2017 IL App (5th) 160333-U

NO. 5-16-0333

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

In re T.J.H., a Minor	)	Appeal from the
	)	Circuit Court of
(The People of the State of Illinois,	)	Marion County.
	)	
Petitioner-Appellee,	)	
v.	)	No. 14-JA-47
	)	
Paul H.,	)	Honorable
	)	Ericka A. Sanders,
Respondent-Appellant).	)	Judge, presiding.

JUSTICE WELCH delivered the judgment of the court.
Presiding Justice Moore and Justice Goldenhersh concurred in the judgment.

ORDER

¶ 1 *Held*: The circuit court's order terminating the respondent father's parental rights to his minor child was affirmed where the court's findings that he failed to make reasonable efforts to correct the conditions that were the basis for the minor's removal during the initial nine-month period after the adjudication of neglect and that termination of his parental rights was in the best interests of the minor were not against the manifest weight of the evidence.

¶ 2 The respondent father, Paul H., appeals the judgment of the circuit court of Marion County terminating his parental rights to his minor child, T.J.H., arguing that the court's finding that he failed to make reasonable efforts to correct the conditions that were the basis for T.J.H.'s removal during the initial nine-month period after the adjudication of

neglect under section 2-3 of the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/2-3 (West 2014)) was against the manifest weight of the evidence and that the court's finding that termination of his parental rights was in the best interests of T.J.H. was against the manifest weight of the evidence. For the reasons that follow, we affirm.

¶ 3 BACKGROUND

¶ 4 On November 26, 2014, the State filed a petition for adjudication of wardship of T.J.H., born on September 29, 2014, to Deleana R. and Paul H. Paragraph three of the petition alleges that T.J.H. was neglected in that she was in an environment injurious to her welfare in that the court had found Deleana R. to be a neglectful parent on multiple occasions, Deleana R. had either surrendered her parental rights or her parental rights had been terminated on at least seven of her children, and Deleana R. had not completed services to correct the conditions that led to the loss of her other children in violation of section 2-3(1)(b) of the Juvenile Court Act (705 ILCS 405/2-3(1)(b) (West 2014)). Paragraph four of the petition alleges that T.J.H. was neglected in that she was in an environment injurious to her welfare in that Deleana R. continued to maintain a relationship with and at times reside with Paul H., who had been convicted of domestic battery against her and currently had as a condition of his felony probation that he was to have no contact with her, in violation of section 2-3(1)(b) of the Juvenile Court Act.

¶ 5 At the December 1, 2014, shelter care hearing, the State's Attorney advised the court that T.J.H., who was born very premature and had special needs, had not yet been released from the hospital. T.J.H.'s guardian *ad litem* advised the court that she had been the guardian *ad litem* for five of Deleana R.'s other children, that she did not think Paul

H. was ready to care for a newborn with special needs, and that she thought it was of immediate and urgent necessity that T.J.H. be taken into temporary custody. Paul H. indicated that he had no objection to that recommendation. The court, therefore, entered a shelter care order placing T.J.H. in the temporary custody of the Illinois Department of Children and Family Services (DCFS).

¶ 6 On January 10, 2015, Paul H. and Deleana R. were involved in a domestic violence incident after they had been drinking and arguing about money. As a result, Paul H. was arrested, charged with domestic battery, and held in the Marion County Jail.

¶ 7 In the initial service plan dated January 15, 2015, the permanency goal was for T.J.H. to return home within 12 months. Under the service plan, Paul H. was to (1) present pay stubs or proof of public benefits to Caritas Family Solutions/DCFS at the caseworker's request; (2) advise the caseworker of any change in employment or public benefits within seven days; (3) show that he was financially able to provide for himself and T.J.H. through employment or public benefits; (4) successfully complete Men Challenging Violence classes; (5) sign a release of information for the Men Challenging Violence provider; (6) sign a release of information for his probation officer; (7) fully cooperate with his probation officer and all requirements of his probation; (8) ensure that all medications, sharp objects, or other items that could pose a safety threat to T.J.H. were kept out of reach; (9) refrain from using any drugs and/or alcohol in his home; (10) maintain contact with the caseworker and inform her of his whereabouts; (11) maintain utilities, including water, electricity, and gas, at all times; (12) allow the caseworker and other service providers full access to his home during home visits, including

unannounced visits; (13) submit to a home safety inspection; (14) submit to random drug testing; (15) attend and benefit from substance abuse counseling if recommended; (16) sign a release of information for the substance abuse provider; and (17) show that he was able to appropriately care for T.J.H., interact properly, and provide proper supervision, age appropriate discipline, and safety in the home.

