

2021 IL App (2d) 210360-U  
No. 2-21-0360  
Order filed November 23, 2021

**NOTICE:** This order was filed under Supreme Court Rule 23(b) and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

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IN THE  
APPELLATE COURT OF ILLINOIS  
SECOND DISTRICT

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*In re* P.Q., a Minor ) Appeal from the Circuit Court  
) of Kane County.  
)  
) No. 20-P-275  
)  
) Honorable  
(The People of the State of Illinois, Petitioner- ) Joseph M. Grady,  
Appellee v. N.N., Respondent-Appellant). ) Judge, Presiding.

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JUSTICE HUDSON delivered the judgment of the court.  
Justices Zenoff and Schostok concurred in the judgment.

**ORDER**

¶ 1 *Held:* Trial court erred in ordering, *sua sponte* and over the objection of the mother, grandparent visitation upon termination of the grandparents' guardianship of the child and the return of the child to the mother where the grandparents did not file a petition for visitation and did not establish that there was an unreasonable denial of visitation that caused undue mental, physical, or emotional harm to the child and no evidentiary hearing was held to determine whether court-ordered visitation was warranted and in the child's best interest.

¶ 2 At issue in this appeal is whether the trial court erred in ordering, *sua sponte* and over the objection of the mother, grandparent visitation upon termination of the grandparent's guardianship of their grandchild and the return of the child to his mother when the grandparents did not file a petition for visitation, the grandparents did not establish that there was an unreasonable denial of

visitation that caused undue mental, physical, or emotional harm to the child, and no hearing was held to determine whether such an order was warranted or in the child's best interest. Based on the following, we reverse the trial court's decision.

¶ 3

## I. BACKGROUND

¶ 4 N.N. resides in Fox River Grove and is the biological mother of P.Q. (the minor) who was born on October 21, 2009. K.Q. is the minor's putative father. K.Q. and N.N. were never married. K.Q. is not named on the minor's birth certificate and is not a party to this appeal. S.O. and H.B. (the grandparents) are N.N.'s mother and stepfather and reside in Geneva. N.N. was diagnosed with bipolar disorder when she was 17 years old. Her medical condition and decisions regarding treatment have been the cause of conflict between N.N. and the grandparents during the years since N.N.'s diagnosis. However, N.N. has periodically lived with the grandparents during that time. The minor has also resided with the grandparents most of his life, both with and without his mother.

¶ 5

### A. Temporary Guardianship

¶ 6 On June 5, 2020, the grandparents filed a "Petition for Temporary and Permanent Appointment of Guardian for Minor," which was amended on July 31, 2020. In their amended petition, the grandparents contended that they had been actively involved in the minor's life and his primary caregivers since 2010. They alleged that N.N.'s mental health issues affect her ability to make and carry out day-to-day decisions concerning the minor. The grandparents claimed that N.N. has not received treatment for bipolar disorder for approximately five years.

¶ 7

According to the petition, N.N. and the minor lived with the grandparents until March 2018 when N.N. moved into her own apartment in Geneva. H.B. continued to provide daily care for the minor before and after school. A few months later, the minor moved back into the grandparent's home and continued to reside there until December 2018 when N.N. removed the minor from their

care. In February 2019, N.N. removed the minor from school unannounced and took him to Wyoming. She returned several days later and, according to the petition, she “had [the minor] reside in a home in St. Charles with strangers for approximately one to two weeks.” In March 2019, N.N. returned the minor to the care of his grandparents where he remained through the pendency of these proceedings. In the petition, the grandparents stated that an emergency order of protection was issued against N.N. in which the grandparents and the minor are the protected parties.<sup>1</sup> The grandparents contended that the minor was afraid of N.N., was afraid of being taken away from the grandparents, and wished to remain in their care.

