2018 IL App (1st) 180050-U
No. 1-18-0050
Order filed September 18, 2018

Second Division

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

In re F.L., a Minor	)	Appeal from the Circuit Court
	)	of Cook County.
(THE PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Petitioner-Appellee,	)	No. 15 JA 812
	)	
v.	)	
	)	The Honorable
A.L.,	)	Maxwell Griffin,
	)	Judge, presiding.
Respondent-Appellant).	)	

JUSTICE HYMAN delivered the judgment of the court.
Presiding Justice Mason and Justice Pucinski concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court's finding that mother of minor child was unfit and that it was in the child's best interests that parental rights be terminated was not against the manifest weight of the evidence.

¶ 2 Shortly after he was born, F.L., who is now three years old, was taken into the custody of the Illinois Department of Children and Family Services. F.L.'s mother, A.L., tested positive for marijuana when F.L. was born, and she had another child in DCFS custody. A.L. contends her

boyfriend, F.M., is A.L.'s biological father, but two paternity tests showed he is not, and F.M. is not a party to this case.

¶ 3 After the trial court found F.L. was neglected due to an injurious environment and that A.L. was unable to parent him, F.L. was placed in DCFS guardianship. When A.L. failed to complete services, the State filed a petition to terminate her parental rights. After a hearing, the trial court found A.L. was unfit and that it was in F.L.'s best interests that A.L.'s parental rights be terminated, as she: (i) failed to maintain a reasonable degree of interest, concern, or responsibility for F.L.'s welfare, (ii) deserted him for a period of three months or more, and (iii) failed to make reasonable effort or progress toward F.L. returning home.

¶ 4 A.L. appeals *pro se*, arguing that her lawyer was ineffective and asking us to reinstate her parental rights or to place A.L. in F.M.'s custody. (The trial court also terminated the parental rights of F.L.'s unnamed father, who was served notice by publication but did not appear, and is not a party to this appeal.)

¶ 5 We agree with the trial court that the State proved by a preponderance of the evidence A.L. was unfit and it was in F.L.'s best interest that A.L.'s parental rights be terminated.

¶ 6 Background

¶ 7 F.L was born on July 31, 2015. On August 12, the State filed a petition for adjudication of wardship, alleging that F.L. was neglected due to injurious environment and abused due to substantial risk of injury. To support the petition, the State asserted A.L. had a prior indicated report for substantial risk of injury and had another child who was in DCFS custody in Will County. The petition further alleged A.L. (i) had been diagnosed with depression and bipolar disorder, (ii) tested positive for marijuana when F.L. was born, and (iii) was not compliant with reunification services, including mental health and substance abuse assessments. When F.L. was

born, the hospital restricted visitation from her boyfriend, F.M., due to his erratic behavior. At his birth, A.L. had a heart issue that required medical follow-up with a specialist.

¶ 8 On August 12, 2015, the trial court found probable cause and urgent and immediate necessity to remove F.L. from his home and appointed DCFS as his temporary custodian. On August 15, 2015, the trial court entered an order noting that the August 12 temporary custody would remain without prejudice to F.M., the putative father. But, on September 2, 2015, the trial court entered an order taking temporary custody with prejudice to F.M. The order noted that A.L. and F.M. were living together, she was not honest about drug use and was not in services, and that F.M. "has exhibited explosive behaviors and threatened to remove [F.L.] from the hospital."

¶ 9 In November 2015, the trial court entered a paternity order based on two DNA tests, that F.M. is not F.L.'s father. That same day, the trial court entered an order prohibiting contact between F.L. and F.M.

¶ 10 After a January 2016 adjudicatory hearing, F.L. was adjudicated neglected due to injurious environment. The court noted that A.L. had a daughter, not in her custody, who was indicated for neglect and that A.L. was not compliant with reunification services.

¶ 11 At the June 2016 disposition hearing, the trial court found A.L. was unable to care for F.L. and appointed the DCFS guardianship administrator as his guardian. The court set F.L.'s permanency goal at return home pending status, noting that A.L. had not made substantial progress and that F.L., who was 11 months old and had heart surgery, was in a non-relative placement, where his needs were being met.

