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2014 IL App (4th) 130766-U

NO. 4-13-0766

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

January 23, 2014

Carla Bender

4th District Appellate

Court, IL

In re: the Guardianship of L.S., a Minor,)	Appeal from
JOHN SHEARER and JACQUELINE SHEARER,)	Circuit Court of
Petitioners-Appellants,)	Macon County
v.)	No. 13P33
SCOTT DAVIDSON and EMILY DAVIDSON,)	
Respondents-Appellees.)	Honorable
)	Albert G. Webber,
)	Judge Presiding.

JUSTICE HOLDER WHITE delivered the judgment of the court.
Presiding Justice Appleton and Justice Pope concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court affirmed, concluding the trial court's guardianship order was not against the manifest weight of the evidence.

¶ 2 After the mother of L.S. (born July 8, 2005) died, petitioners, John Shearer and Jacqueline Shearer, and respondents, Scott Davidson and Emily Davidson, filed competing petitions for guardianship of L.S. Following a July 2013 hearing, the trial court granted the Davidsons' petition and dismissed the Shearers' petition.

¶ 3 The Shearers appeal, arguing the trial court's award of guardianship to the Davidsons was against the manifest weight of the evidence. We affirm.

¶ 4 I. BACKGROUND

¶ 5 A. The Parties' Petitions for Guardianship

¶ 6 Beginning in October 2007, the Davidsons became L.S.'s foster parents. L.S.'s mother, Jessica, struggled with drug abuse and other issues, and L.S.'s father had died when L.S. was only a few weeks old. L.S. continued to live with the Davidsons periodically until she was returned to her mother's care in August 2009. After L.S. returned to Jessica's home, L.S. and Jessica maintained regular contact with the Davidsons, with the Davidsons visiting L.S. at least twice per year.

¶ 7 On January 23, 2013, Emily Davidson received a voicemail message from L.S. in which L.S. "didn't sound herself." When Emily returned L.S.'s call, L.S. told Emily that her mother would not wake up. Emily spoke to Jessica's friend, who was at the home, and learned that Jessica had "most likely" passed away. Thereafter, Emily left her children with a babysitter and drove to the police station in Charleston, Illinois, where L.S. had been taken. At the station, Emily spoke to L.S.'s grandmother, Mary Shearer, and L.S.'s aunt, Jennifer Wolter. By the agreement of L.S.'s family members, Emily took L.S. with her back to the Davidsons' home.

¶ 8 In February 2013, the Davidsons filed an amended petition for guardianship of L.S. Later that month, the Shearers also filed a petition for guardianship of L.S. The trial court appointed a guardian *ad litem* (GAL) to represent L.S. In March 2013, the Davidsons filed a petition for temporary guardianship, which the trial court granted following a hearing that month.

¶ 9 B. Hearing on the Parties' Petitions for Guardianship

¶ 10 A hearing on the parties' petitions for guardianship commenced in July 2013, at which the parties presented the following evidence.

¶ 11 1. *William Shearer's Testimony*

¶ 12 William Thomas Shearer, a pediatrician at Texas Children's Hospital and the

father of John Shearer, testified he subspecializes in immune deficiencies in children and the impact of immune system disorders on neurocognitive and neurodevelopmental outcomes. In his work, William performs research on thousands of children worldwide who come into contact with illnesses. William's curriculum vitae consisted of 129 pages, listing the numerous publications he had written and lectures he had given, mostly pertaining to immunology. William held both a Ph.D. and M.D. The trial court accepted William as an expert in pediatrics, immunodeficiency, and as a medical doctor in the general practice of medicine.

¶ 13 William testified his sister, Mary Shearer, was L.S.'s grandmother. Mary died a few days before the hearing. According to William, Mary had psychiatric problems, including manic-depressive disease, for which she had been hospitalized. Mary also battled drug addiction.