¶ 8 A hearing on the petition was held via Zoom on June 11, 2020. There is no transcript of the hearing in the record. An order entered that day provided as follows: temporary guardianship of the minor was granted to the grandparents; the Court Appointed Special Advocate (CASA) was appointed as guardian *ad litem* (GAL) for the minor; the emergency order of protection was vacated; N.N. was granted supervised visits with the minor as well as phone contact; and the matter was continued for review of a CASA report.

¶ 9 On July 21, 2020, N.N. filed an answer denying the allegations in the petition for guardianship as well as an objection to the appointment of a guardian asserting that she “is willing and able to carry out the day-to-day child care decision for [the minor], and has done so throughout the child’s life up and until the entry of the temporary guardianship granted to [the grandparents]

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<sup>1</sup> The underlying order of protection file is not a part of the record on appeal. However, in an order dated June 9, 2020, the order of protection was consolidated with this matter. According to that order, the parties also agreed to extend the emergency order of protection to June 25, 2020.

herein on June 11, 2020.” She asserted that the allegations in the petition, even if true, do not warrant entry of guardianship or restriction of her parental rights.

¶ 10 A CASA report was filed with the court on June 28, 2020. The report included information gathered from interviews with the grandparents, N.N., K.Q., the minor, and the minor’s school principal.

¶ 11 The report stated that N.N. is “very well-spoken and articulate.” She has a bachelor’s degree in sociology and a master’s degree in special education, both earned as a commuter student. N.N. said that she was removed from medication for bipolar disorder after consulting with a doctor and she “feels like she doesn’t need medication and she is not impaired in any way.” N.N. described conflicts she has had with the grandparents and stated that they were “verbally abusive to her over the years and she cannot live with them anymore.” Regarding the incident where she took the minor out of school unannounced and drove to Wyoming, she explained that she thought “it would be a good place to start over.” Once there, the minor said he did not want to stay there so they returned to Illinois. Upon their return, she and the minor stayed with friends. The minor told N.N. that he wanted to return to his original school, so N.N. returned the minor to live with the grandparents.

¶ 12 In the report, the grandparents explained that when N.N. moved into her own apartment in Geneva in 2018, they provided childcare before and after school and subsidized N.N.’s rent “to keep them close to the minor’s school and in a place that could help them establish a consistent and calm environment.” When it became difficult for H.B. to go to N.N.’s apartment extremely early in the morning to provide childcare, the minor began staying with the grandparents during the week. At some point, N.N. took the minor from the grandparent’s home again. On Christmas day, there was a conflict when N.N. initially denied the grandparents visitation with the minor and

then showed up at their home. N.N. became “hostile and angry and at the minor’s request, the Geneva police were called to the home.” The police negotiated “1/5 hour visit” for P.Q and the grandparents.<sup>2</sup> The grandparents explained that the incident in February 2019 when N.N. took the minor to Wyoming was upsetting to everyone, including the minor’s school administrators. After N.N. returned to Illinois, the grandparents did not know where she and the minor were living. When N.N. moved into her own apartment in Fox River Grove a few weeks later, she returned the minor to the grandparents.

¶ 13 The report states that in the spring of 2020, the situation with N.N. and the minor began to deteriorate. The minor said N.N. told him that he “betrayed her” by wanting to be with his grandparents. In a letter to N.N., the minor reportedly stated that he is afraid of her outbursts and just wants a normal life, but he still “dearly loves” her. It was at this point that the grandparents sought guardianship.

¶ 14 Another CASA report was filed with the court on August 24, 2020. The report was based on a home visit and interview that took place on August 10 and 11, 2020. The GAL observed that N.N.’s two-bedroom apartment in Fox River Grove was “spotlessly clean and bright” and contained toys, art, and sports equipment for the minor. N.N. stated that she had been employed full-time at Clearbook School Wheaton since December 2019. She also worked summer school hours and as a delivery driver for DoorDash for additional income. In response to a previous request by the GAL, N.N. stated that she had secured childcare and identified a family therapy service for individual and family therapy for the minor when he returns to her care. N.N. admitted that she originally did not see the merit in participating in therapy herself, but she now realizes that

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<sup>2</sup> We assume that “1/5 hour visit” means one, five-hour visit.

it is important and will commit to participation if it means her son will be back in her care. N.N. explained that any angry outbursts she has had were just related to “being a parent.” N.N. stated that she believed the grandparents are manipulating the minor and engaging in efforts to alienate her as his mother by “filling [his] head with lies” about her mental health.

