2024 IL App (4th) 240363-U

NO. 4-24-0363

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
July 25, 2024
Carla Bender
4th District Appellate
Court, IL

In re GUARDIANSHIP OF V.R.W., a Minor	)	Appeal from the
	)	Circuit Court of
(Ashley M.,	)	Sangamon County
Petitioner and Counterrespondent-Appellee,	)	No. 21P702
v.	)	
Veronica B.,	)	Honorable
Respondent and Counterpetitioner-Appellant).	)	Dwayne A. Gab, Judge Presiding.

JUSTICE VANCIL delivered the judgment of the court.
Justices Doherty and Knecht concurred in the judgment.

ORDER

¶ 1 *Held*: The appellate court affirmed, finding the trial court had jurisdiction over the petition for guardianship filed by a minor child's short-term guardian; an "other person having an interest in the welfare of the child" lacked standing to petition for visitation under the Probate Act of 1975 (755 ILCS 5/1-1 *et seq.* (West 2022)) where the child's biological father was still alive; and the court's best interests determination and allocation of guardian *ad litem* fees were not abuses of discretion.

¶ 2 In December 2021, Miranda W., mother of the minor child V.R.W., died from liver disease. Petitioner, Ashley M., and counterpetitioner, Veronica B., each filed competing petitions to be appointed permanent guardian of then five-year-old V.R.W. Two years later, the Sangamon County trial court denied Veronica's petition and appointed Ashley as V.R.W.'s permanent guardian. Veronica appeals the trial court's judgment, arguing the court lacked jurisdiction over Ashley's petition, Veronica's appointment as guardian was in V.R.W.'s best interests, and the

court erroneously denied her petition for visitation. She also asks us to find the guardian *ad litem* (GAL) fees were unfair and to assign a different judge on remand.

¶ 3 We affirm.

¶ 4 I. BACKGROUND

¶ 5 Miranda began dating Veronica in 2008. After seven years together, they wanted to have a child. They found a man, Andrew H., on Craigslist to impregnate Miranda. At the time, they knew him only by the name "Drew." He and Miranda had sexual intercourse, Miranda became pregnant, and she gave birth to V.R.W. in March 2016. Andrew, Veronica, and Miranda all intended Andrew to have no further involvement in V.R.W.'s life. For a few years, Miranda and Veronica lived together with V.R.W. and Veronica's daughter, Grace R. The couple never married or entered into a civil union, and Veronica did not legally adopt V.R.W.

¶ 6 Miranda struggled with alcoholism, and in 2019, she was hospitalized and diagnosed with jaundice from stage 4 liver disease. Miranda and Veronica had stopped dating, and Miranda moved out of their house. Veronica and Miranda shared responsibility for V.R.W. after Miranda moved out, although the details are contested. In October 2019, Miranda signed a short-term guardianship form. The form provided if Miranda's physician certified that she was "no longer willing or able to make and carry out day-to-day child care decisions concerning [V.R.W.]," then her cousin, Ashley, would be the short-term guardian for V.R.W.

¶ 7 Briefly, Miranda's health appeared to improve. In March 2020, she and V.R.W. moved back in with Veronica. However, by mid-2021, her health had dramatically declined again. In May 2021, she and V.R.W. moved out again. In December 2021, Miranda was hospitalized again. Soon after, her physician certified that she was no longer able to care for V.R.W., triggering

Ashley's short-term guardianship. Ashley took physical custody of V.R.W. and refused to allow Veronica to contact her. Miranda died a few days later.

¶ 8 Veronica and Ashley each petitioned for guardianship of V.R.W. Veronica also petitioned for visitation. The trial court appointed a GAL for V.R.W. Throughout the proceedings, Veronica and Ashley each alleged the other engaged in abusive or harassing conduct toward the other. Ashley filed multiple petitions for orders of protection against Veronica, and all were dismissed. Veronica likewise filed a petition for an order of protection against Ashley, which was also dismissed. In January 2022, Veronica visited with V.R.W. Ashley's mother, Dianne D., and a family friend, Patty S., supervised the visit. By all accounts, the visit was tense, although the parties disagree on the details. Since that visit, Veronica has not seen or spoken to V.R.W., and the parties blame each other for this.