¶ 12 On May 17, 2017, the State filed a supplemental petition for appointment of a guardian with the right to consent to adoption. The petition alleged that A.L. was unfit as she (i) failed to maintain a reasonable degree of interest, concern, or responsibility as to F.L.'s welfare under

section 1(D)(b) of the Adoption Act (750 ILCS 50/1(D)(b) (West 2016) (Act), (ii) deserted F.L. under section 1(D)(c) of the Adoption Act (750 ILCS 50/1(D)(c) (West 2016)), and (iii) failed to make reasonable efforts to progress toward the return of F.L. within nine months after the adjudication of neglect or abuse, from January 22, 2016 through October 22, 2016, or within any nine month period after that finding under section 1(D)(m)(ii) of the Adoption Act. (750 ILCS 50/1(D)(m)(ii) (West 2016)).

¶ 13 A proceeding to terminate a party's parental rights under the Juvenile Court Act of 1987 (705 ILCS 405/11 *et seq*. (West 2016)) occurs in two stages. First, the State must establish the parent is "unfit to have a child" under one or more of the grounds in the Adoption Act. *In re D.T.*, 212 Ill. 2d 347, 352 (2004); see 750 ILCS 50/1(D) (West 2016) (setting out bases for finding of unfitness). At the unfitness hearing, the State has the burden of proving the parent's unfitness by clear and convincing evidence. See *In re D.W.*, 214 Ill. 2d 289, 315 (2005); *D.T.*, 212 Ill. 2d at 352-53. The heightened burden of proof is rooted in the notion that "the right of parents to control the upbringing of their children is a fundamental constitutional right." *D.W.*, 214 Ill. 2d at 310; see also *In re Shauntae P.*, 2012 IL App (1st) 112280, ¶ 88 ("Because the termination of parental rights constitutes a complete severance of the relationship between the parent and child, proof of parental unfitness must be clear and convincing.").

¶ 14 If the trial court finds a parent to be unfit, the proceedings advance to the second stage, where the court determines whether it is in the best interests of the minor for the parent's rights to be terminated. *D.T.*, 212 Ill. 2d at 352. At the best interests hearing, the burden of proof is the lower preponderance-of-the-evidence standard. *D.W.*, 214 Ill. 2d at 315; *D.T.*, 212 Ill. 2d at 366. This is so because once the State proves parental unfitness, the focus shifts to the child, and the interests of parent and child diverge. *D.W.*, 214 Ill. 2d at 315.

¶ 15 Unfitness Hearing.

¶ 16 The trial court held an unfitness hearing on December 7, 2017. Before the hearing, A.L.'s attorney moved to withdraw, stating that A.L. was not happy with his services and A.L.'s boyfriend, F.M., had made threatening and derogatory phone calls to him and his staff. A.L. stated her attorney "has not done what he was supposed to do" *i.e.*, get F.L returned to F.M. She requested additional time to hire a new attorney and another DNA test to determine if F.M. was F.L.'s father. The trial court denied the motion to withdraw, noting that A.L. had six months to find a new attorney and it was not in F.L.'s interest to delay the case. The trial court also denied her request for DNA testing, noting that two prior DNA tests determined F.M. is not the biological father.

¶ 17 At the hearing, F.L.'s case manger, Patricia Vaughn, who works for Universal Family Connection testified for the State. She was assigned A.L.'s case when F.L. was born, because A.L. had another child in the system. Vaughn created a service plan, which required A.L. to attend parenting classes, complete a drug and alcohol assessment, obtain a sponsor to help her with her sobriety, stop using illegal drugs, engage in visitation with F.L., complete a psychiatric evaluation, and attend therapy.

¶ 18 A.L. successfully completed an eight-week parenting class and was referred to an eight-week Nurturing Parent Program, but she provided no verification that she completed it. A.L. was supposed to begin individual therapy in February 2016, but she never began the service. Vaughn met with A.L. on March 29, 2016, and A.L. told her she did not need individual therapy and despite referrals, A.L. never participated in therapy. She also never completed the psychiatric evaluation.

¶ 19 A.L. was referred to an outpatient drug treatment program at Universal Family Connection, which included drug testing, but A.L. only attended a few meetings. She told Vaughn her attorney told her she could stop attending the drug treatment program, as she was not getting anything out of it. She told Vaughn she would find her own drug treatment program, but she never provided evidence

of attending or completing a program. Vaughn sent A.L. a letter, dated October 21, 2016, informing A.L. she needed to submit a urine drop, but A.L. did not comply.

