's findings that she failed to make reasonable efforts to correct the conditions that were the basis for the removal of Draven or failed to make reasonable progress toward Draven's return home during any nine-month period following the adjudication of neglect (see 750 ILCS 50/(D)(m) (West 2012)).

¶ 35 C. Unfitness of Alicia as to Precious

¶ 36 Alicia argues that the trial court erred in terminating her parental rights because she was "viewed as simultaneously having the same parental responsibilities as [Patricia] as a result of the juvenile proceedings." Alicia essentially maintains that the termination of parental rights should not have applied to her because she did not have custody of Precious and had given guardianship of her to Patricia. We find this argument untenable. The trial court did not terminate Alicia's parental rights based on Patricia's lack of responsibilities. Rather, the court terminated Alicia's parental rights based on her parental responsibilities, which had nothing to do with Patricia's.

¶ 37 Regardless, because we choose to dispose of Alicia's argument regarding the trial court's findings of unfitness on the basis of depravity pursuant to section 1(D)(i) of the Act (750 ILCS 50/(D)(i) (West 2012)), we need not address her other arguments relating to unfitness. See *In re D.D.*, 196 Ill. 2d at 422.

¶ 38 Depravity has been defined as an inherent deficiency of moral sense and rectitude. *In re Abdullah*, 85 Ill. 2d 300, 305 (1981). Depravity may be established by a course of conduct of sufficient duration and repetition to indicate a deficiency in moral sense and showing either by

an inability or an unwillingness to conform to accepted morality. *In re Shanna W.*, 343 Ill. App. 3d 1155, 1166 (2003). A rebuttable presumption exists that a parent is depraved if he or she has been criminally convicted of at least three felonies and at least one of these convictions took place within five years of filing of the petition or motion seeking termination of parental rights. 750 ILCS 50/1(D)(i) (West 2012). Unless this presumption is rebutted by contrary evidence, it will establish that the parent is unfit by reason of depravity even if the State presents no additional evidence. See, *e.g.*, *In re Travarius O.*, 343 Ill. App. 3d 844, 853 (2003).

¶ 39 At the fitness hearing, held on July 9-10, 2014, the parties stipulated to the admission of certified copies of criminal conviction records for Alicia, which included the following exhibits: (1) residential burglary, in which Alicia was sentenced to eight years imprisonment on April 27, 2011; (2) unlawful delivery of a controlled substance on May 28, 2008; (3) forgery on May 2, 2005; and (4) deceptive practice on May 2, 2005.

¶ 40 Alicia acknowledges that evidence of her felony convictions established a presumption that she was depraved. She maintains, however, that she presented sufficient evidence to show that she had been rehabilitated and therefore had rebutted the presumption of depravity. Alicia notes that while she was in prison she participated in several programs which were not recommended by LSSI. She took Bible study, sexual assault class, domestic violence class, art therapy, a course on how substance abuse affects families, a parenting class, and she became a peer educator certified by the Department of Public Health. Alicia completed level one of a substance abuse program that LSSI recommended while incarcerated and developed a sobriety plan. Alicia argues that she has been following her sobriety plan and had not used illegal substances or consumed alcohol after being released from prison on January 31, 2014. Alicia denied that she was consuming or in possession of alcohol while at the Corner Spot Bar and Grill

on Super Bowl Sunday on February 2, 2014. However, she later identified a photograph of her holding a glass and she admitted that the glass *may* have contained beer. She asserts that, even if she had consumed the glass of beer, this does not rise to the level of depravity, as there was no testimony that she was intoxicated or was engaging in any inappropriate behavior and her sobriety plan did not prohibit her from entering into establishments that serve alcohol or prohibit her from consuming alcohol.

¶ 41 We agree with Alicia that her efforts toward rehabilitation are commendable. This, however, does not necessarily establish that the presumption of depravity had been rebutted. Alicia gave guardianship to Patricia shortly after Precious was born. She consented to the guardianship because she felt she could not care for Precious as she was struggling with a drug addiction, which began when Alicia was 19 or 20 years old. Alicia's sobriety had been achieved in a highly structured prison environment where drugs were unavailable. Although her sobriety continued after she had been paroled from prison, it only had been approximately five months since her release and it was not clear at the time of the hearing whether Alicia would be able to continue to abstain from drugs given her long history of substance abuse and criminality. The trial court was particularly concerned that Alicia was not truthful when she indicated that she was not consuming alcohol while at the Corner Spot Bar and Grill.