¶ 9 Ashley moved to dismiss Veronica's amended petition for visitation pursuant to section 2-615 of the Code of Civil Procedure (Code) (735 ILCS 5/2-615 (West 2022)). In August 2022, the trial court granted Ashley's motion. It found the Probate Act of 1975 (Probate Act) (755 ILCS 5/1-1 *et seq.* (West 2022)) did not authorize visitation rights for "interested parties" unless both the minor child's parents were deceased, and here, no one alleged that V.R.W.'s father was deceased. He was only missing and "most likely" still alive.

¶ 10 In September 2022, Veronica filed a motion to reconsider the dismissal of her petition for visitation. Her private investigator then located V.R.W.'s biological father, Andrew, who consented to Veronica's adoption of V.R.W. and her appointment as guardian. Veronica supplemented her motion to reconsider, filed a second amended petition for guardianship, and moved to dismiss Ashley's second amended petition for guardianship pursuant to section 2-619 of the Code (735 ILCS 5/2-619 (West 2022)) and to terminate Ashley's temporary guardianship. In

these pleadings, Veronica argued she had a superior claim to guardianship of V.R.W. than Ashley, either because she was an "intended parent" of V.R.W. or because Andrew had consented to her appointment as guardian.

¶ 11 The trial court denied Veronica's motion to reconsider and her motion to dismiss. Relying on *In re Parentage of Scarlett Z.-D.*, 2015 IL 117904, the court reasoned Illinois does not recognize "functional parentage." The court also found Andrew's consent to adoption did not eliminate the court's jurisdiction because he "has not been involved in the raising of the child and was absent and unknown for most of the pendency of this matter and the child's life."

¶ 12 Veronica appealed the trial court's orders denying her motion to dismiss Ashley's petition, dismissing her petition for visitation, and denying her motion to reconsider that dismissal. In a summary order, we found these were not "final orders," so we dismissed the appeal for lack of appellate jurisdiction. *In re Guardianship of V.R.W.*, 4-23-0368 (2023) (unpublished summary order under Illinois Supreme Court Rule 23(c)).

¶ 13 Back before the trial court, the GAL had recommended V.R.W. and Veronica begin working with a counselor toward "reunification." At first, the parties agreed, but counseling sessions broke down. After the GAL filed an affidavit of GAL fees, Veronica objected. She claimed the GAL had delayed speaking to V.R.W., had not spoken to her family, and had attempted to improperly influence Andrew to withdraw his consent to Veronica's appointment as guardian by suggesting the parties would be less likely to harass him if he remained neutral. She argued the GAL had not fulfilled his duties under Illinois Supreme Court Rule 907 (eff. Mar. 8, 2016). At an evidentiary hearing on the objection, the GAL testified he had recommended Veronica have visits with V.RW., but their first visit "blew up" because of a problem with "the adults," including Veronica and Dianne, and Ashley's short-term guardianship authorized her to decide whether

Veronica visited V.R.W., absent a court order. He further testified Veronica "refused to sit in the same room with Ashley." At the hearing, the court asked if Veronica sought to disqualify the GAL, and Veronica's attorney confirmed she did not seek disqualification. The court denied her objections, finding the GAL's fees were fair, reasonable, and related to his duties, and Veronica failed to show the GAL had any inappropriate bias or engaged in any disqualifying conduct. The court ordered Veronica and Ashley each to pay half the GAL fees.

