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NO. 4-25-1115

FILED
March 17, 2026
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re ADOPTION OF D.J.E.	)	Appeal from the
	)	Circuit Court of
(Justin K. and Whitney L.,	)	Tazewell County
Petitioners-Appellants,	)	No. 24AD65
v.	)	
Kendrick R. and Denisha E.,	)	Honorable
Respondents-Appellees).	)	Katherine G. P. Legge,
	)	Judge Presiding.

PRESIDING JUSTICE STEIGMANN delivered the judgment of the court.
Justices Vancil and Grischow concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court (1) reversed the trial court's finding that petitioners failed to prove by clear and convincing evidence respondents were unfit and (2) remanded for a best-interest hearing.

¶ 2 In October 2024, petitioners, Whitney L. and Justin K., filed a petition for adoption of D.J.E. (born April 2018), whose biological parents are respondents, Denisha E. and Kendrick R. D.J.E. was placed in petitioners' home in October 2018 as part of a juvenile neglect case and has lived with petitioners since that time. In January 2019, D.J.E. was adjudicated a neglected minor, but respondents' parental rights were never terminated in that case. Instead, in October 2022, petitioners were granted guardianship of D.J.E.

¶ 3 In their petition, petitioners alleged that respondents were unfit within the meaning of sections 1(D)(b) and 1(D)(n)(1) of the Adoption Act (Act) (750 ILCS 50/1(D)(b), (n)(1) (West 2024)) because they (1) failed to maintain a reasonable degree of interest, concern,

or responsibility for D.J.E.'s welfare and (2) manifested an intent to forgo their parental rights by failing to (a) visit D.J.E., (b) communicate with D.J.E. when not prevented from doing so by an agency or court order, and (c) maintain contact with or plan for D.J.E.'s future, although physically able to do so, between October 1, 2022, and October 1, 2023.

¶ 4 In June 2025, following a bench trial, the trial court denied petitioners' adoption petition, finding that petitioners had not proved that respondents were unfit as alleged in the petition.

¶ 5 Petitioners appeal, arguing that the trial court erred by (1) blending the allegations of unfitness, resulting in application of the wrong legal standard, (2) failing to properly apply a presumption regarding respondents' intention to forgo their parental rights when they failed to contact petitioners or D.J.E. within a 12-month period, (3) considering events occurring outside of the applicable 12-month period, and (4) finding Whitney's refusal to exchange phone numbers with Denisha a sufficient excuse for her failure to make contact.

¶ 6 Because we agree with petitioners, we reverse the trial court's judgment and remand for a best-interest hearing.

¶ 7 I. BACKGROUND

¶ 8 A. The Guardianship Proceedings

¶ 9 In early 2018, the Illinois Department of Children and Family Services (DCFS) removed D.J.E. from Denisha's care when D.J.E. was about four weeks old based on concerns about (1) Denisha's mental health, (2) Denisha's alcohol use, and (3) domestic violence between Denisha and Kendrick. In July 2018, Denisha filed a petition for parenting time. At that time, D.J.E. was placed at the Children's Home Association of Illinois (Children's Home) in Peoria, Illinois. In her petition, Denisha alleged she was currently allowed to visit D.J.E. for only two

hours per week, and she sought additional visitation time. The outcome of that petition is not reflected in the record.

¶ 10 When D.J.E. was six months old, Children's Home placed him with petitioners as foster parents, and D.J.E. has lived there continuously since that time. In January 2019, D.J.E. was adjudicated neglected in an action filed in the juvenile division of the trial court.

¶ 11 In October 2022, the trial court granted petitioners guardianship over D.J.E. with the consent of DCFS. Respondents appeared *pro se* at the hearing and opposed guardianship. Denisha told the court she wanted to continue to pursue the return of D.J.E. to her care.

¶ 12 During the guardianship hearing, Kendrick asked Whitney whether, if the guardianship were to proceed, he would have the opportunity to see D.J.E. Whitney responded, "We could discuss that." Denisha did not ask any questions but expressed confusion about why D.J.E. could not be placed with her. The State never filed a petition to terminate respondents' parental rights, and DCFS closed the case after petitioners were granted guardianship.

¶ 13 Around the same time, Denisha filed pleadings seeking parenting time with D.J.E.'s older sibling, who resided with a different guardian. Those pleadings are not in the record on appeal, but the record indicates several pleadings were filed and ruled on in mid to late 2022. According to witnesses, sometime in 2024, Denisha filed a petition for parenting time with D.J.E. That petition is also not in the record. The record indicates the first hearing regarding the petition was conducted in December 2024. An attorney told the trial court during a hearing that the petition for parenting time was filed in August 2024.

¶ 14 B. The Adoption Petition

¶ 15 In October 2024, petitioners filed a petition for adoption of D.J.E., who was then six years old. Petitioners alleged respondents were unfit under the Act because they each

(1) failed to maintain a reasonable degree of interest, concern, or responsibility for D.J.E.'s welfare and (2) manifested an intent to forgo their parental rights by failing to (a) visit D.J.E., (b) communicate with D.J.E. when not prevented from doing so by an agency or court order, and (c) maintain contact with or plan for the future of D.J.E., despite being physically able to do so, during a 12-month period from October 1, 2022, to October 1, 2023. See 750 ILCS 50/1(D)(b), (n)(1) (West 2024).

¶ 16 Denisha filed a response, alleging, in relevant part, that petitioners refused to allow her to contact D.J.E.

¶ 17 C. The Bench Trial

¶ 18 In June 2025, the trial court conducted a bench trial.

¶ 19 1. *Melissa Shaw*

¶ 20 Melissa Shaw testified she was an employee of the Children's Home and was the caseworker on the matter until guardianship of D.J.E. was placed with petitioners in October 2022. Shaw was also the caseworker for D.J.E.'s older sibling. Since October 2022, Shaw had no contact with respondents. She had some contact with petitioners, who would update her on how D.J.E. was doing.

¶ 21 Shaw testified about permanency reports she had authored, which were admitted into evidence without objection. Those reports generally provided background information regarding (1) Denisha's mental health, missed and completed substance abuse tests, and visits with D.J.E., (2) Kendrick's lack of contact at times, and (3) a domestic violence incident between Denisha and her mother, which resulted in criminal charges against Denisha.