¶ 42 A determination of parental unfitness involves factual findings and credibility assessments that the trial court is in the best position to make. *In re A.B.*, 308 Ill. App. 3d 227, 240 (1999). We defer to the trial court's factual findings and will not reverse the court's decision unless the findings are against the manifest weight of the evidence. See *In re D.D.*, 196 Ill. 2d 405, 417 (2001). Accordingly, given the evidence presented at the unfitness hearing, we cannot

say that the trial court's finding of unfitness based on depravity and its finding that Alicia had not been rehabilitated was against the manifest weight of the evidence.

¶ 43 D. Best Interest Determination

¶ 44 Respondents, Patricia, Alicia, and Jonathan, argue that the trial court's determination that termination of their parental rights was in the best interests of Precious and Draven was against the manifest weight of the evidence. We disagree.

¶ 45 After a finding of parental unfitness, the trial court must give full and serious consideration to the child's best interests. *In re G.L.*, 329 Ill. App. 3d 18, 24 (2002). At the best interest stage of termination proceedings, the State bears the burden of proving by a preponderance of the evidence that termination is in the child's best interests. *D.T.*, 212 Ill. 2d at 366. We will not reverse the trial court's best-interests determination unless it is against the manifest weight of the evidence. *Tiffany M.*, 353 Ill. App. 3d 883, 890 (2004). A decision is against the manifest weight of the evidence only if the facts clearly demonstrate that the court should have reached the opposite result. *In re D.M.*, 336 Ill. App. 3d 766, 773 (2002).

¶ 46 When determining whether termination is in the child's best interest, the court must consider, in the context of the child's age and developmental needs, the following factors: (1) the child's physical safety and welfare, including food, shelter, health, and clothing; (2) the development of the child's identity; (3) the child's background and ties, including familial, cultural, and religious; (4) the child's sense of attachments, including love, security, familiarity, and continuity of affection, and the least-disruptive placement alternative; (5) the child's wishes and long-term goals; (6) the child's community ties, including church, school, and friends; (7) the child's need for permanence, including the need for stability and continuity of relationships with parental figures and siblings and other relatives; (8) the uniqueness of every family and

child; (9) the risks related to substitute care; and (10) the preferences of the persons available to care for the child. 705 ILCS 405/1-3(4.05) (West 2014).

¶ 47 We first observe that, at the best-interest hearing, the "full range of the parent's conduct" must be considered, including the grounds for finding the parent unfit. *In re C.W.*, 199 Ill. 2d at 217. Such evidence is a "crucial consideration" at the best-interest hearing. *In re D.L.*, 326 Ill. App. 3d 262, 271 (2001). The primary issue before the trial court is what action is in the child's best interest. See *In re B.B.*, 386 Ill. App. 3d 686, 697 (2008) (purpose of the best-interest hearing is to minimize further damage to the child by shifting the court's scrutiny to the child's best interest).

¶ 48 1. Precious

¶ 49 Precious testified in chambers that she wanted to live with her grandmother or mother. She said that it would "be a good thing if [she] went home but a bad thing at the same time." Precious explained that it would be a good thing because "I am with my real family" but a bad thing because "I don't know if they're all over with their drinking problem yet."

¶ 50 Molly Hugdahl, the case manager for Precious from Camelot Care Centers, testified that Precious had been placed in foster care with Amy McChesney since June 2014 and that her basic physical needs were being met. She stated that McChesney was willing to offer permanence for Precious but, in view of Precious's most recent psychiatric hospitalization following suicidal ideation, she wanted to ensure that her home was the safest, best placement for Precious. Hugdahl further stated that Precious had expressed a desire to return to the home of her former guardian, Patricia, but she had also expressed concern about Patricia beginning to drink alcohol again. Precious told Hugdahl that, if she could not return to Patricia's home, she would like to stay at McChesney's home.