¶ 14 Before trial, the GAL submitted his report. The report described the circumstances of V.R.W.'s conception, stating Miranda and Veronica " 'misrepresented themselves' as a married couple and told [Andrew] they expected to adopt the baby once it was born." The report explained Andrew simultaneously wanted to honor his agreement with Veronica and do what is in V.R.W.'s best interests, but he wanted no information regarding Ashley or V.R.W.'s needs. The report concluded Andrew's "contradictory positions are difficult to reconcile." Regarding the attempts to discuss a settlement and counseling, the report indicated the attempts broke down because Veronica "refused to participate in counseling with [Ashley]. Specifically, [Veronica] refused to sit in the same room with [Ashley]."

¶ 15 Ultimately, the GAL report recommended Ashley be appointed as guardian. It explained, "[V.R.W.] is in a calm, stable, nurturing environment and her stability should not be disturbed. She has close relationships with [Ashley's] children and is adjusted to her home, community and school." It further stated the recommendation was contingent on Ashley fostering a relationship between V.R.W. and Veronica and Veronica's family, including by participating in counseling sessions.

¶ 16 The trial began in November 2023, and it ended in January 2024. Andrew testified first. He acknowledged he was V.R.W.'s biological father. When he first communicated with

Veronica and Miranda, they represented themselves to him as a married couple. He never signed any written agreement regarding V.R.W.'s parentage. He confirmed the last time he saw Miranda, in 2015, they had sexual intercourse, and he did not hear from either Miranda or Veronica again until 2022. Andrew always understood he would not be a parent to V.R.W., but Veronica would. He said his consent to V.R.W.'s adoption by Veronica that he signed during these proceedings reflected his original intent in 2015.

¶ 17 Andrew testified he had never seen V.R.W. nor wanted to see her. He has never spoken to her. He was not involved in planning V.R.W.'s future, and he provided no financial support, gifts, or letters. He intended to have no responsibility for her. He indicated he does not know anything "personally" about Veronica and he knows "nothing" about Ashley, other than what he learned through the court proceedings. He also admitted he did not know enough to determine whether appointing Ashley or Veronica as guardian would be in V.R.W.'s best interests. Finally, Andrew was asked if he was "willing to be her parent." He answered, "[A]t this point, no, because I look at it like she has a parent. I feel like that would be very disruptive to have [V.R.W.] to have a third change in her life." He added, "[I]f that was necessary, you know, that would be something, you know, that it—we'd cross that bridge when we got to it." He agreed, "I'm not able to [parent her] at this point, but if things change, you know, we'd have to reassess the situation. I'm not looking to be her parent right now in my mind because she already has a parent."

¶ 18 Veronica testified she and Miranda had lived together as a couple for over 10 years. Veronica's biological daughter, Grace R., was two and a half years old when Veronica and Miranda began dating, and she considers Miranda her mother. Until Ashley took custody of V.R.W. in December 2021, V.R.W. and Grace saw each other "daily" and considered each other "sisters."

¶ 19 Regarding her relationship with V.R.W., Veronica admitted she had no written contract with Andrew. Her name is not on V.R.W.'s birth certificate, and she never adopted V.R.W. However, Veronica explained she and Miranda had a joint baby shower when V.R.W. was born in 2016. A picture of the invitation to the shower was admitted into evidence, and the invitation described the shower as honoring "Miranda & Veronica." Veronica also was listed in V.R.W.'s school records as a mother. Veronica testified, even when she and Miranda ended their dating relationship, they remained a "co-parenting couple and lived together." Miranda's medical records from 2019 referred to Veronica as Miranda's "wife." Veronica testified V.R.W. called her "mom."