¶ 15 After numerous continuances, the petition and objection to the petition were set for hearing via Zoom on December 1 and 2, 2020. The hearing took place on December 1, but there is no transcript of the proceeding in the record on appeal. On December 4, 2020, an agreed order was entered which provided: (1) N.N. must obtain a psychiatric evaluation and comply with any subsequent recommendations; (2) N.N. and the minor shall participate in reunification counseling; (3) N.N.’s parenting time shall continue to be supervised, but she will transition to unsupervised parenting time upon completion of the evaluation report, unless the report contains other recommendations related to her ability to parent; (4) until unsupervised parenting time begins, N.N. shall continue to have visits at least once a week at a location of her choosing and for a duration mutually agreed upon, but at least one hour; (5) N.N. shall have parenting time with the minor on December 25, 2020, from 2 p.m. until 8 p.m.; (6) the parties shall refrain from speaking ill of one another and the grandparents shall encourage and foster the transition of custody back to N.N.; (7) CASA shall provide an updated report regarding the status of reunification and N.N.’s psychiatric evaluation; and (8) “It is the intent of the Court to terminate the guardianship on March 2, 2021, upon the Court’s approval of the psychiatric evaluation and treatment, if any, related to [N.N.’s] ability to parent and/or provide for the needs of the child and re-unification report. In the event that either party has any concerns after receipt of the reports, said party shall file a motion \*\*\* no later than February 26, 2021. If such pleadings are filed, the Court shall determine whether

or not those pleadings raise issues to merit a continuance of the guardianship pending full hearing or resolution on the pleadings.” The case was continued to March 2, 2021.

¶ 16 On February 26, 2021, the grandparents filed a motion to continue guardianship arguing that N.N. has had only supervised parenting time with the minor since June 2020; N.N. and the minor have only participated in two sessions of reunification therapy; the minor has expressed concerns regarding returning to his mother; the grandparents believe CASA will recommend that guardianship be continued; the transition to N.N.’s care should be gradual considering that the grandparents have been the minor’s primary care givers; changing schools in the middle of the year would be traumatic for the minor; the abrupt removal from grandparent’s care would be detrimental; and N.N. and the minor need additional individual and reunification therapies prior to termination of guardianships.

¶ 17 Another CASA report was filed with the court on February 26, 2021. In pertinent part, the report noted that N.N. had completed a psychiatric evaluation with Dr. Ramesh Vemuri. Dr. Vemuri stated that “he sees her as being a competent mother and sees no vulnerabilities or risks for her son to be with her.” He further stated that he ruled out any diagnosis of bipolar disorder. The report revealed that N.N. was participating in individual therapy and reunification therapy with the minor. The minor continued to express a preference for staying with the grandparents because they are stable, he has friends there, and he likes his school. CASA’s recommendations were that the minor remain living with his grandparents for the remainder of the school year; reunification therapy and visitation continue; and temporary guardianship be ended either by March 2, 2021, or the end of the school year.

¶ 18 On March 2, 2021, a standard form “Remote Session Minute Order” was entered listing attorneys for the parties and three representatives from CASA as appearing at a hearing on the

status of the guardianship. The standard language indicated that the GAL was ordered to draft an order as a supplement to the minute order. There is no such order in the record; however, the guardianship was continued. On March 25, 2021, an order was entered setting the case for “closure of [the] guardianship” on May 27, 2021.

