2017 IL App (2d) 161062-U
No. 2-16-1062
Order filed April 20, 2017

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

In re C.W., a minor.	)	Appeal from the Circuit Court
	)	of Winnebago County.
	)	
	)	No. 12-JA-204
	)	
(The People of the State of Illinois,	)	Honorable
Petitioner-Appellee, v. T.W.,	)	Mary Linn Green,
Respondent-Appellant.)	)	Judge, Presiding.

JUSTICE JORGENSEN delivered the judgment of the court.
Presiding Justice Hudson and Justice McLaren concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court's best-interest determination was not against the manifest weight of the evidence. Affirmed.

¶ 2 This case involves the termination of parental rights after the trial court voided a consent-to-adopt form signed by respondent-mother, T.W. Respondent concedes that she is an unfit parent as to her daughter, C.W. (born in September 2002). Rather, she argues that, because the court voided the consent to adopt, it was in C.W.'s best interest for the case to return to the status prior to signing, to resume respondent's services, and to consider the goal of return home.

¶ 3 The underlying facts of this case present interesting questions concerning the proper procedure to be followed after a consent to adopt is voided, and when, if at all, improper

procedure affects a *respondent's* rights. In this case, respondent hints at, but has not developed, a due-process argument. She has, therefore, forfeited it. Again, she concedes that she is unfit, and she focuses entirely on the court's best-interest determination. On that issue, we determine that the trial court was aware of the procedural context, and, in considering all of the best-interest factors, it did not err in terminating respondent's parental rights. We affirm.

¶ 4 I. BACKGROUND

¶ 5 In July 2012, the State filed a neglect petition as to C.W. based on an injurious environment. 705 ILCS 405/2-3(1)(b) (West 2012). C.W. lived with respondent and S.W. (the father), her biological parents, who were married.[1] In February 2012, the father wielded two hunting knives at respondent and C.W., threatening to cut them and backing them into a wall. Additionally, the father had been charged with animal cruelty; he killed at least one family dog in front of C.W. In May 2012, respondent obtained an order of protection against the father. However, when caseworkers went to the residence that same month, they saw that the father, respondent, and C.W. continued to live together. This prompted the neglect petition.

¶ 6 On July 12, 2012, respondent waived her right to a shelter care hearing, and the Department of Children and Family Services (DCFS) placed C.W. with her maternal grandfather. In September 2012, DCFS removed C.W. from her maternal grandfather, because it learned that, many years ago, he had been accused of sexual abuse. It is not entirely clear from the record, but it appears that C.W. resided in a traditional foster home before later being moved to her paternal grandparents.

[1] The father's parental rights have since been terminated, and he is not a party to this appeal. We discuss his participation in the case to the extent it is relevant to the home environment.

¶ 7 Between July and September 2012, respondent vacillated in her cooperation with service providers. At times, respondent expressed a willingness to complete services, and she visited C.W. twice per week. However, on one occasion, she called DCFS to report that she and the father were "done" participating in services. The next day, respondent called to apologize, and she averred that she would leave the father. Also during this period, respondent tested positive for marijuana three times. She informed providers that she uses marijuana daily to manage her emotions and racing thoughts.

¶ 8 On January 23, 2013, the trial court entered an adjudication of neglect. In June 2013, DCFS placed C.W. with her paternal grandparents. Also in the home were her paternal uncle and his girlfriend.

¶ 9 Respondent participated in two permanency-review periods, before conflict-ridden visits led to her disengagement from the case. The first permanency-review hearing occurred on July 22, 2013. The case worker, Christine Molander, reported that respondent participated in a drug assessment, and she remained drug free during the period. Respondent completed the first part of the domestic-violence counseling. In contrast, the father did not submit to an integrated assessment and completed no services. Service providers were not able to contact the father until one month prior to the hearing, six months after the adjudication of neglect. Respondent informed service providers that she would not leave the father and that she continued to reside with him. Therefore, service providers rated her progress as unsatisfactory. The court found that respondent made reasonable efforts, but it was silent as to reasonable progress. The court ordered a goal of "return home within 12 months."