¶ 8 At the March 25, 2015, adjudicatory hearing, Paul H. and Deleana R. admitted that T.J.H. was neglected. Paul H. admitted the allegation in paragraph three of the petition that T.J.H. was neglected in that she was in an environment injurious to her welfare in that the court had found Deleana R. to be a neglectful parent on multiple occasions, Deleana R. had either surrendered her parental rights or her parental rights had been terminated on at least seven of her children, and Deleana R. had not completed services to correct the conditions that led to the loss of her other children in violation of section 2-3(1)(b) of the Juvenile Court Act. Deleana R. admitted the allegation in paragraph four of the petition that T.J.H. was neglected in that she was in an environment injurious to her welfare in that Deleana R. continued to maintain a relationship with and at times reside with Paul H., who had been convicted of domestic battery against her and currently had as a condition of his felony probation that he was to have no contact with her, in violation of section 2-3(1)(b) of the Juvenile Court Act. The court, therefore, entered an adjudicatory order finding T.J.H. neglected in that she was in an environment injurious to her welfare under section 2-3(1)(b) of the Juvenile Court Act.

¶ 9 In April 2015, Paul H. was sentenced to two years in the Illinois Department of Corrections (DOC) for domestic battery based on his January 10, 2015, domestic dispute with Deleana R. At that time, he was sent to Graham Correctional Center in Hillsboro.

¶ 10 At the May 20, 2015, dispositional hearing, T.J.H.'s guardian *ad litem* advised the court that she thought it was in T.J.H.'s best interests that she be made a ward of the court and that custody and guardianship be placed with DCFS. Counsel for both parents indicated that they had no objection to the recommendation. The court, therefore, entered a dispositional order making T.J.H. a ward of the court and placing custody and guardianship with DCFS, finding, *inter alia*, that, for reasons other than financial circumstances alone, Paul H. was unfit and unable to care for, protect, train, educate, supervise, or discipline T.J.H. and that placement with him was contrary to her health, safety, and best interests because he was incarcerated and had not engaged in services.

¶ 11 In August 2015, Paul H. was sent to Pittsfield, a work release facility. He remained there until his release from the DOC on December 9, 2015.

¶ 12 On March 11, 2016, the State filed a motion to terminate parental rights and for appointment of a guardian with the power to consent to adoption alleging, *inter alia*, that Paul H. was an unfit person to have T.J.H. under section 1(D)(m)(i) of the Adoption Act (750 ILCS 50/1(D)(m)(i) (West 2014)) in that he had failed to make reasonable efforts to correct the conditions that were the basis for T.J.H.'s removal during any nine-month period after the adjudication of neglect under section 2-3 of the Juvenile Court Act. On April 20, 2016, the court entered an order changing the permanency goal to substitute care pending determination of termination of parental rights.

¶ 13 At the May 11, 2016, fitness hearing, Tiffany Kelley, a caseworker with Caritas Family Solutions, testified that Paul H. had been involved throughout the case but that he had been incarcerated for almost a year while the case was pending, from January to December 2015. When asked what efforts he had made since the March 25, 2015, adjudication of neglect to correct the conditions that led to T.J.H.'s removal, she testified that he had not participated in any services while incarcerated but that he could have participated in parenting classes and counseling during the four months he was at Graham Correctional Center.

¶ 14 Kelley stated that Paul H. had undergone a substance abuse evaluation at the Community Resource Center after his release from the DOC and that individual and group substance/alcohol abuse counseling had been recommended. She testified that he had been participating in the counseling but that he had not completed it.