¶ 19 B. Termination of Guardianship

¶ 20 On May 27, 2021, the parties, their attorneys, and the GAL appeared for a conference in chambers for “status of closure of [the] guardianship proceedings.” In lieu of a transcript, the record contains a bystander’s report describing what occurred during the proceeding.

¶ 21 According to the bystander’s report, the court reviewed the updated CASA report prepared for the May 27, 2021, hearing (CASA report), and reports from Cheryl Runion, the reunification therapist (one dated May 25, 2021, and one with just a few changes dated May 27, 2021) (reunification report). The court “heard argument from counsel regarding the termination of [the] guardianship as well as setting a visitation schedule.” The grandparents argued that “per the reunification therapist’s reports, the guardianship should not terminate at that time and that a more gradual transition to parenting time with [N.N.] and continued reunification therapy were necessary for a smooth transition to mother’s home.” They further argued that the court should order a set visitation schedule for the minor and the grandparents to “ensure that the minor could maintain a relationship” with them.

¶ 22 N.N. argued that the guardianship “should terminate *instanter*.” She “reminded the court of the agreed order entered by the parties on December 4, 2020, providing for termination of guardianship on March 2, 2021; how CASA had then requested the guardianship continue through the end of the school year (May 27, 2021) solely for the purpose of not transferring the child to a new school in the middle of the school year; and that CASA was in fact recommending the



termination [of the guardianship].” N.N. objected to visitation being ordered on behalf of the grandparents because she “was not in agreement to setting a visitation schedule; it was not part of the parties’ agreed order of December 4, 2020[,] setting forth the terms for termination of the guardianship; and that the court lacked jurisdiction to order same.”

¶ 23 After considering the parties’ positions and argument of counsel, the court made the following rulings as stated in the bystander’s report:

“a. The guardianship entered on June 11, 2020[,] will terminate on June 16, 2021[,] without further order so that the minor would have some time to continue reunification therapy and work towards transition to [N.N.’s] care.

b. Because the minor child has resided with his maternal grandparents in their home for his entire life, the child and grandparents have had a close relationship and he has friends in the grandparent’s neighborhood, the Court found that it was in the minor’s best interest to have visitation with [the grandparents] every other weekend, and that the parties shall enter into a visitation schedule.”

The bystander’s report indicates that the parties, through their attorneys and CASA, discussed the terms of visitation via email and were unable to reach an agreement. Therefore, the court later “wrote out a schedule for visitation” to be implemented.

¶ 24 The CASA report included summaries of individual interviews held via Zoom with N.N., S.O., and the minor.

¶ 25 S.O. reported that the minor is doing well in school, has great social skills, obeys the rules, and is liked by his peers. The minor continues to attend individual therapy sessions. He participates in flag football and is involved in a local theater group in Geneva. S.O. asked N.N. about extending these activities into the summer, N.N. agreed to allow the flag football to extend

through summer. S.O. noted that once unsupervised visitation began in March 2021, N.N. started taking the minor along in the car while she worked as a DoorDash driver. S.O. reported this to her attorney who worked with N.N.'s attorney to request that this conduct cease. N.N. has reportedly arranged her schedule so she no longer has DoorDash shifts on the weekends. The minor expressed relief because he was quite bored in the car all day.

¶ 26 According to the CASA report, N.N. expressed that her weekly visitation with the minor was going well. She would pick him up at 10 a.m. on Saturdays. On Sunday, she would take him to flag football (back in Geneva) which ends around 5 p.m. He then would return home with his grandparents. N.N. stated that she and her son go fishing, garden, play board games, and visit the arboretum and local farms. They have good conversations, bake, and cook together. She believes that her relationship with her son will improve even more once he is living with her permanently. She observed that it is difficult for him to go back and forth between houses with different parenting styles.

¶ 27 According to the CASA report, N.N. confirmed that her work with DoorDash was now full-time and going well, and she no longer works on the weekends. She has found childcare for the minor for the summer and beyond so he will be supervised and busy while she is at work. She signed the minor up to participate in a play with a local theater group for the summer. She wanted him to sign up for tackle football in her area, but because the minor expressed wishes to play flag football in Geneva during the summer, she agreed to allow that.