¶ 10 The second permanency-review hearing occurred on December 23, 2013. Molander reported that respondent continued to remain drug free. However, respondent's participation and

progress in therapy declined. Respondent used group therapy to avoid individual therapy. Respondent had not made progress in therapy aimed at increasing her self-esteem and gaining independence from the father. Respondent no longer believed that anything was wrong in her marriage; she did not believe anything needed to be fixed. She explained that the father's acts of violence were isolated incidents stemming from mental illness. Finally, respondent believed that the father's violence had a "minimal" effect on C.W. The father completed an integrated assessment at the beginning of the review period. However, according to service providers, it was difficult to engage him in meaningful conversation. He admitted that he threatened respondent and C.W. with a knife, but he explained that he wanted them to know the "real fear" of death. He stated that the threat of death worked to cure respondent of depression. After the assessment, the father refused to participate in mental-health treatment with any regularity. Following one of the few therapy sessions that he attended, the therapist reported that she would "never trust [placing] a child in [a] home environment" with the father. Service providers rated his progress as unsatisfactory in every category aside from the initial assessment. He failed to adequately participate in the drug assessment, drug drops, domestic-violence counseling, and mental-health counseling. Due to the mother's continued close association with the father, the court rated her progress as unsatisfactory. It maintained the goal of "return home in 12 months."

¶ 11 In January and February 2014, conflict-ridden visits led to respondent's disengagement from the case. In January 2014, the father took C.W. sledding on a roof. Respondent watched from below, and she did not object. The reports do not go into further detail regarding this event. However, following this event, visits were moved to the agency building. Also in January 2014, the father reprimanded C.W. for informing authorities that he drowned animals: "What was she going to do when he goes to jail?" This caused C.W. to cry. Respondent comforted C.W.

However, during other conversations, respondent added to C.W.'s distress. For example, in February 2014, the father told C.W. that the government is purposefully poisoning people with toxins in order to maintain control. Respondent did not disagree, and she added that the devil is ruling the world. Respondent also caused C.W. distress when she told C.W. that she packed up all of C.W.'s things and put them in the garage. She told C.W. that she would never leave the father. Service providers noticed that C.W.'s behavior worsened following visits with her parents. C.W. began to exhibit strange and, later, disturbing behavior, which we will not detail in this order. Service providers informed respondent that visits would be suspended pending the design of a better, safer service plan. Respondent did not react well to the news that the visits would be suspended. She stated that DCFS could have guardianship; she did not care anymore. This time, respondent did *not* contact DCFS to tell them that she had only spoken out in anger. Instead, one week later, on March 3, 2014, respondent left a voicemail with DCFS stating that she and the father wanted to "sign over guardianship" of C.W.

¶ 12 On March 4, 2014, respondent, the father, and service providers participated in a telephone conference regarding C.W.'s future. According to the reports, respondent "did not say much," but she agreed that an adoption plan would be in C.W.'s best interest. The paternal grandparents did not feel able to adopt C.W., but the paternal uncle, who shared a home with the paternal grandparents, expressed a willingness to adopt C.W.

¶ 13 On May 12, 2014, the trial court accepted the signed consent form. Respondent and the father each were represented by counsel. The consent form stated: "I wish to sign this consent and I understand that by signing this consent I irrevocably and permanently give up all my parental rights I have to my child." However, it also stated that the consent would be *void* if

DCFS placed C.W. with someone other than the "specified person," here, the uncle. It further instructed:

> "I understand that if this consent is void, I have parental rights to my child, ***, unless and until I sign a new consent or surrender[,] or my parental rights are involuntarily terminated. *** I understand that if this consent is void, the Department will notify me within 30 days using the addresses and telephone numbers I provided ***. I understand that if I receive such notice, it is very important that I contact the Department immediately and preferably within 30 days, to have input into the plan for my child's future."

¶ 14 The court reminded respondent that the consent form could be voided under certain circumstances: "The chances of [that happening is] remote, but I just wanted to make sure you understood that [it's] out there." The court asked respondent if she had any questions regarding the circumstances under which the consent could be voided. She responded, "no." The court changed the goal from return home to adoption.