¶ 22 In a permanency report prepared in anticipation of a July 2022 hearing, Shaw recommended permanency goals for (1) substitute care pending a court determination on

termination of parental rights and (2) guardianship. The report noted that the materials needed for guardianship had been completed, the case had been open for four years, respondents remained unfit, and D.J.E. was "in desperate need of permanency." The report also stated a petition to terminate parental rights was not filed but, due to the lack of progress, continued findings of unfitness for both parents, and the amount of time D.J.E. had been in foster care with petitioners, the trial court found it to be in D.J.E.'s best interest to set the permanency goal as guardianship. Shaw and other witnesses were not asked and did not explain why guardianship was pursued instead of or without a determination of termination of parental rights.

¶ 23 Shaw testified that Denisha never asked her for petitioners' contact information. However, in late 2021, petitioners gave Shaw an e-mail address to give to respondents to allow contact between them and to get updates on D.J.E. Shaw testified she gave the e-mail address to Denisha and noted in a report that she did so in December 2021. Shaw also had a "vague recollection" of Whitney asking a second time for her e-mail address to be given to Denisha.

¶ 24 Shaw recalled that Kendrick once told her that texts to a phone number he had for petitioners were not "going through." Shaw testified she would have contacted petitioners and would have asked them to make sure the number was still correct. She then stated, "Which it was." She also testified she would have made sure Kendrick had the correct information.

¶ 25 Shaw testified that, leading up to the guardianship and closure of the case, she believed Denisha said she did not know how to contact petitioners, and Shaw provided the information to her. Shaw stated she would not withhold such information after the case was closed unless asked to do so by the other party. Shaw did not recall that Denisha ever said she wanted to give up her parental rights.

¶ 26 2. *Elaine Spear*

¶ 27 Elaine Spear testified she was employed as a case aid for the Children's Home when it managed the case. Spear was responsible for supervising respondents' visits with D.J.E. Spear picked D.J.E. up from school for the visits. Spear stated that D.J.E. sometimes had behavioral issues after visits with respondents. Respondents each brought food and items to the visits.

¶ 28 Spear testified visits were discontinued when guardianship was placed with petitioners because the case was closed. She stated that, at that point, it was up to respondents to contact petitioners. Spear testified, "[W]e discuss this with every parent that goes to guardianship because guardianship is different than adoption. So when it goes to guardianship, we always encourage the parents to reach out to the foster parents and make sure that they have contact information." Spear testified she had a verbal conversation with Denisha about the matter and believed she gave Denisha an e-mail address for petitioners.

¶ 29 Regarding Kendrick, Spear testified the visits required "a lot of prompting, a lot of redirection." She stated, "There was a lot of, like, late arrivals, no showing, not showing up, not showing up on time, not confirming for a visit."

¶ 30 3. *Rebecca Fischer*

¶ 31 Rebecca Fischer, a behavioral health counselor, testified she provided counseling to Denisha. Fischer testified about the progress Denisha had made. Fischer had discussed with Denisha the topic of reaching out to petitioners but did not tell her what to do. Fischer stated that one time, Denisha reported she had attempted to reach out and was told to stop, which made Denisha afraid she would get in trouble. Fischer thought the attempt was by phone but was not sure. Fischer did not provide a date for the conversation, but she initially indicated it was in the past year. However, on cross-examination, she testified Denisha told her in the past year about

the attempt to reach out, which had occurred earlier. Fischer thought Denisha had made multiple attempts to reach out to petitioners. Fischer also stated it was possible Denisha had been referring to attempts to reach the guardian of D.J.E.'s sibling instead of petitioners.

¶ 32 Fischer had never seen Denisha in a manic state. She also testified she had not observed Denisha being prone to "black and white thinking" or "[t]ending to hold others in views that are extreme."

¶ 33 4. *Torey Drumm*

¶ 34 Torey Drumm, a community support worker, testified she also provided counseling to Denisha. Drumm testified about the progress Denisha had made. Drumm stated she had previously helped Denisha write e-mails to lawyers. She also stated Denisha "use[d] her e-mail," checked her e-mail, and had the ability to use an e-mail application. Drumm said she had seen a message around three years ago from a foster family telling Denisha to stop contacting them. She could not remember the form of the message, who it was from, or if it might have been from the guardian of D.J.E.'s sibling, but she also stated it concerned D.J.E.

¶ 35 5. *Samantha Norton*

¶ 36 Samantha Norton testified she provided parenting services to Denisha. Denisha had previously contacted Norton using Facebook Messenger. Norton testified she was available to help Denisha with various things, such as faxing paystubs to an agency, and to provide continuing support. Denisha had not discussed with Norton any efforts she made to contact D.J.E. or about any opposition by petitioners to Denisha's visiting D.J.E. Denisha had told Norton she wanted her children to be together but had not told Norton of any specific plans for reuniting with D.J.E.

¶ 37 6. *Jeremy Hermacinski*

¶ 38 Jeremy Hermacinski, the guardian of D.J.E.'s sibling, testified about Denisha's visits with D.J.E.'s sibling. Hermacinski had no concerns about her parenting time. Hermacinski testified that his brother, the father of D.J.E.'s sibling, passed away in January 2021. He testified he initially ignored Denisha when she reached out to him about visits with D.J.E.'s sibling but did not tell her to stop contacting him.

¶ 39 7. *Denisha*

¶ 40 Denisha testified she filed a petition for parenting time when D.J.E. was around three months old, seeking to increase visitation time. Denisha admitted that, after she filed the petition, she disappeared for about six months. She stated she felt DCFS was not giving her the support that she needed. Denisha agreed that she was socially awkward and had communication anxiety. She was a high-school graduate. During much of Denisha's testimony, when asked about specific events, she responded she that did not remember or did not recall.

¶ 41 In June 2022, Denisha filed a "petition for fitness," seeking additional parenting time with D.J.E.'s older sibling. She testified she had addressed her mental health issues and was sober. She stated the petition was granted in September 2022.

¶ 42 Denisha testified that she did not have any barriers or obstacles to having safe, unsupervised contact with any child of hers at that time. Denisha was working part time at a grocery store at that time and continued to do so at the time of trial. She also was voluntarily continuing with counseling. Denisha testified she was diagnosed with schizoaffective disorder and bipolar disorder, and she had anxiety and depression. She took medication to address those issues. Denisha testified she also was diagnosed with borderline personality disorder, which she addressed through therapy. However, Denisha later stated she was not diagnosed with borderline personality disorder and was not bipolar.