¶ 20 Veronica testified she and Miranda first stopped living together in late 2019. At first, Miranda stayed with her friend Andrea. During this time, V.R.W. stayed with Miranda at Andrea's while Veronica worked, then she would pick up V.R.W. after she finished work. V.R.W. stayed overnight at both residences. After her hospital stay in October 2019, Miranda stayed with Ashley's parents, Mark and Dianne. Veronica testified, during this time, she and Miranda "coparented" and divided the time with V.R.W. "equally," although Veronica "primarily had [V.R.W.] more because of Miranda's health condition." Veronica testified V.R.W. had dental problems while she was living with Mark and Dianne, and she needed surgery because she had too many cavities. Although Miranda briefly moved back in with Veronica in March 2020, they finally stopped living together in May 2021, when Miranda relapsed, because her alcoholism strained their relationship. Veronica testified Miranda never kept V.R.W. from her.

¶ 21 Veronica testified she had not seen the short-term guardianship form until Ashley attached it to a petition for an order of protection sometime in 2022. She recalled her daughter, Grace, telling her something about a form Miranda signed so people could pick V.R.W. up from

school in 2019. She was cross-examined about text messages from that time in which she expressed outrage over a "will" or other document letting V.R.W. move in with Ashley. Ashley had texted her that the form was a temporary custody agreement to keep V.R.W. from going into foster care. When Veronica questioned Miranda about this, she dismissed the questions, saying it was just meant to facilitate picking up V.R.W. from school. Veronica insisted Miranda had lacked the capacity to sign any papers in 2019. She also insisted the text messages concerned a different document, possibly an actual will. She denied the signature on the form was Miranda's.

¶ 22 Veronica described how Ashley first took custody of V.R.W. In December 2021, when Miranda was in the hospital, Ashley invited V.R.W. over for a play date. She refused to return V.R.W. to Veronica, so Veronica went to V.R.W.'s school. The school officials informed Veronica she was no longer listed as V.R.W.'s mother in their records. Veronica asked police officers to get V.R.W., but she was unsuccessful in recovering custody. Ashley then filed the first petition for an order of protection against Veronica, which was later dismissed.

¶ 23 Veronica had one supervised visit with V.R.W. in January 2022. The visit began at Veronica's home and continued at a nearby skating rink. Dianne and Miranda's friend, Patty S., supervised the visit. Veronica claimed Patty repeatedly interrupted her or stepped in between Veronica and V.R.W., and she upset V.R.W. by telling her Veronica was not her mother and was mean. Veronica indicated V.R.W. had no contact with her, her mother, or Grace after that visit.

¶ 24 Veronica disapproved of how Ashley took care of V.R.W., saying V.R.W. was not eating a proper diet or exercising, although she acknowledged she does not know her basis for denying Ashley provides proper nutrition. She contended that Ashley's denial of all contact between her and V.R.W. constituted "abuse."

¶ 25 At the beginning of the trial, Veronica was working as an accountant. Previously, she had worked for the United States Postal Service. She was placed on unpaid administrative leave after she struck a coworker's vehicle with her own vehicle in August 2021, for which she pled guilty to a misdemeanor. By the end of the trial, she had returned to work as a postal carrier. Veronica admitted, in a separate incident in 2021, she struck her boyfriend's car. She testified she did not remember if she intended to hit his car.

¶ 26 Three school employees testified. V.R.W.'s kindergarten teacher testified V.R.W. referred to Veronica as "Esa" or "Veronica" but never called her mother. Once, after the school had the Child Advocacy Center do a "good touch, bad touch presentation," V.R.W. seemed upset and was "almost shaking." She told the teacher "what had happened with Michael," Veronica's boyfriend. The teacher claimed V.R.W. said she was afraid Veronica and her boyfriend would come to get her, but she never expressed any fears about Ashley. A social worker at V.R.W.'s school also testified V.R.W. was afraid Veronica would take her and she liked living with Ashley. The social worker met Ashley at parent-teacher conferences and Individualized Education Program meetings. Ashley was "very involved," and V.R.W. was making good social and emotional progress. She had "great friendships," enjoyed coming to school, and was doing well academically. V.R.W.'s first grade teacher testified Ashley and her husband were active in V.R.W.'s schooling. Her homework was always done, she did very well in class, and her reading was progressing especially well.