¶ 15 The uncle was not ready to adopt C.W. immediately, because he wanted to ensure that he was able to address her mental-health needs. He wanted C.W. to receive additional treatment before finalizing the adoption. Hence, while the uncle maintained custody of C.W., DCFS workers continued to monitor C.W.'s case, and respondent continued to be represented by an attorney at each of the seven subsequent permanency-review hearings. Because respondent had already signed a consent to adopt, each of the hearings centered on C.W.'s needs and the uncle's readiness to adopt, not respondent's efforts and progress.

¶ 16 At the hearings, Molander reported that, in May 2014, C.W. was hospitalized for suicidal behaviors exhibited upon learning that her parents had consented to her adoption. Threats of

self-harm continued through August 2014. Throughout the reporting periods, C.W. continued to receive treatment for post-traumatic stress disorder (PTSD) and oppositional defiant disorder (ODD). Also in August 2014, C.W. began acting antagonistically toward the uncle's girlfriend. According to the uncle, C.W. would throw herself onto the girlfriend, and then allege that the girlfriend instigated a physical confrontation. Later in 2014, C.W. exhibited inappropriate sexual behavior with male peers. In 2015, C.W. disclosed that, at the first placement, her maternal grandfather molested her. In July 2015, C.W.'s position in the uncle's home became untenable. DCFS moved C.W. to a group home, Lydia House. At Lydia House, C.W. had daily access to a therapist. DCFS notified respondent of C.W.'s transfer to Lydia House.

¶ 17 Between July 2015 and May 2016, the uncle ceased fully cooperating with service providers. For example, in July 2015, DCFS recommended to Lydia House that the uncle's visits be supervised, due to his "demeanor and attitudes" toward C.W. In November 2015, following successful family therapy, unsupervised visits were allowed. However, in December 2015, Lydia House reinstated supervised visits, because staff heard the uncle's girlfriend instruct C.W. not to cooperate with them. Additionally, the uncle acted aggressively toward a clinician, "yelling, mocking." In January 2016, the uncle hired an attorney to try to remove C.W. from Lydia House. He also enlisted a 15-year-old friend of C.W. to persuade her to sign a medical release, something he believed C.W., then age 13, had the authority to do. Per the therapist, C.W. did not want the uncle to have her (private) medical records. During a supervised visit, the uncle yelled at C.W. to sign the release, and he banged his hands on the furniture. In the therapist's view, the uncle has provided unreliable support and has acted in an emotionally volatile manner, causing C.W. to become increasingly erratic and defiant. Therapists at Lydia House recommended that the uncle engage in mental-health services to address his "instability

and other barriers to the development of successful and appropriate parenting skills." In May 2016, the uncle helped C.W. leave Lydia House without staff knowledge. Lydia House called the police, who termed the event a "kidnapping" but did not press charges. The uncle alleged that C.W. fled because Lydia House staff abused her. C.W. had bruises on her arms. However, the accused staff member was not near C.W. during the relevant times. Also, C.W. later reported that her uncle had planned her "escape" and that Lydia House staff had *not* abused her. C.W. alleged that the uncle's girlfriend abused her. Thus, the June 2016 permanency report recommended a goal change from adoption to "substitute care pending determination of parental rights."

¶ 18 On June 13, 2016, the trial court conducted a seventh permanency review hearing. The hearing centered on changing the goal from adoption by the uncle to "substitute care pending determination of parental rights." The State, the guardian *ad litem* (GAL), and the DCFS attorney all advocated for that goal. Respondent's attorney advocated for a different goal. She wanted to change the goal from adoption to "return home," even for a short period, to evaluate whether respondent would be able to reengage in services:

> "I will say that there hasn't been a definitive or absolute decision. The investigations remain pending. So there hasn't been a decision made as to whether the minor will be able to return to the care of the paternal uncle. *** Additionally, I am not fully competent [*sic*] that we can rule out a return home goal. The parents did sign consents in 2014, almost—I believe over two years ago, and so since then, they have not been evaluated as a possible placement or, as I said, a return home. *** I'd ask the Court to consider a return home goal within 12 months even for a short time period to evaluate what services would be asked of the parents to have [C.W.] returned to their care,

> whether they are willing to engage in those services, whether they are willing to be compliant, and whether that is an option."