¶ 14 William had never met L.S. but had seen pictures of her. He knew L.S. as a biracial child whose father was killed when she was young and whose mother died due to drug exposure. William testified that he was familiar with treating patients who had experienced "monumental" issues such as broken homes, poverty, drug abuse, alcohol abuse, and "a sense of *** not knowing where to go next with children." The Shearers' attorney asked William what "issues" he would be concerned about exploring with L.S., given L.S.'s history. William stated he was concerned L.S. lacked the "sense of family" that could take her through adulthood and that she needed somebody who would "be there in the long run." William thought that placing L.S. with the Shearers, who were younger parents, would benefit L.S.'s long-term health.

¶ 15 William went on to say he believed many problems in pediatrics lie dormant for years and hit hard around the time a child goes through puberty and experiences sexual

development. He testified no question existed that children exposed to drugs *in utero* later have mental, social interaction, and neurocognitive problems. William reviewed the GAL's report and stated that he did not see anything in the GAL's report indicating L.S. had been fully evaluated. He expressed his belief that L.S. should be evaluated by "a person qualified to deal with neurodevelopmental abnormalities." William also thought L.S. should be tested for human immunodeficiency virus (HIV) based on the lifestyle Jessica may have had as a drug user. William testified that he adopted John Shearer, who is biracial. William, John, Jacqueline, Mary, and Jessica were Roman Catholic and, as far as William knew, L.S. was raised in the Roman Catholic Church. William testified that he would continue to provide for L.S. given his role as patriarch of the family but would not financially assist L.S. if the Davidsons were appointed as guardians.

¶ 16 William acknowledged he did not know the racial composition of the children in the Davidsons' household and that he had never accessed any medical reports or documentation regarding L.S. Likewise, he had never accessed any medical documentation with respect to Jessica's exposure to illicit drugs while pregnant with L.S. but had "heard reports" from Mary. William agreed that a child would experience "added stress" and "some disruption in her life" if she were to be removed from a community and environment with which she was familiar and in which she was well integrated.

¶ 17 *2. John and Jacqueline Shearer's Testimony*

¶ 18 John testified that L.S.'s mother, Jessica, was his first cousin. Neither John nor Jacqueline had ever met L.S. The couple had been married for nine years and lived in a two-bedroom apartment in California. John spent eight years in the military before becoming a

registered nurse. He described the couple's neighborhood as diverse and accepting of biracial individuals. The neighborhood contained three immediate parks and a private Catholic school in which John and Jacqueline anticipated enrolling L.S. The school was a biracial integrated school and L.S. would have the opportunity to develop relationships with people with her similar background.

¶ 19 John and Jacqueline first attempted to care for L.S. during a period of time when L.S. had been removed from Jessica's care. At that time, Mary contacted William to ask if John and Jacqueline would be willing to step in and help raise L.S. Mary would call "four to six times a day" to provide John and Jacqueline with regular updates on L.S. At some point, however, Mary "decided to withdraw her support," thereby limiting John and Jacqueline's ability to obtain information about L.S. The couple filed a petition for contested adoption of L.S. but ultimately withdrew their petition because Jessica was able to regain custody of L.S. When John learned of Jessica's death through William, he immediately authorized a petition for guardianship to be filed in Illinois. John testified he and L.S. had similar backgrounds in that John was adopted and biracial, and he felt that he could empathize with L.S.'s experiences. Recognizing that taking L.S. from her environment would be stressful, John testified he would arrange for L.S. to meet with a child specialist on a regular basis so that L.S. could communicate with someone if she did not immediately feel able to verbalize her feelings to John and Jacqueline.

¶ 20 John had requested to see L.S. while she was living with the Davidsons, but the Davidsons did not respond until a week before the hearing, at which point they told Jacqueline and John that they could only visit L.S. if both parties' attorneys, the GAL, and Jennifer Wolter were all present and if Jacqueline and John obtained permission from Jennifer and Mary. The

proposed agreement also prohibited Jacqueline and John from providing gifts or discussing any future plans. The Davidsons had not contacted John or Jacqueline while L.S. was in their care.