¶ 43 Denisha did not file a petition seeking more parenting time with D.J.E. until 2024. When asked why she did not do so earlier, Denisha stated, "I only have so much money." She said counsel advised her to proceed with D.J.E.'s sibling first because his father had died and guardianship was being considered in that case. She said her goal was to come back later and fight to seek visitation with D.J.E.

¶ 44 An exhibit was presented consisting of a letter from one of Denisha's counselors to Denisha's attorney that was dated December 20, 2022, and referred to D.J.E. The letter stated, in part, that one of Denisha's goals would be to "identify ways to engage with the foster family to improve her relationship with them (regular contact, specific questions to ask regarding her son, assertive communication, etc.)." When asked if Denisha's counselor discussed those things with her, Denisha stated she did not recall. When asked if there was a plan or intention to bring greater focus toward contact with D.J.E. at the end of 2022, Denisha stated, "I wanted to. I would [have] loved to have more contact, been more involved."

¶ 45 When asked in what ways Denisha would have gone about initiating contact with D.J.E., the following colloquy occurred:

> "A. Well, I remember when I had first lost custody of my children and I asked the father, mother—the foster mother if I could have a—I showed her I had a Facebook. I showed her that—could we exchange numbers or phone numbers? Because I'm not that good at e-mail. And she said she didn't feel comfortable doing that.
>
> Q. Was that in 2018?
>
> A. Around that time, I believe. It was right at—it's—[D.J.E.] was placed with her and it was around the time when I had lost custody.

Q. Got it. So—so in your memory, it was basically at the beginning of the entire juvenile case and [D.J.E.] was very small?

A. Yeah.

Q. Was there any other time where such a conversation occurred?

A. No.

* * *

Q. Okay. Well, if the event that you're describing with Whitney occurred in 2018, why wasn't there ever a time when you approached her in any of the years after that and made—made a request for a contact of any kind?

A. I felt like since she didn't feel comfortable, I didn't want to approach her again with that. I just figured going through the courts would be best to get visitation with my son."

¶ 46 Denisha did not recall Shaw providing contact information for petitioners. She also said, "I'm not good at e-mail." When asked if she denied being given an e-mail address by Shaw, Denisha said, "I don't remember." When asked if there were ever times from 2019 through 2023 when she thought she should try to figure out how to reach petitioners, Denisha stated, "No." Denisha repeated that Whitney did not feel comfortable and said, "[S]o I left it at that." Denisha stated she did not know Whitney and did not want to "just show up at her door." Denisha testified, "[Whitney] said she didn't feel comfortable with contact, so I respected that."

¶ 47 Denisha acknowledged she received a notice of hearing in the guardianship case that had petitioners' address on it. When asked why she did not send a card if she felt uncomfortable going to petitioners' home, Denisha said, "I didn't want her to feel weirded out by that, so I just figured I'll go through the courts to see my son." She said she was advised by her

attorney and a few other people to use the courts. However, she never stated an attorney told her she could not attempt to contact petitioners or D.J.E. Denisha testified she did not remember Kendrick asking about visitation at the guardianship hearing and did not remember being given the opportunity to ask questions at the hearing.

¶ 48 Counsel for petitioners asked Denisha, "Do you have any way of accounting for the fact you didn't ask about visits on your own behalf?" Denisha answered, "No." The following colloquy then occurred:

> "Q. Let me ask this, why—why does going through the courts two years later seem any better than something that doesn't require going through the courts, but might make Whitney uncomfortable? Why is it better to force something through the courts?
>
> A. That way everything is documented. Like, if—in case she decides she don't want me to see the kid or she does or she doesn't, it's all documented if she has any problems. I don't know.
>
> Q. Do you think going through the courts might make Whitney more uncomfortable?
>
> A. I don't know."

¶ 49 On cross-examination, Denisha reviewed answers to interrogatories in which she said the conversation with Whitney about exchanging phone numbers occurred between July and August 2022. Based on that, Denisha stated she thought it probably occurred at that time. The following colloquy then occurred between Denisha and petitioners' counsel:

> "Q. Without trying to get too hung up on the year you believe the conversation with Whitney happened, if we all are understanding correctly, by

your testimony, it was just one conversation, right?

A. Yes.

Q. There weren't any others at any other point in time?

A. No.

Q. And there wasn't anything that anybody else, such as *** Shaw said that made you think you couldn't reach out?

A. No.

Q. It was just the one time whenever—

A. Yes.

Q. —it was with Whitney? Okay. And from that point forward, that was the only thing that made you feel like you could not reach out on social media, or send letters, or do anything?

A. Yeah, pretty much.

Q. I think you said that [Denisha's attorney] had been the one to reach out to [Hermacinski]—

A. Yeah.

Q. —on your behalf.

A. He was.

Q. But didn't you reach out on Facebook—

A. Oh, yeah.

Q. —directly to [Hermacinski]?

A. I forgot all about that.

Q. Yeah.

A. Yeah, I did.

Q. Mmm-hmm.

A. But he didn't follow through with it, so we had to go through the courts.

Q. Sure. But you used Facebook Messenger and found [Hermacinski]?

A. Yeah, I did.

Q. Okay.

A. Yeah, I recall that.

* * *

Q. —it would not have been your attorney who reached [Hermacinski]?

A. No, it was me."

¶ 50 Later, the following colloquy occurred:

"Q. And if your state of mind—let's try all this. After you have the conversation with Whitney and she gives you the impression she is not going to exchange contact info, that had to last for the entire time after that, right—

A. Yes.

Q. —that you didn't try? Okay. So do you think it was closer in time or longer ago?

A. Long—I don't know. I don't know."

¶ 51 Denisha stated she had a Facebook account since 2018. Denisha said she tried to search for Whitney on Facebook and found a person, but she did not see any photos of Whitney, Justin, or D.J.E., so she did not know if it was the correct person. Denisha stated, "I felt like—and it also felt like if she wanted me to know what her Facebook was, she would [have] showed

me." Denisha testified she also had a Facebook Messenger account but did not try to message Whitney for the same reasons she did not otherwise try to contact her.

¶ 52 Denisha stated she did not know where Whitney worked. Denisha did not try to use an Internet search engine to find petitioners and said she did not know how to do that. She acknowledged previously filing court documents *pro se*. She testified she did not file anything *pro se* trying to obtain parenting time with D.J.E. because she thought she would have a better chance if she did so with a lawyer.