The GAL asserted that the consent forms had been void for one year: "[C.W] has now been in residential for a year. So the consents technically are void. [C.W] has been out of [the uncle's] home." The attorney for DCFS agreed that it was too late to consider a return home: "Judge, I do believe it would be appropriate to set the goal at substitute care pending court determination of termination of parental rights. *** I do think *that is the mechanism* for the court to assess the situation and take a deeper look at the service plan and things of that nature that has been filed, and frankly speaking that the parents to suggest that they have not been given an opportunity or a chance to have this child returned to their care is inaccurate." (Emphasis added.) The court changed the goal from adoption to substitute care pending determination of parental rights. It did not make any findings as to respondent. It did not specifically order the consents void. The State petitioned to terminate parental rights.

¶ 19 A. Fitness Hearing

¶ 20 On October 21, 2016, the court conducted a fitness hearing. The State had alleged that respondent was unfit based on a failure to: (1) maintain a reasonable degree of interest, concern, or responsibility to the child's welfare (750 ILCS 50/1(b) (West 2016)); (2) make reasonable progress toward the return of the child to the parent during any nine-month period following the adjudication of neglect (750 ILCS 50/1(m)(ii) (West 2016)); and (3) protect the child from injurious conditions within her environment (750 ILCS 50/1(g) (West 2016)). It asked that DCFS retain guardianship of C.W., and, upon termination of parental rights, be given the power to consent to C.W.'s adoption by an appropriate party.

¶ 21 1. Respondent's Testimony

¶ 22 Respondent testified that she continued to reside with the father:

"Q. And who did you live with now?

A. [The father]

Q. Have you maintained your relationship with [the father] since [C.W.] has been placed in foster care?

A. Yes, I have."

¶ 23 When asked why C.W. was removed from the home, respondent answered: "You know, there was some stuff happening in the home, ***, and a lot of it has to do with depression, mental health, stress, financially, you know, and [the father] does have a strong personality. So, yeah, I do know why she was removed from the home. There was some instance where [the father] did pull out a knife." The State submitted the records detailing C.W.'s removal from the home (as described above).

¶ 24 When asked about instances of animal cruelty, respondent answered: "I don't think [C.W.] visually seen with her eyes anything that occurred because there was really nothing with animal cruelty that would kill a dog. He did not drown a dog. That is pending in another case." The mother acknowledged that C.W. reported acts of animal cruelty, but stated three times: "she did not visually see it." The State impeached the mother with a police report, which stated that police responded to respondent's call to stop the father from drowning the puppy and to remove the puppy from the home. The State also introduced a DCFS report, in which service providers recorded C.W.'s assertion that her father tried to drown her pet puppy in the bathtub after the puppy urinated in the home. According to C.W., C.W. witnessed the father fatally suffocate a different puppy by holding its face into its own feces.

¶ 25 When asked why she did not avail herself to services after February 2014, respondent explained that service providers suspended her visitation. Service providers told respondent that she was causing C.W. to regress. Respondent and the father decided that it would be in C.W.'s best interest if the uncle adopted her. After respondent signed the consent forms in May 2014, she did not believe that she had any rights. When, in July 2015, she learned that C.W. had been transferred to Lydia House, respondent tried to call Lydia House and other service providers, including Molander, many times. However, service providers told her that they could not provide her with updates about C.W., because respondent had signed away her rights. (Molander testified that respondent did not call her.) The State questioned respondent's belief that she had no rights:

"Q. After you signed the specified consents for your daughter to be adopted on May 12, 2014, Ms. Sloniker still was your attorney for this case related to your child, right?