¶ 21 Jacqueline, who held a master's degree in social work, testified she worked in a crisis center, a role in which she regularly assessed families for child abuse, domestic violence, and drug use. The trial court accepted Jacqueline as an expert in social work. Jacqueline said her recommendation for a child with L.S.'s background would always be to place the child with "family so that they can, especially, if they also have a similar ethnic background and have gone through adoptions *** so that she can better relate to her own experience and *** have [an] appropriate role model living with her to be able to thrive." Through her job, Jacqueline knew psychiatrists, social workers, and nurses willing to help L.S. work through any issues she might have. Jacqueline said that, in her professional opinion, it was best for L.S. to be raised within the context of her family religion and to remain with her family rather than be permanently separated from them.

¶ 22 *3. Mark Shearer's Testimony*

¶ 23 Mark Shearer, John's brother, testified he believed Jacqueline and John would "be fantastic guardians" for L.S., describing John as a "man of good character" and Jacqueline as committed to the work she does helping families in trouble. Like John, Mark was biracial and adopted, and he believed that he and John could provide an example for L.S.

¶ 24 *4. Scott Davidson's Testimony*

¶ 25 Scott Davidson testified the State was never involved in placing L.S. with the Davidsons after Jessica's death; rather, Mary, Mary's ex-husband, Jim Schoolenberg, and Jennifer decided the Davidsons should take physical custody of L.S. Scott and Emily were

members of the First Christian Church of Decatur. Scott testified it was "very important" for L.S. to have family involved in her life, and that he had a conversation with William in February or March in which he told William to "feel free to call or have [William's] family call." With respect to the visitation agreement that Scott and Emily proposed, Scott testified he felt he needed to create an environment of protection for L.S. from a group of people that had not been involved in her life. He said he did not intend to keep the Schearers out of L.S.'s life. Scott was a licensed foster parent and worked as an Instructional Technology Coordinator for Decatur Public Schools. He said L.S. was "absolutely" integrated into the Davidsons' family and expressed that he knew eventually there would be some difficult times and that he would seek appropriate help when needed. He also expressed his willingness to "do what's needed" to financially provide for his family. According to Scott, when L.S. drew pictures in school, she drew a picture of Emily, Scott, the Davidsons' other children, and Jessica.

¶ 26

5. Emily Davidson's Testimony

¶ 27

Emily Davidson testified she had been a licensed foster parent for 8 years and had been married to Scott for 10 years. Emily said L.S. had a good relationship with the Davidsons' four other children, three of whom were biological and one of whom was adopted. Emily homeschooled all of the children except L.S. because L.S. was not used to homeschooling and "love[d] meeting new people." According to Emily, L.S. had "been doing great" at school, earning all A's, and was excited about going into the intermediate school. L.S. recently had two friends from school spend the night for her birthday. Emily acknowledged that L.S.'s school was not very racially diverse, but when Emily and Scott spoke to L.S. about attending a more diverse Montessori school, L.S. indicated she preferred to stay at her current school.

¶ 28 When L.S. previously lived with the Davidsons, she attended church with them at First Christian Church. Since returning to the Davidsons' home, L.S. had been participating in church activities such as children's choir, youth group, and Sunday school. Recently, L.S. went with Scott and the Davidsons' oldest son on a mission trip outside Chicago to prepare meals to send to hungry children.

¶ 29 With respect to race, Emily testified she and Scott agreed it was important for their children, especially their adopted biracial son, to be exposed to "many different people, many different cultures." Emily said she does not "not see color," but rather, "see[s] color" and "think[s] it's wonderful." Emily believed L.S. was integrated into their household and was a member of their family. Emily did not think L.S. exhibited signs of sexual abuse or that she was in need of psychiatric care, although she said "eventually it would be wise for her to have a third party, like a counselor or someone." Emily's stepsister, who lost her mother at a young age, told Emily she thought she would have benefitted from talking to somebody about her loss. Emily and Scott had scheduled an appointment for L.S. to see a counselor, but the family got the flu and had to cancel the appointment, which they were "trying to reschedule." L.S. sometimes spoke to Emily about her mom and her mom's death.