¶ 53 Denisha testified she had visits with D.J.E.'s sibling. When asked how she got those, she said, "Well, we worked our way into it, me and [Hermacinski]." Denisha testified that some visitation was supervised as set by the court but she had worked out unsupervised visitation every other weekend with Hermacinski. Denisha stated she had found and reached out to Hermacinski through Facebook Messenger. Denisha testified she knew it was the right person because she recognized photographs on his account.

¶ 54 Denisha acknowledged she received artwork from D.J.E.'s school and at least one photograph during the case; she thought the caseworkers provided those. Denisha also acknowledged she waited two years to file a petition seeking parenting time with D.J.E.

¶ 55 8. *Galon Smith*

¶ 56 Galon Smith testified he was Denisha's fiancé. He had known her since January 2024. He testified favorably about Denisha's ability to parent and stated she had a good support system. Smith agreed Denisha was "a very high functioning person" and was independent. He stated Denisha's attorney advised her to seek parenting time with D.J.E.'s sibling first and then seek time with D.J.E. Smith stated Denisha switched attorneys in 2024 because the first one "was drawing everything out and not doing anything."

¶ 57 When asked whether Denisha tried to reach out to petitioners, the following colloquy occurred:

"A. She tried reaching out as far as I know.

Q. That's not something you personally observed, but something she told you?

A. Well, no. I seen the emails.

Q. Emails?

A. Yeah. Like, she tried—tried to do the email thing, and there was something with I don't feel comfortable so—but she tried doing the email thing or they tried asking her about emails or something like that, and she don't know how to use email.

She knows how to use Facebook. She don't know how to use email. I know how to use email, but I didn't start or I wasn't in the relationship until later on so—

* * *

Q. I understand. Was there ever a point where the two of you discussed you sending the email?

A. We thought about it, but she had said something along the lines of I don't feel comfortable exchanging that information so we never even tried. We just went with a lawyer.

* * *

Q. In exchanging information, what did you understand the information to be?

A. That the—from what I understand—I'm sorry. I don't know her name, but she didn't feel comfortable exchanging information via Facebook or anything like that and she wanted to do email.

Denisha is not very familiar with email, and so then we were going with the attorney, and at that point, now it's a legal matter so in both her mind and my mind, I believe, it was it looks really bad to reach out to somebody and try to talk to them when we're already in legal proceedings."

¶ 58 9. *Kendrick*

¶ 59 Kendrick testified he had a cell phone, used e-mail, and had a Facebook account. He had previously used Skype and Zoom to reach out to Whitney and visit remotely with D.J.E. during the COVID-19 pandemic. Kendrick's last in-person contact with D.J.E. was in 2021, and his last electronic contact was in late 2021 or early 2022.

¶ 60 Kendrick testified his communication with Whitney began to decrease before the guardianship proceedings. When asked what efforts he made to maintain contact with D.J.E., the following colloquy occurred:

"A. I've asked, Hey, what's up? Like is there anything going on? Did I do something? Did I say something wrong? If so, I apologize which I got no answer from. So, if anything, like I said, I believe I was able to do the best I could. Like I said, you can only do so much. If the other person doesn't want to be involved, you can't force them.

Q. Well, you can file in court, right?

A. I mean, absolutely. You could file in the court, yes. You could go through the court, but it's still up to the judge when it's all said and done.

Q. Now, when you had this question that you asked, hey, what's up, did I do something wrong, are you saying you were asking that of Whitney?

A. Yes, because I wanted to know why we stopped communicating. We had a good understanding. We had a good connection at the time. I was able to spend more time with my son. She was kind enough at that time when we had our church picnic, she brought him there. So I was enjoying those moments, I was bonding with my son, and it just all of a sudden just stopped happening.

Q. So you were texting, is that right?

A. Yes. Yes, sir. We text.

Q. Just so we're clear, did you email?

A. No, sir. We text and we called.

Q. Have you ever tried to Google Whitney in case you wanted to find her? Have you ever had to do that?

A. No, sir.

* * *

Q. Okay. It sounds like you never had to but it sounds like you never did Google her?

A. No, sir."

¶ 61 Kendrick testified nothing was said between himself and petitioners in the hallway outside of the courtroom at the guardianship hearing. He stated he did not have their contact information after that time because Whitney's phone number changed or she did not answer when he tried to call around a week after the guardianship hearing. Kendrick was allowed to retrieve his phone and read the number he had for Whitney to the trial court. He testified he

did not try to reach petitioners using Facebook Messenger, Skype, or Zoom. The following colloquy then occurred:

> "Q. So why not take more steps to try to get a message to them?
>
> A. And vice versa to your question what you're asking. I believe the guardian has the information of, you know, the parents. That would have been—that wouldn't have been a bad idea either.
>
> Q. I understand that's a contention of yours. My question for now is to you why not take more efforts?
>
> A. I believe I definitely took enough efforts.
>
> Q. By making one phone call?
>
> A. Once I made the phone call that I made, I got no response. If there was any other way that I was able to contact them when I didn't have their address, phone number, whatever, their Skype, Facebook information, absolutely I did the best I could with my attempts. And so, like I said, I believe if the other individuals, you know, the other parties legitimately wanted this to be constructive, they had the opportunity too. It goes both ways. You should know that."

¶ 62 Kendrick testified he asked Shaw for petitioners' contact information from 2020 through 2022 and Shaw told him she could not give out that information.

¶ 63 10. *Whitney*

¶ 64 Whitney testified she was married to Justin and was D.J.E.'s primary caregiver. Whtiney had been working for the Peoria public schools since 2021. Whitney testified that when the goal changed so that petitioners would become D.J.E.'s guardians, she provided contact

information to DCFS so Denisha and Kendrick could reach out to her. She stated her intent was to "figure out a plan to decide what contact would look like" and that "it would be up to us what contact would look like instead of the Court."

¶ 65 Whitney testified that at the time of the guardianship proceedings, D.J.E. had exhibited pretty significant behavioral issues after visits with respondents. She described the behaviors as a lot of physical aggression and anger, and she kept notes about the behaviors. Because of that, Whitney's goal was to give D.J.E. "a little bit of a break from visits to try to work out the behaviors and then kind of slowly start them back" if respondents had reached out and wanted to plan visitation. She did not tell respondents about the decision to take a break because they never reached out to her. She also did not tell Shaw about that decision.