A. Yes.

Q. [And your attorney continued to represent you for the next two years and you intermittently came to court with your attorney for the next two years?]

A. Correct.

Q. So you knew you still had rights related to [C.W] because you would come to court and you had an attorney, correct?

A. Right."

The State submitted records detailing respondent's initial cooperation with, and subsequent disengagement from, services (as described above).

¶ 26 Respondent's attorney asked the court to take judicial notice that the record does not contain an official order voiding the consents. In her view, an order could have been entered at any point from July 2015 when C.W. was removed from the uncle's home to June 2016 when the goal changed to "substitute care pending determination of parental rights." The parties discussed the matter further, and agreed that, at the latest, the consents were effectively void in June 2016 when the court changed the goal to "substitute care pending determination of parental rights."

¶ 27 2. Molander's testimony

¶ 28 Molander testified that, after C.W. moved to Lydia House, respondent did not inquire as to C.W.'s welfare. If respondent had asked to visit C.W. at Lydia House, the staff would have considered it. However, during cross-examination, Molander stated that the visits might not have been appropriate. If the goal was still adoption to the uncle, Molander "did not believe" that it would be appropriate for respondent to call or visit.

¶ 29 3. Court's Fitness Determination

¶ 30 The trial court found respondent unfit based on her failure to: (1) make reasonable progress toward the return of the child to the parent during any nine-month period following the adjudication of neglect (750 ILCS 50/1(m)(ii) (West 2016)); and (2) protect the child from injurious conditions within her environment (750 ILCS 50/1(g) (West 2016)). The court did not accept the State's position that respondent was unfit based on her failure to maintain a reasonable degree of interest, concern, or responsibility to the child's welfare. 750 ILCS 50/1(b) (West 2016).

¶ 31 B. Best-Interest Hearing

¶ 32 On November 18, 2016, the trial court conducted the best-interest hearing. The court took judicial notice of the evidence submitted at the fitness hearing. In addition, Molander testified.

¶ 33 Molander has been C.W.'s case manager for nearly four years. When C.W. was informed that she would not be returning to her uncle's home, her outlook and behavior improved. C.W. does not want to return to her uncle's home. She welcomes the prospect of being adopted by a new family.

¶ 34 Molander acknowledged, however, that C.W. faces uncertainty as to her future placement. C.W. is scheduled to leave Lydia House in January 2017, provided that she can be placed with, and ultimately adopted by, an appropriate foster family. The foster family must be trained to help C.W. with her mental-health and medication needs. Molander is vetting families. The first potential family did not feel able to meet C.W.'s needs. C.W. met the family, and she was disappointed when the placement fell through. Molander has a strong lead on a second potential family. They have taken in children like C.W. in the past, and they have been successful. They know about C.W.'s history, and they feel confident that they can help her. If Molander is not able to place C.W. with an appropriate family that is willing to adopt her, Molander will place C.W. on an adoption registry. Children whose parents' rights have been terminated typically have a higher likelihood of being adopted. C.W. is able to meet with a therapist on a daily basis to help alleviate anxiety associated with the uncertainty of her future. The therapist supports the termination of parental rights to free C.W. for adoption.

¶ 35 Molander no longer considered placement with family members to be an option. She did not consider placement with respondent, because respondent's home did not have the right structure for C.W. However, Molander acknowledged that she had not spoken to respondent

about returning C.W. to her care. Respondent's attorney asked: "Can a parent whose rights have been terminated be a placement for their child?" Molander answered: "I really honestly don't know the answer to that."

¶ 36 At the close of evidence, the record shows that the father created a disturbance. The court said: "You better tell him he better be quiet, because—" The GAL stated: "I don't think he's coming back in." The court recessed. Upon return, it stated: "Let the record reflect that when we took the break, both parents left the room. The mother is now back. The father was complaining loudly outside the door, saying things that, well, shouldn't be said and he is gone, so." The court later stated: "Well, the mother and father did come in together. And I would note for the record that the father did sit there with his arm around the mother. He left when we took a break—after being argumentative in the hallway I guess left the courthouse." The bailiff confirmed that the father left the courthouse.