¶ 20 A.L. was granted weekly supervised visits with F.L. until December 2016, when the goal was changed and visits became twice monthly. A.L. regularly attended visits until November 16, 2015, when F.M. was found not to be the father. After that date, A.L.'s visits became "very inconsistent." Vaughn left voice mail messages and wrote letters to A.L. trying to encourage her to visit F.L. regularly, but A.L. did not respond. At the June 28, 2016 dispositional hearing, Vaughn spoke with A.L. about visitation. A.L. said she wanted to visit with F.L. but never followed up to schedule a visit. On March 17, 2017, Vaughn sent a letter to A.L. regarding visits with F.L., but A.L. again did not respond. Vaughn said the agency provided A.L. bus passes so that she could get to and from the office for visits should she did not have a ride. When A.L. did visit F.L., the visits did not last the full time. A.L. had six visits with F.L. since the case came into the system. During three of the visits, A.L. took multiple phone calls from her boyfriend, F.M., and then cut the visits short. A.L.'s last visit was on February 9, 2016, when F.L. was in the hospital.

¶ 21 Vaughn sent a letter to A.L. about once a month, but A.L. did not respond to any of them. Vaughn went to A.L.'s home to confirm she had the correct address; A.L. was not there, but her name was on the mailbox. Vaughn said she also had difficulty communicating with A.L., because, as of September 2016, A.L.'s cell phone did not work. A.L. never contacted Vaughn to see how F.L. was doing and did not send cards, gifts, or letters to him.

¶ 22 After hearing all of the evidence, the trial court found that A.L. was unfit as she (i) failed to maintain a reasonable degree of interest, concern, or responsibility for F.L.'s welfare, (ii) deserted F.L. for more than three months before the commencement of the termination

proceedings, and (iii) failed to make reasonable efforts and reasonable progress toward F.L. returning home within nine months after the adjudication of neglect or abuse.

¶ 23 Best Interest Hearing

¶ 24 At the best interest hearing, the State again called Patricia Vaughn. In August 2015, when he was a few weeks old, F.L. was placed with non-relative foster parents. The foster parents' five-year-old biological daughter, a two and a half year old foster child, and two adopted children, age seven and nine, also resided in the home. Vaughn visits F.L.'s foster home monthly and has observed a loving bond between F.L. and his foster parents. F.L. calls his foster mother "Mommy" and his foster father "Da-da." F.L. has a sibling-like relationship with the other children in the home. The foster parents facilitate visits between F.L. and his biological sister, who has been adopted by her maternal grandmother.

¶ 25 Vaughn last visited the foster home on November 22, 2017, and found the placement safe and appropriate. About eight months earlier, there was an allegation that the foster mother spanked F.L. Vaughn spoke with the foster parents, who said that when F.L. would go toward fire or danger, they would move him away and tap him on the bottom. Vaughn told the foster parents that spanking was not allowed, and the agency required the foster parents to take a class, which they completed. Vaughn said that on her last visit she saw no signs of corporal punishment and she was not worried about F.L.'s safety in the home.

¶ 26 The foster parents were meeting F.L.'s medical and development needs. F.L.'s congenital heart disease and pulmonary artery stenosis required heart valve surgery and a stent placement in February 2016. The surgery was successful but requires follow-up with a pediatric cardiologist every three months. F.L. also needs speech therapy, developmental therapy, and occupational therapy and was receiving all three services in the foster home and doing well.

¶ 27 Vaughn believed it would be in F.L.'s best interests to terminate A.L.'s parental rights and to appoint the DCFS administrator as guardian with the right to consent to adoption, as F.L. has been in a safe, stable placement since birth and bonded well with his foster family.

¶ 28 F.L.'s foster mother, Linda T., testified that F.L. was one or two weeks old when he was placed in her home and described him as a loving, smart, and happy baby. She has a loving bond with F.L. and considers him a family member. F.L. sees a doctor every three to six months to monitor his health issues, and he never misses a developmental, speech, or occupational therapy session. She understood corporal punishment is not permitted and testified that she does not spank her children, but instead uses time-outs as punishment.

¶ 29 Linda asked A.L. to go to the hospital and spend time with F.L. on the day of his heart surgery. A.L. was there but did not have much contact with F.L; she held F.L. but gave him back when he began to cry. Linda was not aware of A.L. having any contact with F.L. since that day.