¶ 66 Whitney testified the last in-person contact between Denisha and D.J.E. was in August 2022. Whitney had previously used Skype with Kendrick, and she maintained her Skype account until May 2025, when it was bought out by another company. Petitioners' correct address was listed on notices of hearings in the guardianship action. Whitney maintained the same e-mail address and stated she gave it to Shaw twice for Shaw to give to respondents, once in December 2021 and again in July 2022. Whitney knew the dates because she had written them down in her notes. She stated she kept records because she knew she needed to provide respondents with contact information and she wanted a record of it.

¶ 67 Whtiney testified she thought if respondents wished to maintain contact with D.J.E., they would reach out to her using the e-mail address she provided. She testified that when she had not heard from respondents for a few weeks after the guardianship hearing, she contacted Shaw to confirm Shaw had given respondents the e-mail address. Shaw stated that she had done so. Whitney did not have contact information for respondents, other than their addresses on

notices of hearings.

¶ 68 Whitney testified she used Facebook Messenger the entire time D.J.E. was in her care. She kept her settings such that she could be found and could receive messages. Whitney's Facebook account listed her name and showed her location. However, it did not have a picture of her. Instead, the profile picture was the phrase "Black Lives Matter." Whitney did not post pictures of D.J.E. on Facebook. She never received any messages from respondents, and they never sent anything for D.J.E. to her address.

¶ 69 Whitney testified her primary personal phone number had never changed and she provided the number in court, which was different from the number Kendrick read in court. Whitney testified the number Kendrick read in court was an old work number she had had for a period of time. She had not had that number since 2020. Whitney testified she had told Shaw about the change in phone number and told her to let Kendrick know about it.

¶ 70 Before the guardianship proceedings, when the case was still open, Whitney provided information about D.J.E. and items to Shaw to give to respondents, such as pictures and artwork.

¶ 71 Whitney testified she filed a response opposing the current petition for parenting time. When asked why, she stated the following:

> "[T]hree years ago we were open to it because he had been visiting and, you know, we were okay with continuing it. Now, three years later neither parent has reached out to have any contact. He has not mentioned them. He's stable. He's in a good routine. I don't think suddenly starting visitation at this time is going to be good for him."

Whitney testified D.J.E. did not handle changes in routine well and petitioners tried to minimize

the effect of changes upon him.

¶ 72 Regarding the conversation in which Denisha testified that Whitney refused to exchange phone numbers, the following colloquy occurred:

"Q. Denisha was pressed many times on when a conversation she states to have occurred in the courthouse. Do you know the one I'm talking about?

A. I recall that conversation, yes.

Q. The conversation or are you nodding remembering Denisha's testimony?

A. I remember the testimony and the conversation she's referring to.

Q. Well, you are the other part of that conversation, right?

A. Yes.

Q. Can you tell us what you recall?

A. I recall it happening in 2019 shortly after she came back from the six or seven months that she had been gone and asking for my phone number, and I wasn't comfortable with it at that time because she had been gone for an extended period of time and had just come back so I didn't know what the situation was with her and I wasn't comfortable with it at that time.

Q. Where did the conversation occur?

A. Here in the courthouse out in the waiting area.

Q. How recent in time was the conversation to the period she had been absent?

A. From what I recall, it was within maybe a month or two of her coming back.

Q. And your own recollection, how long had she been gone?

A. She had been out of—she hadn't been visiting him for about six or seven months and then came back.

Q. At that point in time within only your knowledge did you have an understanding of why?

A. At that time I did not know why, no.

Q. So it was relaid [*sic*] to the Court as a conversation that occurred by Denisha's version in 2022. Is that something you would dispute?

A. I would dispute that, yes. It was not in 2022."

¶ 73 Whitney testified that D.J.E. maintained contact with his sibling. The two had lived together before petitioners became D.J.E.'s foster parents. Current visits were arranged with Hermacinski, who had Whitney's phone number. Whitney stated that keeping D.J.E. in contact with his brother was very important to her.

¶ 74 D. The Trial Court's Findings

¶ 75 The trial court announced its findings orally, beginning by stating the issue as whether respondents "failed to maintain a reasonable degree of interest, care, concern, or respect with related—as it relates to the child and therefore intended to forego parental rights." The court then stated the following:

"I don't think there's any dispute that in the 12-month timeframe or even two year time—I mean, a large timeframe, there's no dispute that [Denisha] had no contact with the child. Like, that's undisputed. The reason for that is what is primarily at issue. Was it mom and dad failed to take any interest and failed to contact them and failed to, you know, kind of pick up their parental duties? Or was it

> [petitioners], you know, refusing to give the parents any access or time with the child? And I really think it's neither of those."

¶ 76 The trial court repeated that it did not think petitioners refused access to D.J.E. and found them "very credible." The court noted that although they "wanted to take a break," they did not conceal themselves, hide, or tell respondents not to contact them. The court continued as follows:

> "There was a critical conversation, in moving to respondent mother, where it was kind of a: Don't contact me. And from petitioners' side, it seemed like a very reasonable thing to say at some time in the—you know—there's a lot of kinda ambiguity over when that conversation happened. And the context around that conversation or really a comment is very important to the Court here because we have respondent mother, who the evidence bore out is very—how shall I say? Oh. She's—they lost connection, but nonetheless and no disrespect to her is a very unsophisticated person."

¶ 77 The trial court found Denisha "took the directives that she [was] given so literally that it put us here." The court further stated, "[I]t's unfortunate that she took it so literally and so boxed in because we probably wouldn't be here had she been someone to perhaps think outside the box or think a little more globally." The court stated that it believed both petitioners and Denisha but, because of Denisha's past and unsophistication, Denisha took it "as gospel" when someone else in her position "may not have seen it that way and seen it more of the way that the petitioners certainly intended it and which was a very understandable position from their side." The court found Denisha "extremely sincere and credible" and stated it believed both petitioners and respondents.

¶ 78 The trial court then found petitioners failed to carry their burden by clear and convincing evidence that Denisha did not maintain a reasonable degree of interest, care, or concern. The court also found her failure to contact D.J.E. was reasonable.

¶ 79 Regarding Kendrick, the trial court found petitioners' case was much stronger. However, the court noted he had the wrong phone number and denied the petition as to him as well. The court never specifically addressed the intent to forgo his parental rights and a related presumption of the ability to maintain contact.