¶ 37 The parties presented closing argument. The GAL went through each of the best-interest factors. He acknowledged that C.W. faced uncertainty: "Again, not a perfect situation, not one of those slam dunks that we frequently have when a child has been in a foster home for three years and the foster parents are committed." He argued, however, that respondent's continued involvement in the case would be a hindrance to C.W.'s progress and chance at permanence.

¶ 38 The court stated that it considered all of the statutory best-interest factors and determined that the State proved by "at least" a preponderance that it was in C.W.'s best interest to terminate parental rights. It explained: "As it was stated by [the GAL], in the best interest hearing the focus is only on the minor, not on the parents anymore, and that minor's right to a stable, loving home life. The Court believes that [C.W.] is on the right track to find that. And certainly she has

stabilized since she has been at Lydia Home. To disrupt that and her progress certainly would not be in her best interest." This appeal followed.

¶ 39 II. ANALYSIS

¶ 40 Respondent accepts the trial court's determination that she is an unfit parent. However, she challenges its determination that it was in C.W.'s best interest to terminate parental rights. Specifically, she argues that, because the court voided the consent to adopt, it was in C.W.'s best interest for the case to return to the status prior to signing, to consider resuming respondent's services, and to consider the goal of return home. Respondent posits that, when the consent was voided, the State "simply assumed" that her living conditions were the same as two years prior and did not adequately investigate an alternative to termination. Respondent urges that, when safe, living with the natural parent is in the best interest of the child, and "the child deserves the right to have the [S]tate determine whether the natural parent can *currently* provide the type of environment that is in the child's best interests." (Emphasis added.) Here, Molander admitted having "no contact with either [the father] or [respondent] regarding their daughter or any aspect of the case," and respondent asserts that "[t]his frank admission is at the heart of [her] appeal."

¶ 41 We agree that manner in which the State proceeded from the voiding of the consent leaves many questions. C.W. was removed from the uncle's home in July 2015. Arguably, according to the terms of the consent, this event could have rendered it void and triggered the notice provision. However, the court never entered a formal order voiding the consent. A year passed before the court changed the goal from adoption to "substitute care pending determination of parental rights." During this year, DCFS did not appear to have a definite plan; the goal remained adoption, but the uncle was not allowed unsupervised visitation. It is not clear at what point the consents were rendered effectively void and, as a result, at what point respondent's

rights reinstated. It is not clear what procedural action respondent might have taken during the one-year period to reinstate her access to services.

¶ 42 These questions bear heavily on respondent's due-process rights, but are not necessarily determinative of C.W.'s best interests. See, *e.g.*, *In re D.T.*, 212 Ill. 2d 347, 359 (2004). A State action to terminate parental rights must be accomplished by procedures that comport with due process. *Id.* At the *fitness* hearing, the focus is on the parent's conduct relative to the grounds of unfitness alleged by the State. *Id.* at 364. Due-process considerations center on the parent, and the court does not consider the child's best interest. *Id.* A parent-child relationship still exists at the best-interest stage, so a parent continues to be entitled to due process. *Id.* However, "the force of that interest" is lessened by the court's finding of unfitness. *Id.* At the best-interest stage, the parent's interests must yield to the child's interests. *Id.*

¶ 43 Respondent challenged the procedure following the effective voiding of the consent. This challenge occurred when the trial court changed the goal from specific adoption to "substitute care pending determination of parental rights" and again at the fitness hearing. These were the appropriate stages at which to challenge procedure affecting *her* rights. However, the trial court rejected her procedural arguments. Respondent does not appeal the court's fitness determination, nor challenge any earlier procedure as pertains to *her* rights. She does not cite any authority concerning her due-process rights, nor does she develop any argument concerning her due-process rights. Hence, these issues are forfeited. See Ill. S. Ct. R. 341(h)(7) (eff. Feb. 6, 2013); *Spinelli v. Immanuel Lutheran Evangelical Congregation, Inc.*, 118 Ill. 2d 389, 401 (1987).