¶ 30 Linda and her husband want to adopt F.L. Linda thought it would be in F.L.'s best interests because the family loves him and he loves the family. If adopted, she would make sure F.L continued visits with his sister.

¶ 31 The trial court found the State proved by a preponderance of the evidence that it was in F.L.'s best interests to terminate A.L.'s parental rights. The court entered a written order appointing the DCFS administrator as guardian with the right to consent to adoption.

¶ 32 Analysis

¶ 33 Initially, we address the State's contention that A.L. forfeited her arguments because her brief does not comply with Supreme Court Rule 341(h) (eff. Nov. 1, 2017)). A.L.'s brief fails to articulate an organized or cohesive legal argument for us to consider. It is not in compliance with Rule 341(h), which requires, among other things, a statement of facts necessary to an

understanding of the case and an argument section, which must contain the appellant's contentions, with citation of the authorities and the pages of the record relied on. A.L. does not argue that the trial court's unfitness and best interest findings were against the manifest weight of the evidence. A.L. simply contends the juvenile court system was "rigged" against her and that her lawyers were ineffective. She requests that F.L. be returned to her and F.M., or in the alternative that her parental rights be given to F.M., who is not F.L.'s father.

¶ 34 Reviewing courts may dismiss an appeal where the appellant's brief fails to comply with supreme court rules applicable to briefs. *Epstein v. Galuska*, 362 Ill. App. 3d 36, 42 (2005). But Rule 341 is an admonishment to the parties, not a limitation on this court's jurisdiction. So, this court may nevertheless consider the merits of a party's appeal. *In re Jacorey,* 2014 IL App. (1st) 113427, ¶ 17. A.L. is appealing *pro se,* but *pro se* status does not excuse an appellant from complying with the appellate procedures required by our supreme court rules. *In re A.H.*, 215 Ill. App. 3d 522, 529-30 (1991). Nevertheless, due to the serious nature of the proceeding, we will address the merits of the case. Our courts have recognized parental rights and responsibilities are of deep human importance, and thus, will not be lightly terminated. *Id.* We assume, as did the State in its brief, that A.L. contends the trial court's decisions finding her unfit and terminating her parental rights were contrary to the manifest weight of the evidence.

¶ 35 Unfitness Finding

¶ 36 As noted, a finding of unfitness must be supported by clear and convincing evidence. 705 ILCS 405/2-29(2) (West 2016); *In re J.L.*, 236 Ill. 2d 329, 337 (2010). We must defer to the trial court's finding of unfitness as that finding involves factual findings and credibility assessments that the trial court is better-equipped to make. *In re Richard H.*, 376 Ill. App. 3d 162, 165 (2007). We do not reweigh the evidence. *In re J.B.*, 2014 IL App (1st) 140773, ¶ 49.

We will not reverse a finding of unfitness unless it is against the manifest weight of the evidence. *Richard H.*, 376 Ill. App. 3d at 165. A decision is against the manifest weight of the evidence if the facts clearly demonstrate that the court should have reached the opposite result. *In re N.B.*, 191 Ill. 2d 338, 346 (2000). When reviewing the sufficiency of the evidence in a termination-of-parental-rights case, each case must be decided based on the particular facts and circumstances presented. *In re G.L.*, 329 Ill. App. 3d 18, 26 (2002). Because the grounds for unfitness are independent of one another, we may affirm the trial court's judgment if the evidence supports any of the grounds of unfitness found by the trial court. *In re Addison R.*, 2013 IL App (2d) 121318, ¶ 35 (single ground of unfitness sufficient to support finding of unfitness).

¶ 37 The trial court found the State proved by a preponderance of the evidence that A.L. was unfit for (i) failing to maintain a reasonable degree of interest, concern, or responsibility for F.L. (750 ILCS 50/1(D)(b) (West 2016), (ii) failing to make reasonable progress toward F.L.'s return home in three distinct nine-month periods (750 ILCS 50/1(D)(m)(ii) (West 2016), and (iii) deserting F.L. for more than three months next preceding the commencement of the adoption proceeding. 750 ILCS 50/1(D)(c) (West 2016). None of these findings was against the manifest weight of the evidence.