¶ 28 N.N. has continued with individual therapy and plans to have her son begin seeing the same therapist for individual and family therapy when he is returned to her care. N.N. has been seeing the reunification therapist and says it is "going as well as possible, but feels [Runion] is biased." N.N. stated that she and the minor "have attended or are scheduled to attend six total sessions"

with Runion. They missed two sessions when the grandparents took the minor to Hawaii for spring break.

¶ 29 The reunification report states that the minor “appeared reluctant” regarding the change of custody and would like to live with his grandparents during the week so his mother would not be as stressed, and they could have a “smoother” relationship. Runion reported that the minor has addressed his anger about the time when N.N. removed him from school and drove to Wyoming. N.N. has apologized to her son has explained the fears she had at that time. The minor still expresses some mistrust because of that incident and concern that his mother will “take him out of state again or do what she has to keep him away from his grandparents.”

¶ 30 According to the reunification report, therapy over the past two months “focused on development of a healthy bond, positive attachment, empathy skills, parenting skills, education on developmental stages and improving his compliance with her parental expectations.” Runion stated that N.N. has been making progress and has a “good understanding and insight into [the minor’s] personality, concerns, worries, likes, wants and needs and needs further time and therapeutic support to improve this area.” The minor reported that N.N. sometimes gets stressed, yells at him, and projects her anger onto him. He stated that there had been some improvement in this area in recent weeks. Regarding her yelling, N.N. has “explained that she does not believe she is yelling; stating it is her Pakistanian [*sic*] heritage and blam[ing] her hearing impairment.” Further, N.N. has been receptive to feedback and healthy-parenting interventions. The minor and his mother have “discussed the strain and impact of the separation on their relationship, communication patterns, and life together.

¶ 31 The reunification report revealed that recent therapy sessions had focused on the minor’s disclosures that he is upset with his mother’s verbally abusive behavior towards S.O. and “a lack

of appreciation for all the ways they [the grandparents] have helped her.” Runion stated that N.N. “has a level of denial around how her negative emotions towards [the grandparents] are being projected out,” but notes that N.N. has agreed to let the minor see his grandparents after guardianship is turned over, but on a “ ‘supervised basis so they do not pollute his mind’ and so there are no more emergency orders.”

¶ 32 Runion made the following recommendations in the reunification report: (1) she “strongly recommended” that guardianship not be changed at this time because she believed it would cause a significant level of emotional distress and anxiety and it does not appear that N.N. can provide the needed guidance and support; (2) she recommended that specialized reunification therapy continue; (3) she recommended that N.N. would benefit from “processing her feelings, toxic relationship with her mother,” therapy with her mother to resolve conflicts, and continued individual therapy to work on her parenting skills; and (4) she suggested the visitation schedule could be increased “to establish a normal, natural lifestyle together, possibly a full week or two together next month, after the school year ends as a trial period to assess the progress in a more natural setting.”

¶ 33 The court order filed on June 2, 2021, provided as follows:

“1. The temporary guardianship entered June 11, 2020[,] shall terminate on June 16, 2021 without further order of the court.

2. [The minor] shall return to his mother[‘s], \*\*\*, care effective June 16, 2021[,] and petitioners shall deliver him to her by 3pm on that day.

3. [N.N.] shall continue to exercise parenting time with [the minor] every weekend until such time of [*sic*] he is returned to her on June 16, 2021.

4. Over [N.N.'s] objection, [the grandparents] are granted unsupervised visitation with [the minor] every other weekend from 3pm (or after school) on Friday to 5pm on Sunday, commencing the weekend of June 25, 2021.

5. CASA is discharged effective immediately.”

¶ 34 This appeal followed.

¶ 35 II. ANALYSIS

¶ 36 At issue on appeal is whether the trial court erred in ordering grandparent visitation at the conclusion of this guardianship case.