¶ 51 Precious had been receiving in-home counseling sessions at Camelot Care Centers by Linda Williams since July 2014. Williams testified that, during counseling, Precious becomes agitated and irritable when she does not want to "discuss something and when she doesn't want to feel something." Williams indicated that any subject might trigger Precious's reactive attachment disorder but that talking about her family seemed to trigger her agitation more than anything else.

¶ 52 McChesney testified that she and Precious were building a bond and that she would consider adopting Precious.

¶ 53 The court took judicial notice of the evidence presented at the fitness hearing and the entire court record for the case at the conclusion of the State's case. The record documented Precious's history of behavioral issues in school and placement dating from 2009, mental health diagnoses of Oppositional Defiant Disorder, Adjustment Disorder, Intermittent Explosive Disorder, Attention Deficit Hyperactivity Disorder, Mood Disorder, Bipolar Disorder, Post-traumatic Stress Disorder, and psychiatric hospitalizations dating from January 2011. The record also showed that Precious had been in specialized foster care since being removed from placement with her former guardian twice, most recently in July 2011.

¶ 54 Cynthia Kennay, the guardian *ad litem* for Precious, testified that she had been assigned to the case since May 2008. She believed that termination of parental rights was in Precious's best interest despite the concern that it would be difficult for Precious if she could not see her biological family after termination. Kennay explained that her belief stemmed from the long, stagnant history of the case beginning in 2008 and that it was in Precious's best interests to have a chance to bond with a family, to have a life outside of what she knew. Kennay also explained that the uncertainty of not knowing if she would be returned home during the pendency of the

case prevented Precious from settling into placement. If parental rights were terminated, then Precious would achieve finality.

¶ 55 Dr. Evan Silvi, Precious's most recent treating physician wrote that "continued ambiguity about this decision [whether to terminate parental rights] is likely to cause significant distress for Precious. Precious would best be served by having a stable and consistent placement so that she can develop a healthy attachment to her caregiver(s)."

¶ 56 Alicia contends that the trial court did not assign weight to certain statutory factors, incorrectly applied statutory factors to the facts of the case, disregarded evidence that "there were no potential adoptive parents," and gave insufficient weight to the relationship between her and Precious. She believes that the trial court should have given greater weight to Precious's identity and family ties and weighed these against terminating her rights.

¶ 57 We conclude these arguments amount to nothing more than an attempt to have this court reweigh the evidence presented below, which we cannot do. *In re Marriage of Pfeiffer*, 237 Ill. App. 3d 510, 513 (1992) ("It is not the function of this court to reweigh the evidence or assess the credibility of testimony and set aside the trial court's determination merely because a different conclusion could have been drawn from the evidence.").

¶ 58 Jonathan argues that the "evidence [of Precious's developmental needs] was either conflicting or the evidence showed a connection between [Precious's] acting out and anxiety over the uncertainty of a decision over terminating parental rights or she was acting out because she misses her family." Jonathan asserts that the court did not consider Precious's age and development in assessing her need for safety, permanence, and stability. We disagree. The court specifically noted that it considered Precious's history of acting out and her emotional issues. The court observed that Precious's history had "during her different stays with foster parents, for

either mental health issues, or other reasons, maybe desiring to be with her grandmother or parents, *** been disruptive of [m]any of those placements." The court concluded Precious's unique situation "for mental health issues," lack of support from her parents and former guardian, and her need for permanence and stability weighed in favor of finding that termination of parental rights was in Precious's best interest.

¶ 59 The trial court's determination is supported by the record. Here, the record shows that Alicia had been absent for much of Precious's life due to her living with her paternal grandmother, being awarded to DCFS, and Alicia's incarceration. When Alicia was released from prison in January 2014, after being incarcerated for several years, she did not seek to resume monthly visitation with Precious for three weeks. Alicia then missed three of four scheduled visits in May 2014. At the time of the best interest hearing, Alicia resided in a one-bedroom apartment with her mother as a condition of her parole. She did not have custody of her four other children. Also, Dr. Silvi's letter to the court clearly advised that ambiguity about whether to terminate parental rights likely would cause significant distress for Precious.