¶ 38 Interest, Concern, or Responsibility for F.L's Welfare

¶ 39 To find a parent unfit under section 1(D)(b) of the Adoption Act, and avoid the necessity of obtaining the parent's consent for adoption, the trial court must find clear and convincing evidence that the parent failed "to maintain a reasonable degree of interest, concern or responsibility as to the child's welfare." 750 ILCS 50/1(D)(b) (West 2016). Because this language expresses a choice between possibilities, any of these three elements may be considered on its own as a basis for unfitness: the failure to maintain a reasonable degree of (i) interest or

(ii) concern or (iii) responsibility as to the child's welfare. *In re Jaron Z.*, 348 Ill. App. 3d 239, 259 (2004). In examining allegations under subsection (b), a trial court focuses on a parent's reasonable efforts rather than the parent's success, and considers any circumstances that may have made it difficult for the parent to visit, communicate with, or otherwise show interest in the child. *Id.* The court should examine a parent's conduct, including any difficulty in obtaining transportation to the child's residence, the parent's poverty, conduct of others that hinders visitation, and the motivation underlying the failure to visit. *In re Adoption of Syck*, 138 Ill. 2d 255, 279 (1990). "If personal visits were somehow impractical, courts consider whether a reasonable degree of concern was demonstrated through letters, telephone calls, and gifts to the child, taking into account the frequency and nature of those contacts." *In re Daphnie*, 368 Ill. App. 3d 1052, 1064 (2006). Noncompliance with an imposed service plan and infrequent or irregular visitation with the child may be sufficient to warrant a finding of unfitness under section (b). *Jaron Z.*, 348 Ill. App. 3d at 259.

¶ 40 The evidence at the unfitness hearing showed that A.L. failed to maintain a reasonable degree of interest, concern, or responsibility for F.L. A.L. visited F.L. early on, but stopped visiting once the DNA test results showed that F.M. was not F.L.'s father. A.L. only visited F.L. six times during the more than two years the case was in the system and on three occasions she left the visits early. Caseworker Vaughn talked to A.L. in court and tried to encourage her to visit F.L. She also sent letters to A.L. on a monthly basis and tried calling her, but A.L. did not respond. A.L. did not contact the agency to arrange visits or ask for updates on F.L., nor did she send him any gifts, card or letters. Although A.L. did not claim that transportation was a hindrance to her visits, Vaughn's agency provided A.L. with bus passes to ensure she had a way

to get to and from the agency. Despite Vaughn's efforts, A.L. showed little interest F.L. and failed to demonstrate reasonable interest in visiting or communicating with him.

¶ 41 Further, A.L. failed to engage in most of the services that were required for F.L. to return home. A.L. completed a parenting class but then failed to attend the recommended Nurturing Parent Program. She also refused to participate in individual therapy or undergo a psychiatric evaluation and stopped attending her substance abuse program because she said she wasn't getting anything out of it. She then ignored Vaughn's request that she submit to urine testing. A.L.'s failure to comply with most of the imposed service plan and her lack of interest in maintaining a relationship with F.L. were sufficient to support the trial court's finding of unfitness under section 1(D)(b) of the Adoption Act. 750 ILCS 50/1(D)(b) (West 2016).

¶ 42 Reasonable Progress Toward Return Home

¶ 43 Reasonable efforts and reasonable progress are distinct grounds for a finding of unfitness under section 1(D) (m) of the Adoption Act. *Jacorey*, 2012 IL App (1st) 113427, ¶ 21. A parent is considered unfit if he or she fails to make either (i) a reasonable effort to correct the conditions that led to the child's removal, or (ii) reasonable progress toward the child's return home within any nine-month period after the adjudication of neglect. *In re R.L.*, 352 Ill .App. 3d 985, 998 (2004); 750 ILCS 50/1(D)(m) (West 2016).

¶ 44 The trial court found A.L. unfit because she failed to make reasonable progress toward F.L.'s return home. The benchmark for measuring a parent's progress toward the return of the child under section 1(D)(m) of the Adoption Act encompasses the parent's compliance with the service plans and the court's directives, in light of the conditions that gave rise to the removal of the child, and in light of other conditions which later became known and would prevent the court from returning custody of the child to the parent. *In re C.N.*, 196 Ill.2d 181, 216-17 (2001).