¶ 30 Emily had not taken L.S. to have an HIV or other blood tests performed. At one point, L.S. complained that her vagina was bothering her, so Emily took her to the doctor who said she had a little bit of dry skin. The doctor did not specifically evaluate L.S. for sexual abuse.

¶ 31 *6. Jim Schoolenberg's Testimony*

¶ 32 Jim Schoolenberg, Jessica's father, testified on the night he learned that Jessica

died, he spoke to Mary and Jennifer over the telephone and agreed that L.S. should go to the Davidsons' home. Since L.S. had been living with the Davidsons, Schoolenberg, Jennifer, and Mary had been able to participate in family events and to visit L.S. Schoolenberg believed it would be in L.S.'s best interest for the court to grant the Davidsons' guardianship petition. In particular, he thought L.S. would benefit from having siblings, and L.S. had "constantly" expressed affection for the Davidsons' children over the last six years.

¶ 33 *7. Jennifer Wolter's Testimony*

¶ 34 Jennifer, Jessica's sister, testified she maintained a close relationship with L.S. while L.S. was in the Davidsons' care. Although Jennifer was healthy enough to care for L.S., she felt it was important for L.S. to have brothers and sisters and younger parents. Jennifer said it was "definitely" in L.S.'s best interest to stay with the Davidsons and to be able to continue seeing Jennifer and her father regularly. She described L.S. as having "bloomed" since living with the Davidsons.

¶ 35 *8. Other Witnesses' Testimony*

¶ 36 Pamela Jones, the early childhood coordinator at the Davidsons' church, described L.S. as "part of [the Davidsons'] family," explaining the Davidsons do not treat their foster children any differently than their biological children. Patricia Brewer, Emily's mother, testified L.S. seemed well adjusted in the Davidsons' home, although she acknowledged L.S. had "a long road ahead of her." She also described a close bond between L.S. and the Davidsons' other children. David Campbell, who is a friend of the Davidsons and whose daughter is L.S.'s friend, likewise testified L.S. was well integrated and adjusted in the Davidsons' home. David's wife, Stephanie, testified similarly. Janie Kane, the director of the kindergarten through fifth grade

children's ministry at the Davidsons' church, described L.S. as a "prayer warrior" on the church's recent mission trip and as "having a blast" in her community and church.

¶ 37

9. The GAL's Report

¶ 38

The GAL filed a report with the trial court, expressing his belief that both the Shearers and Davidsons appeared "fit, qualified, and ready, willing, and able to raise [L.S.] in a safe and loving environment." Nonetheless, the GAL recommended that the Davidsons' petition be granted given that they knew L.S. and L.S.'s "sense of security, familiarity, and attachment to the Davidsons was evident" during the GAL's home visit. The GAL opined that, based on L.S.'s past, it was not in her best interests to have her life further disrupted by moving away from the home, community, family, friends, and support base that she knew. Following the evidentiary hearing, the GAL renewed his recommendation, pointing out that the only stability L.S. had really experienced in her eight years was with the Davidsons.

¶ 39

C. The Trial Court's Decision

¶ 40

Following the hearing, the trial court took the matter under advisement. The following month, the court entered a docket entry granting the Davidsons' petition and dismissing the Shearers' petition. In evaluating L.S.'s best interests, the court noted that L.S. had previously lived with the Davidsons on two separate occasions for a total of approximately 2 1/2 years. The court found the evidence showed L.S. was well integrated into the Davidsons' family and community and to the school that she attended while living with respondents. With respect to Dr. Shearer's testimony, the court noted Dr. Shearer had never seen L.S., nor did he have access to her medical, school, or other records. The court stated that the issue of whether a preference should be given for a biracial parent was "difficult to resolve"; however, no evidence

suggested L.S. was suffering by reason of her race in her home, church, school, or community. As to the question of religion, the court noted the evidence demonstrated L.S. was "very involved" with respondents in their faith and L.S. was not familiar with any other faith. In sum, the court found that, however admirable the Shearers' intentions were, to allow their petition "would remove [L.S.] from the happiest and most stable home she has known to a place and with people who are strangers to her."