¶ 15 Kelley stated that the Community Resource Center and Caritas Family Solutions had recommended that Paul H. complete Men Challenging Violence classes because of his domestic battery conviction. She testified that the Men Challenging Violence program is usually 48 weekly classes. She stated that he had started the classes after his release but that he had been kicked out of the classes because the instructor believed he had come to class under the influence of alcohol. She testified that he had not yet been approved to return to the program. She stated that he had not completed any domestic battery services since his release; nor had he engaged in parenting classes.

¶ 16 On cross-examination, Kelley acknowledged that, since his release, Paul H. had lived at the same place, obtained and maintained employment, attended substance abuse

treatment, and participated in mental health counseling. She also acknowledged that he would probably be allowed to return to the Men Challenging Violence program once he had completed the substance abuse treatment. She also acknowledged that she and his counselor were in the process of getting him into parenting classes.

¶ 17 Kelley testified that, to her knowledge, Paul H. had not tried to take any classes during the 11 months he was incarcerated. She stated that he had not asked her what he could do to work on his service plan requirements while incarcerated; nor had he asked her whether he could attend substance abuse counseling while incarcerated. She testified that he had not gotten his own residence since his release from the DOC because he was trying to pay off some fines and that he was living with his niece.

¶ 18 Kelley testified that she had prepared family service plans on January 15, 2015; May 13, 2015; and November 30, 2015. She stated that Paul H. had not completed anything on any of those service plans.

¶ 19 Paul H. testified that, during the four months he was at Graham Correctional Center, he was housed in the "X house," his movement was severely limited, and he was not allowed to participate in any programs. He also stated that Pittsfield did not offer Men Challenging Violence classes, parenting classes, or substance abuse treatment.

¶ 20 On cross-examination, Paul H. testified that he was involved in an educational program similar to a GED program while at Pittsfield. He acknowledged that he participated in the program to earn good time credit in order to get an early release.

¶ 21 Paul H. also acknowledged that he had received a copy of the service plan. He also acknowledged that, during his four months at Graham Correctional Center, he had

not asked if the facility had any of the other programs available, such as parenting classes or substance abuse treatment. He also acknowledged that, while at Pittsfield, he had not asked if he could take parenting classes; nor had he asked for any kind of counseling, including substance abuse counseling. Finally, he acknowledged that he had not completed any other services required by the service plan while in the DOC.

¶ 22 After the hearing, the court entered an order finding, by clear and convincing evidence, that Paul H. was unfit to have T.J.H. under section 1(D)(m)(i) of the Adoption Act in that he had failed to make reasonable efforts to correct the conditions that were the basis for her removal during the initial nine-month period after the adjudication of neglect under section 2-3 of the Juvenile Court Act.

¶ 23 At the August 3, 2016, best interests hearing, Pamela McGuinnis testified that she was a stay-at-home mom and that her husband, John, worked at VJ Cement Company. Pamela stated that she and John had one biological child and six adopted children, who were T.J.H.'s half siblings. Pamela testified that T.J.H. had been released from the hospital to their care in December 2014 and that they were the only foster parents she had ever had. Pamela stated that when T.J.H. came into their care, she had breathing problems, and they had to watch her breathing. They also had to watch how much they fed her to ensure that she got the right nutrients, and they put her on a special formula. Pamela testified that T.J.H. had also been doing physical and developmental therapy and that she had been a little behind in meeting her developmental milestones, such as walking and talking. Pamela stated that T.J.H. was doing well, that T.J.H. was very attached to her, and that she and John loved T.J.H. very much and wanted to adopt her.

¶ 24 Paul H. testified that he was T.J.H.'s father, that he loved her, and that he wanted to continue to have a relationship with her. He stated that he and Deleana R. had been in a long-term relationship and that they were still together when T.J.H. was born. He testified that T.J.H. had to stay in the hospital in St. Louis for a couple of months after she was born and that he had visited her there when he could. He stated that he was living in Centralia at that time. He testified that after she left the hospital and was placed with the foster parents he was not allowed visits with her. He stated that, at some point, he had gone to the DOC and that he had not been able to visit her while he was incarcerated. He testified that he had been released from the DOC on December 9, 2015; that he had been able to visit with her since his release; that he had made all of his visits; and that his visits had been good. He stated that the visits, which were at McDonald's, were supervised by someone from DCFS. He testified that, after his release, he had been living with his niece but that she had recently moved and that he was currently living with a friend in Centralia. He stated that he eventually planned to find a home of his own. He testified that he had been working full-time through a temporary agency for six months and that, in about six months, he should be an employee instead of a temporary worker. He stated that he had not yet started parenting classes but that he was attending drug classes through the Community Resource Center, that he was attending Narcotics Anonymous and Alcoholics Anonymous meetings, and that he was taking Men Challenging Violence classes.