¶ 60 At the time of the best interest hearing, Jonathan was incarcerated on a domestic battery charge with a projected parole date of April 2, 2015. He had not completed recommended services, including substance abuse treatment, and had never been the custodial parent of Precious. He testified at the best interest hearing that he would be paroled to his employer's house but did not offer evidence, nor was any evidence presented, that he could provide a safe and appropriate home for Precious that would be helpful for her special mental health needs.

¶ 61 We agree with the trial court's evaluation that, given Precious's unique situation including her mental health issues, lack of support from her parents, and her need for

permanence and stability the evidence weighed in favor of finding that termination of Alicia and Jonathan's parental rights was in Precious's best interest.

¶ 62 2. Draven

¶ 63 Draven testified in chambers that he does not talk to Patricia by telephone and has written letters but has not sent them to her. He further stated that he likes living with his foster family, the Holesingers, because they are easy to talk to and he wants to continue to live with them. Draven stated that he is doing well in school but is getting a bad grade in writing. Although Draven testified that he enjoyed living with his foster family and he wanted to continue to live with them, Draven also expressed his desire to live with Patricia because she loves him and has always shown him affection and because he feels "at home there" and has "been there ever since" he was "a little kid." Draven stated that he would rather live with Patricia than the Holesingers because he knows more people there, has more friends in the area, and "I am more used to the environment there and I feel more at home there."

¶ 64 Brenda Holesinger testified that she had been Draven's foster mother for "about a year and a month." She resides with her husband, their two children, and two other foster children. Holesinger stated that Draven is involved in extracurricular activities and has friends at school. He also participates in youth group at a church that he and his foster family attend. Draven receives tutoring in math and seems to enjoy chores at the family's farm. Draven shows affection and interacts positively with the other children in the home and is considered a member of the family. Holesinger further testified that Draven's behavior had improved since coming to live with them and beginning counseling. She believes Draven feels loved in her home, that his bond to her family has grown since he came into her care, and that she and her husband are willing to adopt Draven.

¶ 65 Cynthia Kennay, guardian *ad litem*, who had been assigned to Draven's case since May 2008, testified that she believed that termination of parental rights was in Draven's best interest. Kennay indicated that she had no concerns about the impact of termination of parental rights on Draven but would be concerned if he were returned to Patricia's home. She further stated that she believed termination of parental rights would be in Draven's best interest because he had bonded to his foster family and was "moving on."

¶ 66 The trial court noted that Draven wished to reside with Patricia but that, in view of evidence of Patricia's inability to offer security and permanence, Draven's need for permanence, and that Draven had found needed stability in the home of his foster parents, who wished to adopt him and had bonded to them, the court believed termination of parental rights was in his best interest.

¶ 67 Patricia argues that the trial court erred by finding that the statutory factors weighed in favor of finding that termination of parental rights was in Draven's best interest. We disagree.

¶ 68 "The trial court need not articulate any specific rationale for its decision, and a reviewing court may affirm the trial court's decision without relying on any basis used by the trial court." *In re Tiffany M.*, 353 Ill. App. 3d 883, 893 (2004). Here, the record shows that, after seven years, it was very unlikely that Patricia would be able to provide the necessary care for Draven in the near future. Patricia had not engaged in any services since 2012, and she continued to reside with her son, Mark, who also had not engaged in recommended services or substance abuse treatment, and only visited Draven in a supervised setting for one-hour per month. Draven was in a stable, loving foster home. He was thriving with the foster family, who were meeting all of his needs, including his educational tutoring and behavioral counseling, and his foster parents wished to adopt him.

¶ 69 In sum, we conclude that the evidence presented at the best-interest hearing was more than sufficient to support the trial court's finding that Draven's best interest favored termination of Patricia's parental rights.

¶ 70 III. CONCLUSION

¶ 71 Based on the preceding, we affirm the judgment of the Circuit Court of Lee County terminating Patricia's guardianship of Precious and Patricia's parental rights of Draven, and terminating Alicia's and Jonathan's parental rights of Precious.

¶ 72 Affirmed.