¶ 27 Britt L., a longtime friend of Miranda, testified Veronica had told her about the short-term guardianship in the hospital parking lot in 2019, while Miranda was still alive. She testified Miranda had mostly cared for V.R.W., not Veronica. She believed V.R.W. was "happy and stable" since she moved in with Ashley.

¶ 28 Grace R., Veronica's 18-year-old daughter, testified Veronica had primary custody of her, beginning when she was about one year old. She met Miranda when she was two years old, and she considered Miranda a mother. She considered V.R.W. a sister and saw her every day before Ashley took custody of her. Veronica was never neglectful or abusive. She never had any concerns around Veronica's boyfriend, Michael. During 2019, when Miranda moved back in with Veronica, Miranda was sober, and they shared responsibility for V.R.W. Veronica handled more of the responsibilities for V.R.W., especially taking her to and from school and dance lessons. When Miranda moved back in 2021, she was drinking again. Grace testified she knew about some form in 2019, but she did not understand it. Miranda told Grace she wanted V.R.W. to be closer to her cousins but the arrangement was only temporary. Miranda's condition at the time was "deteriorating."

¶ 29 Grace testified she and Ashley were "like family" before December 2021. She thought Veronica and Ashley had a "normal" relationship until around that time. Since December 2021, she has had no communication with Ashley or V.R.W., except for the visit in January 2022. During the visit, V.R.W. asked why she could not call Veronica "mom." Grace testified, before then, V.R.W. had called Veronica "Mommy Issa." Grace testified she was "very traumatized" by the proceedings, and she missed her sister. Grace also described one evening on a camping trip with Veronica and her family. V.R.W. fell off of a trampoline and fractured a bone, but nobody took her to the hospital until the next day because the adults were all drunk. V.R.W. stayed in the tent watching videos that evening. Grace said V.R.W. was fussy, but she cried only when she was first injured and a couple of times after.

¶ 30 Patty, a friend of Dianne and Miranda, testified she was retired from her work as a data analyst for the Illinois Department of Children and Family Services (DCFS). She testified

Miranda had asked her for guardianship forms in 2019 because of her work for DCFS. She claimed Miranda and Dianne came to her house and Miranda filled out the guardianship form, but she waited to sign it. Patty confirmed the handwriting on the form was Miranda's. A few days later, she accompanied Miranda to a bank to have the form signed and notarized. She testified, on the day she signed the form, Miranda seemed coherent and seemed to know what she was signing.

¶ 31 Patty gave her account of Veronica's January 2022 visit with V.R.W. She claimed, before the visit, V.R.W. was afraid she was not going back with Ashley afterwards. Patty reassured her she would and told her she would have fun. When they first arrived for the visit, V.R.W. asked where Michael, Veronica's boyfriend, was, and she was very upset. He was in the bedroom, and they did not see him during the visit. Patty testified Veronica asked V.R.W, "Does Ashley hit you?" and told V.R.W. to call her "mom." Patty claimed this upset V.R.W., but Grace came and calmed her down. They ate dinner then went to the skating rink for about one hour. At first, skating was going well, but Veronica started yelling at Dianne because V.R.W. wanted to go to her Aunt Dawn's house, where Ashley's family was having a family gathering.

¶ 32 Veronica's sister, Monica, testified she was on the camping trip where V.R.W. broke her leg. V.R.W. cried a little, but Monica thought it was tolerable. She described Veronica as a "very loving" mother to V.R.W., who was always sitting on her lap or falling asleep on her. Veronica was very active and played on the floor with her. Veronica's mother, Roseann, testified her family spends every holiday together. She had not seen V.R.W. since December 2021, and she still had Christmas presents for her. They have all been "terribly" affected by losing contact with V.R.W., especially Veronica.