¶ 37 N.N. argues that the trial court exceeded its authority by granting the grandparents visitation with the minor. In support, she contends that the trial court did not have jurisdiction under the Probate Act to enter this order because both parents are alive and the Probate Act only provides for visitation orders when the parents are deceased. See 755 ILCS 5/11-7.1 (West 2020). In response, the grandparents argue that N.N.'s brief and argument are deficient and should be rejected by this court, grandparent visitation orders such as this are not dependent on both parents being deceased, and the visitation order was entered in consideration of the minor's best interest and should be upheld on that basis. For the following reasons, we reverse.

¶ 38 Initially, we note that N.N.'s “Memorandum in Lieu of Brief and Appendix” does not comply with Illinois Supreme Court Rule 341 (effective October 1, 2020). As a reviewing court, we are entitled to have the issues clearly defined, pertinent authority cited, and a cohesive legal argument presented. *Walters v. Rodriguez*, 2011 IL App (1st) 103488, ¶ 5. Arguments not fully developed and not in compliance with supreme court rules are deemed forfeited. *In re Marriage of Solano*, 2019 IL App (2d) 180011, ¶ 70. However, forfeiture is a limitation on the parties, not the court; a reviewing court may overlook forfeiture and address the merits of an issue when it is

necessary to obtain a just result or to maintain a sound and uniform body of precedent. *Jill Knowles Enterprises, Inc. v. Dunkin*, 2017 IL App (2d) 160811, ¶ 22. Because the issue before us involves the important matters of parental autonomy and grandparent visitation, we will review it.

¶ 39 Ordinarily, a trial court’s decision to grant grandparent visitation will be reviewed on appeal using the manifest weight of the evidence standard. *In re Anaya R.*, 2012 IL App (1st) 121101, ¶ 50. However, as in this case, the question of whether a trial court failed to follow the requirements of a statute presents a question of law which requires *de novo* review. *In re Vincente G.*, 408 Ill. App. 3d 678, 682 (2011).

¶ 40 A grandparent’s right to seek court-ordered visitation with a grandchild is governed by statute in Illinois. Section 11-7.1 of the Probate Act establishes the procedures by which a grandparent may seek visitation rights when both parents are deceased. 755 ILCS 5/11-7.1 (West 2020). When one or both parents are living, grandparent visitation is governed by section 602.9 of the Illinois Marriage and Dissolution of Marriage Act (Act) (750 ILCS 5/602.9 (West 2020)).

¶ 41 Grandparents seeking visitation under the Act must file a petition in accordance with section 602.9(b), which provides:

“An appropriate person \*\*\* may bring an action in circuit court by petition, or by filing a petition in a pending dissolution proceeding or any other proceeding that involves parental responsibilities or visitation issues regarding the child, requesting visitation with the child pursuant to this Section. If there is not a pending proceeding involving parental responsibilities or visitation with the child, the petition for visitation with the child must be filed in the county in which the child resides. Notice of the petition shall be given as provided in subsection (c) of Section 601.2 of this Act.” 750 ILCS 5/602.9 (b) (West 2020).

However, a grandparent may file a petition only “if there is an unreasonable denial of visitation by a parent that causes undue mental, physical or emotional harm to the child” and if at least one of these specific conditions exists:

“(A) the child’s other parent is deceased or has been missing for at least 90 days.

\*\*\*; or

(B) a parent of the child is incompetent as a matter of law; or

(C) a parent has been incarcerated in jail or prison for a period in excess of 90 days immediately prior to the filing of the petition; or

(D) the child’s parents have been granted a dissolution of marriage or have been legally separated from each other or there is a pending dissolution proceeding involving a parent of the child or another court proceeding involving parental responsibilities or visitation of the child \*\*\* and at least one parent does not object \*\*\*; or

(E)(i) the child is born to parents who are not married to each other; (ii) the parents are not living together; (iii) the petitioner is a grandparent, great-grandparent, step-parent, or sibling of the child; and (iv) the parent-child relationship has been legally established. \*\*\*.” 750 ILCS 5/602.9(c) (West 2020).