¶ 25 On cross-examination, Paul H. testified that he was 48 years old and that he had three adult children. He acknowledged that he had never asked that his visits with T.J.H.

be anywhere other than McDonald's, such as at a library or a park. He also acknowledged that he had not taken T.J.H. any toys to play with at McDonald's the prior week but stated that he had taken her a toy before. He testified that he had not asked about her developmental problems because he did not know that she had any.

¶ 26 The guardian *ad litem* advised the court that she thought that termination of parental rights was in T.J.H.'s best interests. The court agreed and, therefore, entered orders terminating Paul H.'s parental rights, appointing a guardian with the power to consent to adoption, and changing the permanency goal to adoption. Paul H. appeals.

¶ 27 ANALYSIS

¶ 28 In Illinois, the authority to terminate parental rights involuntarily is found in the Juvenile Court Act (705 ILCS 405/1-1 *et seq.* (West 2014)) and the Adoption Act (750 ILCS 50/0.01 *et seq.* (West 2014)). *In re J.L.*, 236 Ill. 2d 329, 337 (2010). A petition to terminate parental rights is filed under section 2-29 of the Juvenile Court Act, which delineates a two-step process in seeking to terminate parental rights involuntarily. 705 ILCS 405/2-29(2) (West 2014). The State must first establish, by clear and convincing evidence, that the parent is an unfit person under one or more of the grounds of unfitness enumerated in section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2014)). 705 ILCS 405/2-29(2), (4) (West 2014); *In re J.L.*, 236 Ill. 2d at 337. If the court finds that the parent is unfit, the matter proceeds to a second hearing, at which the State must prove that termination of parental rights is in the best interests of the child. 705 ILCS 405/2-29(2) (West 2014); *In re J.L.*, 236 Ill. 2d at 337-38.

¶ 29 The termination of parental rights is a permanent and complete severance of the parent-child relationship. *In re C.N.*, 196 Ill. 2d 181, 208 (2001). Proof of parental unfitness must, therefore, be clear and convincing. *Id.* A finding of parental unfitness will not be disturbed unless it is against the manifest weight of the evidence. *Id.* A finding is against the manifest weight of the evidence only if the opposite conclusion is clearly apparent or the determination is unreasonable, arbitrary, or not based on the evidence presented. *In re D.F.*, 201 Ill. 2d 476, 498 (2002). Under the manifest weight of the evidence standard, a reviewing court gives deference to the trial court as the finder of fact because it is in the best position to observe the conduct and demeanor of the parties and witnesses and has a degree of familiarity with the evidence that a reviewing court cannot possibly obtain. *Id.* at 498-99. "A reviewing court, therefore, must not substitute its judgment for that of the trial court regarding the credibility of witnesses, the weight to be given to the evidence, or the inferences to be drawn." *Id.* at 499.

¶ 30 Paul H. first argues that the trial court's unfitness finding was against the manifest weight of the evidence. The court found Paul H. unfit under section 1(D)(m)(i) of the Adoption Act (750 ILCS 50/1(D)(m)(i) (West 2014)), which provides, in pertinent part, that a parent can be deemed unfit if he fails "to make reasonable efforts to correct the conditions that were the basis for the removal of the child from the parent during any 9-month period following the adjudication of neglected *** minor under Section 2-3 of the Juvenile Court Act." Reasonable efforts relate to the goal of correcting the conditions that caused the removal of the child and are judged by a subjective standard based upon

the amount of effort that is reasonable for a particular person. *In re Daphnie E.*, 368 Ill. App. 3d 1052, 1066-67 (2006).

¶ 31 Paul H.'s primary argument is that he could not complete the requirements of the service plan because he was incarcerated for most of the relevant nine-month period, which is from March 25, 2015, when T.J.H. was adjudicated neglected, to December 25, 2015. He was arrested on January 10, 2015, and released on December 9, 2015, and was, therefore, incarcerated for all but the last 17 days of the relevant nine-month period.