¶ 45 An objective standard applies to determining a failure to make reasonable progress. This means the trial court focuses on the amount of progress toward reunification that could be reasonably expected under the circumstances. *In re M.I.*, 2015 IL App (3d) 150403, ¶ 13. At a minimum, reasonable progress requires measurable or demonstrable movement toward reunification. *Jacorey*, 2012 IL App (1st) 113427, ¶ 21. Reasonable progress has been made "when the trial court can conclude that it will be able to order the child returned to parental custody in the near future." *Id.*

¶ 46 We find no basis in the record to conclude that the trial court's decision was against the manifest weight of the evidence. As noted in paragraph 40, A.L. failed to comply with most of the required services in her service plan and thus, failed to make reasonable progress toward F.L.'s return home. The lack of effort on A.L.'s part supports the trial court's finding that she was unfit under section 1(D)(m) of the Adoption Act. 750 ILCS 50/1(D)(m) (West 2016).

¶ 47 Desertion

¶ 48 Section 1(D)(c) of the Adoption Act provides for a finding of unfitness where the parent deserts the child "for more than 3 months next preceding the commencement of the Adoption proceeding." 750 ILCS 50/1(D)(c) (West 2016). "Desertion connotes conduct which indicates an intention to permanently terminate custody over the child while not relinquishing all parental rights." *In re Dawn H.*, 281 Ill. App. 3d 746, 757 (1996); see also *In re Overton*, 21 Ill. App. 3d 1014, 1018 (1974) ("In consideration of the question of desertion, primary consideration must be given to the intent of the parent. [Citations.] The mere fact of physical separation does not necessarily constitute desertion."). Thus, the court considers the subjective intent of the parent.

¶ 49 The record shows A.L. visited with F.L. only six times after his case came into the system, and often cut those visits short. Once A.L. learned that F.M. was not F.L.'s father, she

basically stopped visiting altogether. Her last visit was on February 9, 2016, when F.L. was in the hospital for surgery. At the time of the unfitness hearing, A.L. had not visited with F.L. for almost two years, and she failed to follow up on Vaughn's multiple efforts to facilitate visits. Moreover, A.L. did not call the agency to inquire about F.L.'s well-being or send him cards, gifts, or letters during that time. Based on A.L.'s apparent lack of interest in establishing a relationship with F.L., the trial's finding that she had deserted him for more than three months before the hearing was not against the manifest weight of the evidence.

¶ 50 Best-Interests Finding

¶ 51 When the trial court finds a parent unfit under one of the grounds of section 1(D) of the Adoption Act, it must then determine whether termination of parental rights is in the best interests of the child under 1-3 (4.05) of the Juvenile Court Act (705 ILCS 405/1-3(4.05) (West 2016)). At a best interests hearing, the parent's interest in maintaining the parent-child relationship must yield to the child's interest in a stable, loving home life. *D.T.*, 212 Ill. 2d at 364. The best interests of the child are the paramount consideration to which no other takes precedence. *In re Austin W.*, 214 Ill. 2d 31, 46 (2005). The State bears the burden of proving termination of parental rights and adoption is in the child's best interests by a preponderance of the evidence. *D.T.*, 212 Ill. 2d at 366. We will not disturb a trial court's best interests finding unless it is against the manifest weight of the evidence. *In re B'yata I.*, 2014 IL App (2d) 130558-B, ¶ 41.

¶ 52 In determining a child's best interests, the trial court must look at the following 10 factors in section 1-3(4.05) of the Juvenile Court Act of 1987: (i) the physical safety and welfare of the minor, including food, shelter, health, and clothing; (ii) the development of the minor's identity; (iii) the minor's background and ties, including familial, cultural, and religious; (iv) the minor's

sense of attachments; (v) the minor's wishes and long-term goals; (vi) the minor's community ties, including church, school, and friends; (vii) the minor's need for permanence, including his or her relationships with parent figures, siblings, and other relatives; (viii) the uniqueness of every family and child; (ix) the risks attendant to the minor entering and being in substitute care; and (x) the preferences of the persons available to care for the minor. 705 ILCS 405/1-3(4.05) (West 2016). When rendering its decision, however, the trial court "is not required to explicitly mention, word-for-word" the statutory factors. *In re Janira T.*, 368 Ill. App. 3d 883, 894 (2006). In addition to these factors, the trial court may consider the nature and length of the child's relationship with his present caretaker and the effect that a change in placement would have on the child's emotional and psychological well-being. *Jaron Z.*, 348 Ill. App. 3d at 262.