¶ 80 Counsel for petitioners asked whether the trial court would make a finding as to when the conversation between Whitney and Denisha occurred. The court stated the following:

> "Yeah. No. I mean, there is no facts. I can't—I can't make a finding on fact on that because I—I don't know when it happened. I mean, I certainly am very—I have no reason to doubt the petitioners' version of that and I don't think that Denisha's perception of when that happened underlies the petitioners', you know, position on that. But at the end of the day, when that conversation happened is not of—of great significance to me in my ruling.
>
> So if it happened the way Whitney testified it happened, which she's got her—you know—she's got those incredibly detailed notes and I have no reason to doubt any—that those would be anything other than exactly factual, you know, observations. But it was—what I'm trying to say and what I attempted to say is how it was perceived by the other party is obviously very different. So. But even taking [Whitney's] position on that, it—it did—that was not a significant—you know—if it happened here or if it happened here, that does not change my ultimate ruling."

The court later stated, "[E]veryone I think agreed what the issue was. I mean, the—the issue is not whether the parents had contact. The issue is more of whether it was reasonable and/or whether there were any impediments."

¶ 81 This appeal followed.

¶ 82 II. ANALYSIS

¶ 83 Petitioners appeal, arguing that the trial court erred by (1) blending the allegations of unfitness, resulting in application of the wrong legal standard, (2) failing to properly apply a presumption regarding respondents' intention to forgo their parental rights when they failed to contact petitioners or D.J.E. within a 12-month period, (3) considering events occurring outside of the applicable 12-month period, and (4) finding Whitney's refusal to exchange phone numbers with Denisha was a sufficient excuse for her failure to make contact.

¶ 84 Because we agree with petitioners, we reverse the trial court's judgment and remand for a best-interest hearing.

¶ 85 A. The Background Law and the Standard of Review

¶ 86 With the adoption of a minor child, the consent of both parents is generally required. See 750 ILCS 50/8(b)(1) (West 2024). However, if the trial court finds by clear and convincing evidence that a parent is an "unfit person" as defined in the Act, then that parent's consent is not required. *In re Adoption of L.T.M.*, 214 Ill. 2d 60, 67 (2005).

¶ 87 When a petition for adoption alleges that a parent is unfit, the first issue, before granting the adoption, is a determination of whether the parent is unfit. *Regan v. Joseph P.*, 286 Ill. App. 3d 889, 892 (1996). If the trial court finds that the biological parents are unfit, the court must proceed to a second step before ruling on the adoption petition to determine whether the termination of parental rights and adoption is in the minor child's best interests. See *id.*; *In re*

Adoption of Syck, 138 Ill. 2d 255, 277 (1990).

¶ 88 Under the Act, a parent may be found unfit when he or she fails to maintain a reasonable degree of interest, concern, or responsibility as to the child's welfare or when there is evidence of an intent to forgo his or her parental rights. 750 ILCS 50/1(D)(b), (n) (West 2024). Unfitness as defined in the Act must be proved by clear and convincing evidence. *In re N.G.*, 2018 IL 121939, ¶ 28. A finding adverse to the parent on any one ground under the Act is sufficient to support the termination of parental rights. *In re C.W.*, 199 Ill. 2d 198, 217 (2002).

¶ 89 A determination of parental unfitness involves factual findings and credibility determinations that the trial court is in the best position to make. *In re M.I.*, 2016 IL 120232, ¶ 21. Accordingly, a trial court's finding of parental unfitness will not be reversed unless it is against the manifest weight of the evidence. *N.G.*, 2018 IL 121939, ¶ 29. A decision is against the manifest weight of the evidence when the opposite conclusion is clearly apparent. *Id.* "Nevertheless, questions of law are reviewed *de novo*." *In re Kenneth F.*, 332 Ill. App. 3d 674, 677 (2002).

¶ 90 B. Reasonable Degree of Interest

¶ 91 A parent may be found unfit based on a failure to maintain a reasonable degree of interest, concern, or responsibility as to the child's welfare. 750 ILCS 50/1(D)(b) (West 2024). Fitness under section 1(D)(b) is determined by the efforts the person makes to communicate with or show interest in the child. *In re Adoption of A.S.V.*, 268 Ill. App. 3d 549, 557 (1994). "In determining whether a parent has failed to maintain a reasonable degree of interest, concern, or responsibility as to a child's welfare, the court must 'examine the parent's conduct concerning the child in the context of the circumstances in which that conduct occurred.' " *In re Adoption of H.B.*, 2012 IL App (4th) 120459, ¶ 42 (quoting *Syck*, 138 Ill. 2d at 278).

> "In making its decision, a court may consider the parent's difficulty in obtaining transportation to the child's residence, the parent's poverty, the actions or statements of others hindering or discouraging visitation, 'and whether the parent's failure to visit the child was motivated by a need to cope with other aspects of his or her life or by true indifference to, and lack of concern for, the child.' " (Emphasis omitted.) *Id.* (quoting *Syck*, 138 Ill. 2d at 279).

¶ 92 Nevertheless, even extreme circumstances that impede the parent's ability to maintain a relationship with the child do not excuse a complete lack of communication or interest in the child. *A.S.V.*, 268 Ill. App. 3d at 558. "If personal visits with the child are somehow impractical, letters, telephone calls, and gifts to the child or those caring for the child may demonstrate a reasonable degree of concern, interest and responsibility, depending upon the content, tone, and frequency of those contacts under the circumstances." *Syck*, 138 Ill. 2d at 279. "[A] court is to examine the parent's efforts to communicate with and show interest in the child, not the success of those efforts." *Id.* Mitigating circumstances "bear on the reasonableness of the communication a parent maintains and the interest a parent demonstrates in his or her child." *Id.* at 280-81.

¶ 93 C. Evidence of Intent To Forgo Parental Rights

¶ 94 The Act separately allows the trial court to find a parent unfit based on evidence of intent to forgo their parental rights. The Act states the following:

> "Evidence of intent to forgo his or her parental rights, whether or not the child is a ward of the court, (1) as manifested by his or her failure for a period of 12 months: (i) to visit the child, (ii) to communicate with the child or agency, although able to do so and not prevented from doing so by an agency or by court

order, or (iii) to maintain contact with or plan for the future of the child, although physically able to do so." 750 ILCS 50/1(D)(n) (West 2024).