¶ 32 Paul H.'s argument is similar to the argument the respondent mother made in *In re J.L.*, 236 Ill. 2d 329 (2010). There, the appellate court concluded that because the mother was incarcerated for six months of the relevant nine-month period she was effectively given only three months to demonstrate reasonable progress toward the return of her children, which was an inadequate amount of time. *Id.* at 339. On appeal to the supreme court, the State argued that the appellate court had, in effect, rewritten section 1(D)(m)(iii) of the Adoption Act (750 ILCS 50/1(D)(m)(iii) (West 2008)) " 'to provide that time in prison tolls the nine-month period during which reasonable progress must be made.' " *In re J.L.*, 236 Ill. 2d at 339. The supreme court reversed the appellate court's decision, concluding that "the language of section 1(D)(m)(iii) is clear and unambiguous with regard to the question at issue" and that "[t]here is no exception for time spent in prison." *Id.* at 340. The court noted that the legislature included no exception for incarcerated persons in section 1(D)(m)(iii) and that it was, therefore, inappropriate to infer that the legislature intended such an exception. *Id.* at 341. The court also noted that "in determining whether a parent has made reasonable progress toward the return of the

child, courts are to consider evidence occurring only during the relevant nine-month period mandated in section 1(D)(m)." *Id.*

¶ 33 Like the language of section 1(D)(m)(iii), which was at issue in *In re J.L.*, the language of section 1(D)(m)(i), which is at issue here, is clear and unambiguous. The legislature intended no exception for incarcerated persons in section 1(D)(m)(i). In addition, in determining whether a parent has made reasonable efforts to correct the conditions that led to the child's removal, courts are to consider evidence occurring only during the relevant nine-month period mandated in section 1(D)(m).

¶ 34 Here, the initial January 15, 2015, service plan contained 17 requirements for Paul H. to complete. He argues that, at the time of the November 30, 2015, service plan, which was less than one month before the expiration of the relevant nine-month period, he had completed 7 of the 17 requirements. Specifically, he argues that he had (1) advised the caseworker of any change in employment or public benefits within seven days; (2) signed a release of information for the Men Challenging Violence provider; (3) signed a release of information for his probation officer; (4) refrained from using any drugs and/or alcohol in his home; (5) maintained contact with the caseworker and informed her of his whereabouts; (6) submitted to a home safety inspection; and (7) submitted to random drug testing.

¶ 35 Although Paul H. had completed these seven requirements, none of them required much effort, and completion of these seven requirements did not constitute reasonable efforts to correct the conditions that led to T.J.H.'s removal. In order to satisfy the requirements that he sign a release of information for the Men Challenging Violence

provider and that he sign a release of information for his probation officer, he simply had to sign two documents. In addition, he was incarcerated when all three of the service plans were prepared and, therefore, would not have been able to use drugs; nor would he have been required to submit to random drug testing or random home safety inspections. By staying in touch with his caseworker while incarcerated, he did complete the requirements that he advise her of any change in employment or public benefits within seven days and that he maintain contact with her and inform her of his whereabouts.

¶ 36 Paul H. did not complete the requirements of the service plan that he (1) present pay stubs or proof of public benefits to Caritas Family Solutions/DCFS at the caseworker's request; (2) show that he was financially able to provide for himself and T.J.H. through employment or public benefits; (3) successfully complete Men Challenging Violence classes; (4) fully cooperate with his probation officer and all requirements of his probation; (5) ensure that all medications, sharp objects, or other items that could pose a safety threat to T.J.H. were kept out of reach; (6) maintain utilities at all times, including water, electricity, and gas; (7) allow the caseworker and other service providers full access to his home during home visits, including unannounced visits; (8) attend and benefit from substance abuse counseling if recommended; (9) sign a release of information for the substance abuse provider; and (10) show that he was able to appropriately care for T.J.H., interact properly, and provide proper supervision, age appropriate discipline, and safety in the home.