¶ 53 Evidence at the best interests hearing showed F.L. began living with his foster family when he was a few weeks old and, at the time of the hearing, had lived with them for over two years. F.L.'s foster mother testified that she had a loving bond with F.L.; he calls her "Mommy" and her husband "Da-da," and he has a sibling-like relationship with the four other children living in the home. She said she sees F.L. as a member of the family, and she and her husband want to adopt him. She would continue to ensure F.L. visits his older biological sister, who was adopted by her maternal grandparents.

¶ 54 Caseworker Vaughn testified that F.L.'s medical needs were being met and his foster parents were facilitating his speech therapy, developmental therapy, and occupational therapy needs. Vaughn discussed one incident eight months earlier where there was an allegation that F.L.'s foster mother spanked him. Vaughn told the foster parents corporal punishment was not allowed and sent them to a class, which they successfully completed. At Vaughn's last visit, she

saw no signs of corporal punishment, and she had no concerns for F.L.'s safety. Vaughn testified that it would be in F.L.'s best interests that A.L.'s parental rights be terminated.

¶ 55 F.L. has developed a loving bond with his foster parents, who have provided for his physical safety and welfare, the development of his identity, background, and ties, and his sense of attachments, including security, familiarity, and affection. Based on the length of time F.L. has been living with his foster family and the evidence concerning the best interest factors, the trial court's finding that it was in F.L.'s best interests to terminate A.L.'s' parental rights was not against the manifest weight of the evidence.

¶ 56 Ineffective Assistance of Counsel

¶ 57 A.L. argues her attorney provided ineffective assistance of counsel. Although there is no constitutional right to counsel in proceedings under the Juvenile Court Act of 1987 (705 ILCS 405/1 *et. seq*. (West 2016)), a statutory right is granted under the Act. *In re Charles W*., 2014 IL App (1st) 131281, ¶ 32. Courts use the *Strickland* test to measure the effectiveness of counsel under the Juvenile Court Act. *Id*. (citing *Strickland v. Washington*, 466 U.S. 668 (1984)). To establish ineffective assistance of counsel under *Strickland*, one must show counsel's representation fell below an objective standard of reasonableness and that a reasonable probability exists that, but for the error, the result would have been different. *Id*. The prejudice prong requires a reasonable probability, not just a mere possibility, of a different outcome. *Id*. "Counsel's conduct is presumed to be the product of sound trial strategy, and respondent bears the burden of overcoming this presumption." *Id*. A party must prove both prongs of the *Strickland* test to prevail on a claim of ineffective assistance of counsel. *Id*. ¶ 33.

¶ 58 A.L. argues her attorney was ineffective for (i) failing to inform the trial judge she completed all of her parenting classes and (ii) failing to have F.L. placed in the custody of her

boyfriend, F.M., who is not F.L.'s father. (A.L. suggests her attorney conspired with hospital staff to "rig" the DNA test to ensure that F.M. was not found to be F.L.'s father.)

¶ 59 Although A.L.'s attorney did not state during the hearings that A.L. completed the parenting class, the record shows that during the unfitness hearing, F.L.'s caseworker, Patricia Vaughn, testified that A.L. had completed the class, and thus the trial court was aware that she had done so. Further, during closing argument, her attorney stated that A.L. completed some services early on in the process, when she had a working cell phone.

¶ 60 Moreover, even if Vaughn had not informed the court A.L. completed the parenting class, A.L. has not shown how her attorney's omission prejudiced her. The evidence supporting the unfitness finding was overwhelming, and the outcome would not have been different had he done so. As noted, after completing the parenting class, A.L. never attended the Nurturing Parenting Program Vaughn referred her to. She never attended individual therapy or underwent a psychiatric evaluation. She stopped attending her substance abuse program and refused to submit a urine test. Further, A.L. failed to pursue opportunities to visit with F.L. and had not visited him for almost two years. Based on the evidence of unfitness, the outcome would not have been different if her attorney had personally informed the court that A.L. completed parenting classes.

¶ 61 A.L.'s other contention, that her attorney was ineffective for failing to inform the judge she wanted her parental rights to go to F.M., is without merit. As noted, two DNA tests showed F.M. was not F.L.'s biological father. Thus, as no sound basis exists for arguing that F.L. should be placed in his custody, her attorney was not ineffective for failing to raise a baseless argument.

¶ 62 Affirmed.