¶ 41 This appeal followed.

¶ 42 II. ANALYSIS

¶ 43 On appeal, the Shearers contend the trial court's award of guardianship to the Davidsons was against the manifest weight of the evidence. Specifically, the Shearers assert the trial court failed to (1) give them priority as L.S.'s blood relatives, (2) consider the proper weight of L.S.'s racial background, (3) consider L.S.'s religious background, (4) consider the weight of expert testimony, (5) consider the lack of any specific medical or psychological evaluation or statement of L.S., (6) consider evidence of sexual abuse, and (7) consider the State's "illegal involvement" in this case. Further, the Shearers claim the GAL was not qualified to address the sensitive issues in this case and that the GAL's report was deficient.

¶ 44 Before reaching the Shearers' substantive arguments, we note that, in their reply brief, the Shearers have challenged the Davidsons' (1) failure to cite authority in certain portions of their brief and (2) attachment of affidavits to their brief that were not entered into the record. Pursuant to Illinois Supreme Court Rules 341(h)(7) and 341(i) (eff. Feb. 6, 2013), arguments in an appellee's brief must contain citation to authority and the relevant portions of the record. Although the Shearers are correct that portions of the Davidsons' brief lack citation to authority,

we do not find their brief so deficient as to hinder or preclude review, and thus we decline to strike their brief. See *Cottrill v. Russell*, 253 Ill. App. 3d 934, 938, 625 N.E.2d 888, 890 (1993) ("Where violations of supreme court rules are not so flagrant as to hinder our review, the striking of a brief in whole or in part may be unwarranted."). In addition, the documents the Shearers' refer to as affidavits are not affidavits. The Shearer Family Tree and the Relationship Chart contained in appendix 2 and appendix 3 are demonstrative in nature. As indicated during oral argument, they were attached to aid the court in its consideration of the testimony offered below regarding L.S.'s relationship to various members of the Shearer family. Therefore, as expected, the documents in appendix 2 and appendix 3 have only been considered for demonstrative purposes and have not been considered as evidence or part of the record below.

¶ 45 We now turn to the statutory provisions governing this appeal and then address the Shearers' contentions in turn.

¶ 46 A. Relevant Statutory Provisions

¶ 47 Section 11-5(a) of the Probate Act of 1975 (Probate Act) (755 ILCS 5/11-5(a) (West 2010)) provides that upon the filing of a petition for appointment of a guardian, the trial court may appoint a guardian for a minor as the court finds to be in the minor's best interests. The trial court has broad discretion in determining whether to appoint a guardian, and this court will not overturn the court's decision unless the court abuses its discretion or its decision is against the manifest weight of the evidence. *In re Estate of Green*, 359 Ill. App. 3d 730, 735, 835 N.E.2d 403, 407 (2005). "In Illinois, the best interests and welfare of the minor is the determining question in a guardianship proceeding." *In re Marriage of Russell*, 169 Ill. App. 3d 97, 102, 523 N.E.2d 193, 197 (1988).

¶ 48 As the trial court noted, in determining a minor's best interests in a guardianship proceeding, Illinois courts look to the factors set forth in section 602 of the Illinois Marriage and Dissolution of Marriage Act (Marriage Act) (750 ILCS 5/602 (West 2010)) for guidance. *In re Guardianship of A.G.G.*, 406 Ill. App. 3d 389, 393, 948 N.E.2d 81, 84-85 (2011). Those factors include the following: "(1) the wishes of the child's parent or parents as to his custody; (2) the wishes of the child as to his custodian; (3) the interaction and interrelationship of the child with his parent or parents, his siblings and any other person who may significantly affect the child's best interest; (4) the child's adjustment to his home, school and community; [and] (5) the mental and physical health of all individuals involved." 750 ILCS 5/602(a)(1)-(5) (West 2010).