¶ 37 The State focuses primarily on Paul H.'s failure to make reasonable efforts to complete the Men Challenging Violence classes and the substance abuse program. The

evidence demonstrates that he made no attempt to complete the Men Challenging Violence classes or the substance abuse classes while he was incarcerated. He testified that during the four months he was at Graham Correctional Center he was housed in the X house, his movement was severely limited, and he was not allowed to participate in any programs, but, on cross-examination, he acknowledged that he had not asked if the facility had any of the programs available, such as parenting classes or substance abuse treatment. He also stated that Pittsfield did not offer Men Challenging Violence classes, parenting classes, or substance abuse treatment, but, on cross-examination, he acknowledged that he had not asked if he could take parenting classes while at Pittsfield; nor had he asked for any kind of counseling, including substance abuse counseling. The caseworker testified that Graham Correctional Center offered parenting classes but that she was not aware of the other programs offered by the facilities.

¶ 38 In support of his assertion that, in determining whether he made reasonable efforts, the trial court failed to consider the fact that he was incarcerated for most of the relevant nine-month period, Paul cites *In re Gwynne P.*, 346 Ill. App. 3d 584 (2004). There, the minor's mother, who had escaped from custody in March 1998, had been arrested for possession of a controlled substance three days before the minor was born. *Id.* at 589. On August 11, 1999, the mother returned to prison and was placed in disciplinary segregation for one year. *Id.* The minor was adjudicated abused, neglected, and dependent on December 7, 1999. *Id.* The court, therefore, examined the mother's efforts from December 7, 1999, to September 7, 2000. *Id.* at 596. The mother was, therefore, incarcerated for all of the relevant nine-month period and in segregation for all but the

last 27 days. While she was in segregation, services were not available to her, but she placed her name on the waiting list. *Id.* at 596-97. Upon her release from segregation, she began parenting classes and remained on the waiting list for substance abuse treatment. *Id.* at 597. The appellate court noted that, during the relevant nine-month period, she had little opportunity to make reasonable efforts toward correcting the conditions that led to her child's removal due to the limiting circumstances of her incarceration. *Id.* Because she had placed her name on the waiting list for services while in segregation and participated in services when they became available, the appellate court found that her efforts to correct the conditions that led to her child's removal, namely her drug addiction, were reasonable under the circumstances. *Id.* The appellate court, therefore, found that the trial court's finding that she failed to make reasonable efforts was against the manifest weight of the evidence. *Id.*

¶ 39 Relying on *In re Gwynne P.*, Paul H. argues that the circumstances of his incarceration prevented him from making reasonable efforts to correct the conditions that led to T.J.H.'s removal. He testified that, while incarcerated, he did not have access to the programs required by the service plan and that, as soon as those services became available to him upon his release, he began taking the necessary steps and classes required by the service plan.

¶ 40 Here, unlike in *In re Gwynne P.*, not only did Paul H. not complete any of the required programs in the relevant nine-month period, he did not even inquire as to whether they were available. He wants his inaction during his incarceration to be excused by the fact that, after his release, he started trying to complete the last 10

requirements of the service plan. While it is commendable that he tried to complete the requirements of the service plan after his release, it was too little, too late. He failed to make reasonable efforts during the relevant nine-month period, and the trial court's unfitness finding was, therefore, not against the manifest weight of the evidence.

¶ 41 Paul H. also challenges the trial court's best interests finding. Once parental unfitness has been found in a termination of parental rights proceeding, the parent's rights must yield to the best interests of the child. *In re M.F.*, 326 Ill. App. 3d 1110, 1115 (2002). The State has the burden of proving, by a preponderance of the evidence, that termination of parental rights is in the best interests of the child. *In re D.T.*, 212 Ill. 2d 347, 366 (2004). The trial court's best interests finding will not be disturbed unless it is against the manifest weight of the evidence. *In re Brandon A.*, 395 Ill. App. 3d 224, 240 (2009).

¶ 42 In determining the best interests of the child, the court must consider the following factors in the context of the child's age and developmental needs: (1) the child's physical safety and welfare; (2) the development of the child's identity; (3) the child's background and ties; (4) the child's sense of attachments; (5) the child's wishes and long-term goals; (6) the child's community ties; (7) the child's need for permanence; (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).