¶ 95 1. *Presumption of the Ability To Maintain Contact*

¶ 96 Unlike the determination of whether a parent maintained a reasonable degree of interest, concern, or responsibility as to the child's welfare, which considers the reasonableness of the parent's actions or inaction, when addressing an intent to forgo his or her parental rights, the Act provides a presumption of the ability to maintain contact and does not allow a determination based solely on subjective intent to preclude a finding that a parent intended to forgo his or her parental rights. The Act provides as follows:

> "In the absence of evidence to the contrary, the ability to visit, communicate, maintain contact, pay expenses, and plan for the future shall be presumed. The subjective intent of the parent, whether expressed or otherwise, unsupported by evidence of the foregoing parental acts manifesting that intent, shall not preclude a determination that the parent has intended to forgo his or her parental rights. In making this determination, the court may consider but shall not require a showing of diligent efforts by an authorized agency to encourage the parent to perform the acts specified in this paragraph (n)." *Id.*

¶ 97 2. *12-Month Period*

¶ 98 The statutory language also clearly establishes a 12-month period for a parent failing to communicate with or keep in contact with the child. *H.B.*, 2012 IL App (4th) 120459, ¶ 25; *Douglas R.S. v. Jennifer A.S.*, 2012 IL App (5th) 110321, ¶ 7. " 'The 12-month line of demarcation begins with the date of the last visit or communication between the parent and the child.' " *H.B.*, 2012 IL App (4th) 120459, ¶ 25 (quoting *Douglas R.S.*, 2012 IL App (5th)

110321, ¶ 7). At a proceeding to determine fitness, any evidence the parents wish to present explaining their reasons for not communicating with their child for a 12-month period must have occurred during that 12-month time frame. *Id.* "Any evidence occurring outside of that time period is, however, allowable at the second-stage best-interests hearing." *Douglas R.S.*, 2012 IL App (5th) 110321, ¶ 7.

¶ 99 3. *Objective Impediments*

¶ 100 Because the Act contemplates a finding of unfitness when a parent fails to maintain contact with or plan for the future of the child, although physically able to do so, a trial court may consider "objective impediments" to doing so during the 12-month period that are external to the parents. See *H.B.*, 2012 IL App (4th) 120459, ¶¶ 29, 35. The court is not limited to obstacles presented solely by an agency or by court order. *Id.* ¶ 29. "Where a parent's attempt to see a child has been officially frustrated, it is the intent to establish and/or maintain contact with the child rather than actual contact which is determinative." *Regan*, 286 Ill. App. 3d at 893. Such an impediment may rebut evidence of unfitness both as to the failure to maintain a reasonable degree of interest, concern, or responsibility as to the child's welfare and an intent to forgo parental rights. See *H.B.*, 2012 IL App (4th) 120459, ¶¶ 35, 44.

¶ 101 Certain obstructive behaviors by a child's guardian have been deemed sufficient to rebut an allegation of unfitness. For example, in *In re Adoption of C.A.P.*, 373 Ill. App. 3d 423, 429-32 (2007), failing to notify the father of new addresses, having the father arrested at visitation pickups, and refusing offers of financial assistance constituted impediments or obstacles that rebutted a finding of unfitness on the statutory bases of abandonment and failure to maintain a reasonable degree of interest, concern, or responsibility as to the child. In *H.B.*, 2012 IL App (4th) 120459, ¶¶ 20-45, refusing to allow the mother to see the child or speak to the child

by phone and telling the mother the child did not want to see her constituted impediments or obstacles that rebutted a finding of unfitness on the statutory bases of desertion, abandonment, failure to maintain a reasonable degree of interest, concern, or responsibility as to the child, and an intent to forgo her parental rights for 12 months after the last contact with the child.

¶ 102 "Each case concerning parental unfitness is *sui generis*, requiring close analysis of its individual facts." *In re C.E.*, 406 Ill. App. 3d 97, 108 (2010). "Consequently, factual comparisons to other cases by reviewing courts are of little value." *Id.* However, reason and the principle of *stare decisis* also " 'dictate at least a minimal comparison of decisional fact patterns.' " *C.A.P.*, 373 Ill. App. 3d at 428 (quoting *Davis v. Bughdadi*, 120 Ill. App 3d 236, 243 (1983)). The case law illustrates how objective impediments external to respondents could excuse a failure to maintain contact. As discussed below, no such objective impediments were present here.

¶ 103 D. This Case

¶ 104 In the present case, the trial court improperly blended the two separate allegations of unfitness, resulting in the court's failing to correctly apply the law. The court stated the issue as whether respondents "failed to maintain a reasonable degree of interest, care, concern, or respect with related—as it relates to the child and therefore intended to forego parental rights." The court then found the failure of respondents to maintain contact was reasonable. Although issues of reasonableness were appropriate to consider when determining whether respondents maintained a reasonable degree of interest, concern, or responsibility as to D.J.E.'s welfare, the determination of whether respondents manifested an intent to forgo their parental rights involves different legal determinations that the court never specifically or correctly addressed.

¶ 105 1. *Failure To Communicate and Maintain Contact*

¶ 106 Under the Act, respondents were presumed to have the ability to visit, communicate, maintain contact, pay expenses, and plan for the future. See 750 ILCS 50/1(D)(n) (West 2024). Further, the Act does not allow a determination based solely on a parent's subjective intent to preclude a finding that the parent intended to forgo his or her parental rights. See *id.*

¶ 107 In the present case, it is undisputed respondents failed to contact petitioners or D.J.E. for well over 12 months from their date of last contact. In addition, no competent evidence rebuts the presumption that Denisha was able to contact petitioners or D.J.E. Instead, Denisha's only stated reason for failing to maintain contact—and the only reason found by the trial court for Denisha's failure to do so—was Denisha's stated subjective intent to seek visitation with D.J.E. through the courts in the future based on her subjective beliefs—namely, that Whitney did not desire contact and it was better to proceed through the courts.

¶ 108 This subjective intent alone could not preclude a determination Denisha manifested an intent to forgo her parental rights. But that is how the trial court erroneously applied it. The court did not identify any objective factors affecting Denisha's ability to communicate or maintain contact with petitioners or D.J.E., and the record also does not suggest the existence of any such factors. Instead, the record shows Denisha had the ability to at least make efforts to locate and communicate with petitioners and D.J.E., yet she failed to make any such efforts.

¶ 109 The same analysis applies to Kendrick. Although he had a wrong phone number for Whitney, (1) it had been out of service since 2020 and (2) the guardianship proceedings took place in late 2022. Kendrick made a single attempt to contact Whitney shortly after the guardianship was entered and then never tried again over a two-year period. He had a Skype

address for Whitney and his own e-mail and Facebook accounts, yet he made no further efforts at contact.