¶ 49 Section 11-14.1(b) of the Probate Act (755 ILCS 5/11-14.1(b) (West 2010)), which governs the termination of guardianship, also sets forth the following factors that are to be considered when determining a minor's best interests: (1) the interaction and interrelationship of the minor with the parent and members of the parent's household; (2) the ability of the parent to provide a safe, nurturing environment for the minor; (3) the relative stability of the parties and the minor; (4) the minor's adjustment to her home, school, and community, including the length of time that the minor has lived with the parent and the guardian; and (5) the nature and extent of visitation between the parent and the minor and the guardian's ability and willingness to facilitate visitation.

¶ 50 Having outlined the legal framework, we turn now to the Shearers' contentions on appeal.

¶ 51 B. Petitioners' Arguments

¶ 52 1. *The Trial Court Failed To Give the Shearers Priority as Blood Relatives*

¶ 53 The Shearers first argue the trial court failed to give them priority as L.S.'s blood relatives. We disagree.

¶ 54 In *In re Adoption of C.D.*, 313 Ill. App. 3d 301, 304-05, 729 N.E.2d 553, 556-57 (2000), the minor's grandparents and former foster parents both sought to adopt the minor. In considering the parties' competing petitions for adoption, we noted that although "[p]reserving family ties between the child and the child's relatives and siblings is important," the Adoption Act also specifies other factors the court should consider, with all factors being assigned equal weight. *In re C.D.*, 313 Ill. App. 3d at 309, 729 N.E.2d at 560. Moreover, we noted that section 15.1 of the Adoption Act (750 ILCS 50/15.1 (West 2000)) expressed a "preference" for foster parents who have had custody of a child for at least a year. *In re C.D.*, 313 Ill. App. 3d at 309, 729 N.E.2d at 560.

¶ 55 L.S.'s case is a guardianship case and not an adoption case; however, we find the analysis in *C.D.* instructive. Here, the evidence established L.S. had lived with the Davidsons for a total of over two years and was well integrated into her school and the Davidsons' family, community, and church. Taking all of these factors into consideration and giving them equal weight, the trial court could have determined it was in L.S.'s best interest to have the Davidsons appointed as her guardians, even though the Shearers were L.S.'s blood relatives and the Davidsons were not.

¶ 56 *2. The Trial Court Failed To Consider L.S.'s Racial and Religious Background*

¶ 57 The Shearers also claim the trial court failed to properly consider L.S.'s racial and religious background. Specifically, the Shearers point out that L.S. is biracial, while the Davidsons are Caucasian, and L.S. and her blood relatives are Roman Catholic, while the

Davidsons are members of a nondenominational Protestant church. The Shearers note the Adoption Act provides that the court, when "entering a judgment of adoption shall, whenever possible, give custody through adoption to a petitioner or petitioners of the same religious belief as that of the child." 750 ILCS 50/15 (West 2010).

¶ 58 Again, we note that L.S.'s case is a guardianship case and not an adoption case; however, even taking section 15 of the Adoption Act into account, we conclude the trial court's decision to place L.S. with the Davidsons was not against the manifest weight of the evidence. Our review of the record indicates the trial court explicitly considered both L.S.'s religious and racial background in making its best-interests determination. Specifically, the court's docket entry stated as follows:

"The issue of a preference for a biracial parent is difficult to resolve and raises questions what society is now and will become, and for which there may be no right answer. Here, no evidence suggests [L.S.] is suffering now by reason of race in her home, church, school or community. Regarding what religious tradition [L.S.] will be raised in, all of the evidence demonstrated she is very involved with the Davidsons in their faith; there was no evidence she is familiar with any other."