¶ 44 The question of the procedure required, if any, to reassess a parent's involvement in a case after the voiding of a specific consent to adopt *might* be determinative of both the parent's

rights *and* the child's best interest under a different set of circumstances, but not here. Here, the procedure following the voiding of the consent provided context to the case, and, in that way, was just one factor of many to consider in determining C.W.'s best interests. The trial court was aware of the procedural history, and, as seen below, in context with all of the best-interest factors, the court did not err in terminating respondent's parental rights. We proceed to a traditional best-interest analysis.

¶ 45 The trial court, in making a determination of the child's best interests, must consider the following factors in the context of the child's age and developmental needs:

> "(a) the physical safety and welfare of the child, including food, shelter, health, and clothing;
>
> (b) the development of the child's identity;
>
> (c) the child's background and ties, including familial, cultural, and religious;
>
> (d) the child's sense of attachments, including:
>
> (i) where the child actually feels love, attachment, and a sense of being valued (as opposed to where adults believe the child should feel such love, attachment, and a sense of being valued);
>
> (ii) the child's sense of security;
>
> (iii) the child's sense of familiarity;
>
> (iv) continuity of affection for the child;
>
> (v) the least disruptive placement alternative for the child;
>
> (e) the child's wishes and long-term goals;
>
> (f) the child's community ties, including church, school, and friends;

(g) the child's need for permanence which includes the child's need for stability and continuity of relationships with parent figures and with siblings and other relatives;

(h) the uniqueness of every family and child;

(i) the risks attendant to entering and being in substitute care; and

(j) the preferences of the persons available to care for the child." 705 ILCS 405/1-3(4.05) (West 2016).

The State has the burden of proving by a preponderance of the evidence that it is in the best interests of the child to terminate parental rights. *In re D.T.*, 212 Ill. 2d at 367. The trial court's determination that the State met that burden will not be reversed unless it is against the manifest weight of the evidence. *In re Shru R.*, 2014 IL App (4th) 140275, ¶ 24. A determination is against the manifest weight of the evidence if it is unreasonable, arbitrary, and not based on any of the evidence, or if the opposite result is clearly apparent. *Id.*

¶ 46 In this case, the physical health and safety of the child (factor (a)), weighs prominently. The State presented evidence that respondent habitually prioritized her relationship with the father over C.W. Respondent was given an opportunity to keep C.W. in her home, *if* she would leave the father. Throughout the entire pendency of this case, however, she refused to leave the father, and she has failed to recognize the threat that he poses to C.W. The court noted that, at the best-interest hearing, respondent and the father arrived together, and the father sat with his arm around her. When the father created a disturbance, respondent followed him out of the courtroom.

¶ 47 At the fitness hearing, respondent testified that she continued to live with the father:

"Q. And who did you live with now?

A. [The father]

Q. Have you maintained your relationship with [the father] since [C.W.] has been placed in foster care?

A. Yes, I have."

Also at the fitness hearing, respondent continued to defend the father's behaviors by explaining that he is not cruel but, rather, mentally ill. She minimized the effect of the father's behaviors on C.W. She denied that C.W. had witnessed animal cruelty, and the State impeached her with police and service reports.

¶ 48 Respondent's prioritization of the father poses a risk to C.W. The evidence shows that the father has: (1) threatened C.W.'s life by wielding a hunting knife to back her into a corner; (2) killed family pet(s) in front of C.W. and, as of the unfitness hearing, criminal animal-cruelty charges remain pending; (3) engaged in inappropriate activities with C.W., such as taking her sledding on a roof; (4) engaged in inappropriate conversation with C.W. (in the presence of service workers), such as blaming her for subjecting him to criminal charges and telling her that the government purposefully poisons people with toxins to maintain control; (5) utterly refused to participate in services (receiving progress marks of "unsatisfactory" for his lack of engagement in mental health treatment, domestic violence services, substance abuse assessment and random drug drops); and (6) disrupted the court proceedings for which he appeared, up through and including the fitness and best-interest hearings.