¶ 43 Here, Paul argues that the trial court focused too heavily on only one or two of the statutory factors while ignoring a majority of the others and that such a narrow focus resulted in a ruling that was against the manifest weight of the evidence. In support, he

relies upon *In re B.B.*, 386 Ill. App. 3d 686 (2008). There, the appellate court noted that the trial court focused on only two of the statutory factors and did not articulate its view of any of the remaining statutory factors. *Id.* at 699. The appellate court observed that the trial court's findings relied heavily on the consideration of two statutory factors, the children's sense of attachment and their need for permanence. *Id.* The appellate court noted that the record suggested that only one factor, the children's need for stability, weighed in favor of termination, while all other factors were either overlooked, neutrally assessed, or, in the case of the children's bonds to their mother, weighed in favor of postponing termination. *Id.* at 700. The appellate court found that the trial court's best interests determination was against the manifest weight of the evidence. *Id.* at 703.

¶ 44 Here, unlike in *In re B.B.*, almost all of the statutory factors weigh in favor of termination. The trial court's best interests finding was, therefore, not against the manifest weight of the evidence.

¶ 45 The first factor, the child's physical safety and welfare, including food, shelter, health, and clothing, weighs heavily in favor of termination. Since his release, Paul H. had been living with his niece and then a friend and did not have a home of his own. He had also been convicted of domestic battery against T.J.H.'s mother. In addition, he had been kicked out of the Men Challenging Violence classes because the instructor believed he had attended class while under the influence of alcohol. Further, he was only a temporary employee and, therefore, did not receive health insurance, which was problematic because T.J.H. was born premature, has special needs, and requires therapy for her development.

¶ 46 The second factor, the development of the child's identity, also weighs in favor of termination. T.J.H. has been with the foster parents since she was released from the hospital, and they are the only parents she has ever known. In addition, she is living with six of her half siblings, who have been adopted by the foster parents.

¶ 47 The third factor, the child's background and ties, also weighs in favor of termination. T.J.H. has ties with her six half siblings, who have been adopted by the foster parents. As to ties with Paul H., she only had recent supervised visits because he was incarcerated for most of her life and had no visits with her during that time.

¶ 48 The fourth factor, the child's sense of attachments, also weighs heavily in favor of termination. T.J.H. has a strong attachment to her foster parents, which is obvious in reviewing the record. She has been with them since her release from the hospital and has developed a strong attachment to her foster mother, who is the only mother she has ever known. She also has an attachment to her half siblings and gets along well with them. She has no attachment to Paul H. because he was incarcerated for most of her life and had no visits with her during that time.

¶ 49 The fifth factor, the child's wishes and long-term goals, is impossible to weigh because of T.J.H.'s young age.

¶ 50 The sixth factor, the child's community ties, weighs in favor of termination. T.J.H. has lived with the foster parents since her release from the hospital, and they have adopted six of her half siblings, giving her a sense of belonging there.

¶ 51 The seventh factor, 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, weighs heavily in favor of termination. The foster parents can offer T.J.H. permanence. They want to adopt her, like they adopted her half siblings, offering her a home and permanent sense of belonging. They are the only parents she has ever known, and their home is the only home she has ever known.

¶ 52 The eighth factor, the uniqueness of every family and child, also weighs in favor of termination. The foster parents have adopted six of T.J.H.'s half siblings, which allows her to be with them in a loving and stable home.

¶ 53 The ninth factor, the risks attendant to entering and being in substitute care, also weighs in favor of termination. The foster parents have tended to T.J.H.'s special needs since her release from the hospital. The therapist comes to their home and works with her. They also take her to her doctor appointments in St. Louis. Paul H. was not even aware that she had developmental issues.

¶ 54 The tenth factor, the preferences of the persons available to care for the child, does not weigh one way or the other. It is obvious that Paul H. loves T.J.H. and wants to maintain a relationship with her. It is equally obvious that the foster parents love T.J.H., that they want her to continue living with them, and that they want to adopt her.

¶ 55 After considering all of the statutory factors, we conclude that the trial court's best interests finding was not against the manifest weight of the evidence.

¶ 56 CONCLUSION

¶ 57 For the foregoing reasons, we affirm the judgment of the circuit court of Marion County.

¶ 58 Affirmed.