Thus, the trial court's docket entry makes clear that the court considered both L.S.'s racial and religious background as compared to the Davidsons and nonetheless concluded it was in L.S.'s best interests that the Davidsons be granted guardianship.

¶ 59 Moreover, the trial court's findings are supported by the record. Scott testified

L.S. attended a mission trip with him, and a member of the Davidsons' church described L.S. as a "prayer warrior." L.S. also participated in Sunday school, youth group, and children's choir. Thus, the evidence supports the trial court's finding that L.S. actively participates in the Davidsons' church. No evidence was presented as to L.S.'s involvement with the Roman Catholic Church, other than the Shearers' testimony that all of the Shearers were raised Roman Catholic. With respect to L.S.'s racial background, Emily testified that she and Scott believe it is important for their children to be exposed to many cultures, and she testified to her awareness that L.S.'s school was not racially diverse and her consideration of other options. Despite the lack of diversity at L.S.'s school, she had made friends and was earning A's. In addition, it is implied from Emily's testimony at the hearing on the competing petitions for guardianship that there is another biracial child in the Davidson home. Counsel for Shearers, at oral argument, conceded such was the case. Thus, the court's finding that L.S. was not currently suffering by reason of race in her home, church, school, or community is supported by the record.

¶ 60 In light of the foregoing, we reject the Shearers' contention that the trial court failed to properly consider L.S.'s racial and religious background.

¶ 61 *3. The Trial Court Failed To Consider the Expert Testimony*

¶ 62 The Shearers also assert the trial court failed to consider the weight of expert testimony. In particular, they argue the court did not give proper weight to William Shearer's testimony that if L.S. were exposed to drugs *in utero*, she could have mental, social, and neurocognitive problems requiring professional help. William also expressed concern that L.S. could have HIV, explaining that "[e]ven if [L.S.'s] mother did not pass this on to the child in the birth canal, the milieu of drug addiction involves prostitution and unsavory characters coming

into contact with the child whose mother has those problems." Further, the Shearers argue the court failed to properly consider the testimony of Jacqueline Shearer, an expert in social work, who testified that, when placing children with backgrounds similar to L.S.'s, her recommendation would be to place the child with family, especially if the family has a similar ethnic background.

¶ 63 "The trial court is in the best position to review the evidence and to weigh the credibility of the witnesses." *In re Marriage of Bates*, 212 Ill. 2d 489, 515, 819 N.E.2d 714, 728 (2004). We believe, in this case, the trial court properly weighed William's and Jacqueline's testimony. As the court pointed out, William had never met L.S., nor had he accessed her medical, school, or other records. William had also never accessed Jessica's medical records. Rather, his testimony about L.S.'s potential health and developmental problems was based on his belief that, as a drug user, L.S.'s mother might have engaged in certain behaviors and exposed L.S. to predatory individuals. William did not in fact know that Jessica did engage in those behaviors or that L.S. had any problems. Likewise, Jacqueline had not met L.S. such that she could testify as to L.S.'s specific needs.

¶ 64 Based on the foregoing, the trial court's decision to award guardianship to the Davidsons, despite William's and Jacqueline's testimony, is not against the manifest weight of the evidence.

¶ 65 *4. The Trial Court Failed To Consider That L.S.
Had Not Been Medically or Psychologically Evaluated*

¶ 66 The Shearers next contend the trial court "failed to consider the lack of any specific medical or psychological evaluation or statement of [L.S.]" Specifically, the Shearers claim, based on L.S.'s background and Jessica's drug use, L.S. likely needed a medical evaluation

and counseling, yet the Davidsons had not taken L.S. to be medically or psychologically evaluated.