¶ 49 The court expressly stated that it considered termination to be the least disruptive path forward for C.W. (factor (d)(v)). C.W.'s outlook and behavior have improved since she has been told that the goal is adoption by a non-family member. She has made progress in therapy. To reintroduce respondent as a potential caregiver would be disruptive and unsafe. C.W. has not seen respondent regularly since July 2012. She has not seen respondent at all since May 2014.

C.W. has little more than a few years remaining in care, and respondent has not demonstrated behavior over the last four years that would indicate that she can realistically contribute to C.W.'s progress in a positive manner. This is especially true where respondent avers that she wants not only involvement, but for C.W. to return home. The court may have reasoned that the process would take years that C.W. does not have and, in any event, would prove unsuccessful.

¶ 50 The court also could have found many of the other factors to weigh in favor of termination. For example, the court could have considered that service providers tried, for four years, to nurture relationships with C.W.'s relatives and preserve C.W.'s identity, background, attachments, familial ties, and continuity of relationships (factors (b), (c), (d), and (g)). Service providers explored placements with family members, but these placements resulted in further harm to C.W. In the first placement, the maternal grandfather is alleged to have molested C.W. This accusation is corroborated by C.W.'s inappropriate sexual conduct at age 12. In the second placement, the uncle and his girlfriend staged C.W.'s "escape" from Lydia House, which the police characterized as a "kidnapping," but which did not result in criminal charges. Also in the second placement, there remained an unresolved allegation of physical abuse. The evidence overwhelmingly showed that C.W.'s relatives could not provide her with a safe and appropriate home.

¶ 51 Further, the court could have considered C.W.'s unique needs and personal wishes (factors (h) and (e)). C.W. receives treatment and medication for PTSD and ODD. She currently receives daily counseling for anxiety. She needs to be placed in specialized care, with a family skilled and experienced in helping children like her. Respondent, who continues to live with the father, cannot provide for C.W.'s mental-health needs. As Molander stated, respondent's home structure is not appropriate for C.W. Again, after C.W. was informed that the goal was to place

her with a non-relative, her behavior and outlook improved. C.W. does not want to return to the uncle. C.W. had hoped to be placed with the first prospective family, and she was disappointed when that placement did not occur. She now hopes to be adopted by a new family.

¶ 52 The court recognized that C.W. faces uncertainty (factor (g), permanence)). C.W. continues to reside in a group home. The State has not yet found an individual foster or adoptive placement for C.W. However, it does not follow that *respondent* should be considered as a placement for C.W. The availability of an adoptive home is not the only consideration when deciding whether it is in the child's best interest to terminate parental rights; it may be just as important to free a child from an abusive or neglectful biological parent. *In re D.M.*, 336 Ill. App. 3d 766, 775 (2002); see also *In re Tashika F.*, 333 Ill. App. 3d 165, 171 (2002) (although the likelihood of adoption was slim, so was the likelihood that the respondent would ever be able to care for the child). Molander testified that children whose parents' rights have been terminated have a better chance for adoption. The court reasonably ruled out respondent and other family members as placements for C.W., and it determined that terminating parental rights would give C.W. a better chance at permanence. As noted by the GAL, the question of C.W.'s future was difficult. This was not a case where a young child had lived for years with a single, committed foster family. It was a case where a 14-year-old child with unique needs faced uncertainty. The court was mindful of this when it considered the evidence and decided to terminate respondent's parental rights.

¶ 53 In sum, the facts of this case raise questions about the proper procedure to be followed after the voiding of a specific consent to adopt. The respondent hinted at, but did not develop, a due-process argument challenging the procedure that followed the voiding of the consent. Therefore, that argument is forfeited, and those procedural issues must be left for another court.

Respondent presented only a traditional best-interest challenge. On that issue, we determine that the State presented sufficient evidence that it was in C.W.'s best interest to terminate respondent's parental rights, and the trial court's determination was not against the manifest weight of the evidence.

¶ 54 III. CONCLUSION

¶ 55 For the reasons stated, we affirm the trial court's termination of respondent's parental rights.

¶ 56 Affirmed.