¶ 42 In determining whether to grant such a petition, the statute provides that “there is a rebuttable presumption that a fit parent’s actions and decisions regarding grandparent, great-grandparent, or sibling visitation are not harmful to the child’s mental, physical, or emotional health. The burden is on the party filing a petition under this Section to prove that the parent’s actions and decisions regarding visitation times are harmful to the child’s mental, physical, or emotional health.” 750 ILCS 5/602.9(b)(4) (West 2020).

¶ 43 Furthermore, in determining whether to grant grandparent visitation, courts must consider various factors enumerated in the Act. 750 ILCS 5/602.9(b)(5); (c)(2) (West 2020).

¶ 44 In this case, none of the statutory requirements were followed when the court, *sua sponte*, ordered grandparent visitation. The court terminated the temporary guardianship of the minor effective June 16, 2021, “without further order of the court.” N.N.’s parental rights were fully restored at that time, and the guardianship case was closed. However, the court went on to grant the grandparents, over N.N.’s objection, unsupervised visitation with the minor every other weekend from 3 p.m. (or after school) on Friday to 5 p.m. on Sunday. The grandparents did not file a petition in which they asserted the right to grandparent visitation under the Act. They did not, therefore, establish standing to justify such a petition by alleging that there existed an unreasonable denial of visitation by a parent that caused the child undue mental, physical, or emotional harm. No evidentiary hearing was held wherein the court considered the factors enumerated in the Act to determine whether an order of grandparent visitation was in the minor’s best interest. Given the history of conflict between the grandparents and N.N., it is likely that the court was anticipating some issues with the grandparents having access to the minor once he was returned to his mother. Even the minor expressed some concern that his mother may prevent contact with the grandparents. However, such anticipation is not sufficient to justify forgoing the statutory requirements for a grandparent seeking visitation. Rather, the filing of a petition under the Act must occur to instigate proper consideration of the issue under the statute.

¶ 45 The record reveals that the grandparents have a very close relationship with the minor and have cared for him for much of his life. The record also shows that, despite N.N.’s reliance on the grandparents for financial support, housing, and childcare many times over the years, her relationship with the grandparents is strained and often in conflict. It is evident that the minor is



an articulate child and has great affection for his grandparents. In that regard, N.N. has allowed the grandparents liberal visitation with the minor in the past, in fact, allowing him to reside with the grandparents for extended periods of time. N.N. has also stated she will allow the minor to visit his grandparents, despite her own strained relationship with them.

¶ 46 Furthermore, by terminating the guardianship, the court determined that N.N. is willing and able make and carry out day-to-day childcare to meet the minor's needs. As such, it must be presumed that her actions and decisions regarding grandparent visitation will not be harmful to the minor's mental, physical, or emotional health. In this case, the trial court presumed the opposite, precluding N.N.'s right to make those decisions on her own. The trial court, no doubt, acted out of concern for the minor's interest in maintaining a relationship with his grandparents. Indeed, the bystander's report states that the court found it in the minor's best interest to require visitation because of the minor's close relationship with the grandparents and his friends in their neighborhood. However, the court erred in presuming that N.N. would not act reasonably in allowing grandparent visitation without first conducting an evidentiary hearing on that issue. We, therefore, conclude that the trial court erred in ordering grandparent visitation, *sua sponte* and over the objection of N.N., when no petition was filed; there was no showing of an unreasonable denial of visitation that caused undue mental, physical, or emotional harm to the child; and no evidentiary hearing was held to determine whether such an order was warranted and in the minor's best interest.

¶ 47

### III. CONCLUSION

¶ 48 For the reasons stated, we reverse the judgment of the circuit court of Kane County.

¶ 49 Reversed.