¶ 110 We note Kendrick also never testified he made any plans for the future concerning D.J.E., which also manifests an intent to forgo his parental rights. Instead, Kendrick gave testimony placing the responsibility on petitioners to contact him, which is not what the law requires. We conclude that both respondents failed to maintain contact such that they manifested an intent to forgo their parental rights.

¶ 111 2. *Lack of Objective Impediments*

¶ 112 In order to excuse respondents from their failure to maintain contact, the record must show objective impediments external to the respondents to doing so during the relevant 12-month period. See *H.B.*, 2012 IL App (4th) 120459, ¶¶ 29, 35. The trial court specifically found petitioners did not prevent contact. Instead, regarding Denisha, the court found, based on a single conversation that occurred on an uncertain date, that Denisha subjectively believed it was best to not contact petitioners or D.J.E. and instead proceed through the courts.

¶ 113 We first note, regardless of the precise date of the conversation, it is undisputed that the conversation occurred outside of the 12-month period. Although we can envision scenarios in which an impediment occurring before the 12-month period could have an effect during that period, the impediment nevertheless must be objective and external to the parents.

¶ 114 Here, any impediment caused by the conversation was solely subjective to Denisha. As the trial court specifically found, petitioners did not hide, conceal, or prevent contact with themselves or D.J.E. Petitioners did not tell Denisha not to contact them via e-mail or social media or to refrain from sending cards or letters. Denisha never denied that Shaw gave her petitioners' e-mail address, instead stating only that she could not remember. But instead of

considering the lack of objective impediments to communication or maintaining contact, the court applied Denisha's subjective interpretation of her conversation with Whitney regarding exchanging phone numbers, which the court itself noted was based on Denisha's own subjective trait of taking the single, and likely rather old, conversation too literally or to an extreme.

¶ 115 Denisha also stated she acted on the advice of her attorney to proceed with filing an action concerning D.J.E.'s sibling first, but the record shows her decision to do so and forgo contact with petitioners was again based on her own subjective decision. There was no testimony that Denisha's attorney ever specifically told her not to contact petitioners or that she could not send something like a card, letter, or gift to D.J.E.

¶ 116 Instead, Denisha answered, "No," when specifically asked whether there was anything that anybody else besides Whitney said that made her believe she could not reach out. She also testified the conversation with Whitney was the only thing that made her feel like she could not reach out on social media or send letters.

¶ 117 A letter from one of Denisha's counselors sent to Denisha's attorney shortly after the guardianship was entered also noted a discussion with Denisha about how she could maintain contact with petitioners and D.J.E., yet she made no effort to do so.

¶ 118 Denisha waited two years to file anything in the trial court. Although Denisha testified she lacked funds, that, too, is subjective to her. Denisha further acknowledged she could have filed something in court herself but stated her subjective belief that her chances of success would be better with an attorney. Meanwhile, she admitted she reached out to the guardian of D.J.E.'s sibling and established contact through Facebook outside of the court proceedings. Accordingly, on this record, there is insufficient evidence the advice of Denisha's attorney acted as an objective impediment to her seeking contact. Instead, she made no effort, with only her

subjective beliefs acting as an alleged "impediment," which is insufficient to excuse her lack of effort.

¶ 119 Regarding Kendrick, as previously discussed, he made a single attempt to reach out to petitioners using a phone number that had been out of service since well before the 12-month period began. He then made no attempts to find petitioners, who did nothing to prevent him from locating and contacting them. Under those circumstances, we conclude that no objective impediment to Kendrick's ability to make contact existed. Kendrick was not meaningfully impeded. Instead, he chose not to make any appropriate efforts at maintaining contact.

¶ 120 3. *Remand for a Best-Interest Hearing*

¶ 121 Ultimately, the trial court failed to consider each ground for unfitness separately. By failing to do so, the court applied the incorrect legal standard to determine whether respondents manifested an intent to forgo their parental rights.

¶ 122 Applying the correct standard, the only conclusion to be drawn from the record is that petitioners proved by clear and convincing evidence respondents manifested an intent to forgo their parental rights by failing to communicate or maintain contact with petitioners or D.J.E. for a 12-month period after their last contact with D.J.E. Respondents' lack of effort to make contact with D.J.E. was not excused by objective impediments external to respondents during the 12-month period. Accordingly, the trial court's determination was against the manifest weight of the evidence.

¶ 123 Because petitioners proved respondents were unfit by clear and convincing evidence based on their manifestation of an intent to forgo their parental rights, we reverse the trial court's fitness determination and remand for the second-step determination of whether the

termination of parental rights is in D.J.E.'s best interest.

¶ 124 E. Epilogue

¶ 125 Although not necessary to our disposition, we additionally note our dismay in the delay at achieving permanency in this case. "Every child should have a stable, loving, secure, and *permanent* home." (Emphasis in original.) *In re A.T.*, 197 Ill. App. 3d 821, 835 (1990) (Steigmann, J., specially concurring). D.J.E. has been in petitioners' care since he was six months old, and he is now approximately eight years old. That is simply too long a period to remain without permanency.

¶ 126 In 2022, a permanency report to the trial court recommended permanency goals of (1) substitute care pending a court determination on termination of parental rights and (2) guardianship. The report noted the case had been open for four years, respondents remained unfit, and D.J.E. was "in desperate need of permanency." The report also stated a petition to terminate parental rights was not filed but, due to the lack of progress, a continued finding of unfitness for both parents was appropriate. And, due to the amount of time D.J.E. had been in foster care with petitioners, it was in D.J.E.'s best interest to set the permanency goal at guardianship. Shaw and other witnesses were not asked and did not explain why termination of parental rights was not pursued at that time.

¶ 127 We question why neither DCFS nor the appropriate state's attorney's office acted to terminate parental rights in 2022, when doing so appeared appropriate, and instead decided to consent to a guardianship that removed DCFS and the State from the picture, resulting in a lack of oversight of respondents and the case. If there was a reason for avoiding termination of parental rights at that time, it is not apparent from the record.

¶ 128 Indeed, on this record, we have no reason to believe that had petitioners not

sought on their own initiative to adopt D.J.E., the State authorities would have been content to continue D.J.E.'s guardianship with petitioners until he was 18 years old. The ultimate result in this case has clearly been a delay that has caused confusion and left the issue of permanency uncertain.

¶ 129 The State, DCFS, and the trial court can and should do better.

¶ 130 III. CONCLUSION

¶ 131 For the reasons stated, we reverse the trial court's judgment regarding fitness and remand for a best-interest hearing.

¶ 132 Reversed and remanded.