¶ 67 In its docket entry, the trial court found that nothing other than William's testimony supported the conclusion that L.S. needed to be enrolled in a comprehensive program of physical and psychological testing. Moreover, the court found no evidence, other than William's testimony, supported the conclusion that the Davidsons would be unwilling or unable to seek medical and psychological care for L.S. should such a need arise. The court's findings are supported by the record. Emily testified that she had taken L.S. to see the family's physician, who did not raise any concerns about L.S.'s medical condition. Scott testified he knew L.S. would experience difficult times in the future, as all children do, and that he would seek appropriate help when needed. Emily said she believed it would be wise for L.S. to eventually speak to a counselor or third party and that she had scheduled an appointment with a counselor that she ultimately had to cancel due to family illness. Thus, the record supports the trial court's finding that if L.S. demonstrated a need for medical or psychological care, the Davidsons would be willing and able to provide that care.

¶ 68 *5. The Trial Court Failed To Consider Evidence of Sexual Abuse*

¶ 69 The Shearers also assert the trial court failed to consider evidence of sexual abuse—namely, that L.S. complained about pain and irritation in her genital region and that the Davidsons failed to obtain a sexual abuse evaluation or to investigate potential abusers in the household, church, or community where L.S. had been placed.

¶ 70 With respect to the pain L.S. felt in her genital region, we note that Emily took L.S. to see the family's physician. The doctor did not specifically evaluate L.S. for sexual abuse,

but he did not express concern to Emily that L.S. was experiencing anything other than dry skin. No other evidence indicated L.S. may have been sexually abused. Accordingly, the Shearers' contention that the trial court failed to consider evidence of sexual abuse is unpersuasive.

¶ 71 *6. The Trial Court Failed To Consider the "Illegal State Involvement"*

¶ 72 The Shearers next posit the trial court failed to consider "the illegal State involvement in this case." According to the Shearers, "evidence through the proceedings" established that an employee of Webster-Cantrell Hall, a facility in Decatur that works under the Department of Children and Family Services' (DCFS) authority, wrote a guardianship report making certain recommendations as to the placement of L.S. Although the employee refused to testify at the hearing and her report is not in the record, the Shearers contend that when she wrote the report, she invoked federal and state standards governing DCFS's placement of children. One of those rules requires that DCFS make reasonable efforts to locate a relative who is ready, willing, and able to care for the child and to document the basis for a decision that placement with any identified relative is not in the child's best interests. 20 ILCS 505/7(b) (West 2012).

¶ 73 At the time of Jessica's death, it appears that DCFS no longer had custody of L.S., as she had been placed back into Jessica's care in August 2009. DCFS did not make the decision to place L.S. with the Davidsons; rather, L.S.'s grandmother, grandfather, and aunt made the decision. The Shearers have cited no authority for their proposition that the Webster-Cantrell Hall employee's alleged act of writing a recommendation report somehow invoked DCFS's regulations.

¶ 74 With respect to the propriety of the employee's recommendation report, we note that the recommendation is not in the file and the record does not contain any indication that the

trial court relied on the recommendation. Indeed, the court stated it "would not entertain evidence" like the report because the author of the report did not appear at the hearing to testify. The court also stated it would disregard any reference in the GAL report to Webster-Cantrell Hall or the Webster-Cantrell Hall employee. Accordingly, we find no error.

¶ 75 7. *The GAL Was Unqualified and His Report Was Deficient*

¶ 76 Finally, the Shearers contend the GAL was unqualified to address the sensitive issues in this case, and the GAL's report was "totally deficient." However, as the Davidsons point out, the Shearers did not raise any issues in the trial court with respect to the GAL's qualifications or report; accordingly, the Shearers have forfeited these claims on appeal. See *In re Samantha V.*, 234 Ill. 2d 359, 368, 917 N.E.2d 487, 493 (2009) (The failure to object at trial forfeits consideration of the claimed error on appeal.). Because the Shearers have not asked us to review their claims for plain error, we decline to do so. See *People v. Hillier*, 237 Ill. 2d 539, 545, 931 N.E.2d 1184, 1188 (2010) ("A defendant who fails to argue for plain-error review obviously cannot meet his burden of persuasion.").

¶ 77 III. CONCLUSION

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

¶ 79 Affirmed.