¶ 33 Dianne, Ashley's mother and Miranda's aunt, testified she was present when Miranda filled out the short-term guardianship form at Patty's house. She confirmed the

handwriting on the form was Miranda's. When they went to the bank a few days later, Miranda did not smell like alcohol or slur her words. She testified, after Veronica's car crash in August 2021, Miranda told her not to let Veronica have V.R.W. alone with her. Since Ashley took custody of V.R.W., Dianne sees her regularly, and she believes V.R.W. is happy and healthy. Regarding the January 2022 visit, she insisted Veronica cut the first visit short and Veronica was aggressive and upset because V.R.W. wanted to see her Aunt Dawn. She testified V.R.W. calls Ashley "mom" and her husband, Lavonta, "dad."

¶ 34 Petitioner Ashley testified she lives with her husband, two other children, ages 13 and 9, and V.R.W. She and her husband, Lavonta, have been married for over 15 years. Her husband is a "warehouse laborer," and Ashley does some work as a nail technician. She is also a stay-at-home mother and cares for her father. She has lived at the same house for 13 years, and she and her husband own the house free of any mortgage. Her support network includes her mother, her sister, Patty, her Aunt Dawn, her grandparents, and her in-laws. They all spend time together often.

¶ 35 Ashley testified Miranda is her cousin. When Miranda asked her to be short-term guardian, she agreed because V.R.W. was close with Ashley's daughter and Ashley had been helping Miranda with V.R.W. since she was three years old. Before then, she saw V.R.W. on holidays. Ashley testified, after V.R.W. turned three, she would visit and spend the night with Ashley. Ashley would take her to preschool and watch her for a few hours afterwards. At the time of the trial, V.R.W. had lived with Ashley for about two years. Ashley testified V.R.W. is healthy and has no disciplinary problems. Ashley claimed V.R.W. never asks to see Veronica. She has never heard her refer to Veronica as "mom." She calls Ashley "mom" and Lavonta "dad." Ashley

described two incidents when Veronica came to her home with police officers asking to take V.R.W., but after Ashley explained the situation, the officers left.

¶ 36 Ashley testified she prepares meals for V.R.W. They eat fast food once a week, if the kids have behaved. V.R.W. has her own room. When Ashley cannot watch V.R.W., her husband, Michelle, or her sister watch her. They go on family vacations to indoor water parks in Wisconsin. V.R.W. participates in gymnastics, swimming, and soccer. When the children misbehave, Ashley takes away their tablet or TV. She has never spanked V.R.W. Ashley claimed V.R.W.'s hygiene is now "much better." When she first moved in, she did not know how to brush her teeth or bathe. Since moving in, she has had no cavities.

¶ 37 The GAL asked Ashley about his report. He emphasized his recommendation that Ashley be appointed guardian was conditional on her facilitating a relationship between V.R.W. and Veronica's family. Ashley agreed with the recommendation and agreed to accept the responsibility of working toward some kind of reunification between Veronica and V.R.W.

¶ 38 The GAL also testified briefly. He said the testimony at trial, including the testimony of V.R.W.'s teachers, strengthened his belief that "her stability in [Ashley's] household is in her best interests." He also commented the trial had convinced him Veronica was aware of the short-term guardianship before Miranda died. He believed Veronica "had multiple opportunities to establish a parenting relationship throughout [V.R.W.]'s life, and for whatever reason, did not do it." He added, "[S]he had the notice that hey, there's another person named as the guardian, you know? This just may be something you want to take seriously. And again, she didn't."

¶ 39 Before the close of evidence, Veronica testified again. Regarding the camping trip, she admitted she had a drink or two, but she denied being "intoxicated." She did not think V.R.W.

was injured enough to require going to the emergency room, and the campground had emergency staff. Regarding the January 2022 visit, she testified V.R.W. kept asking when they were going to Aunt Dawn's party. Veronica questioned Dianne, and she had to speak loudly because the music was loud. She denied yelling for any reason other than the loud music. She testified that if she were granted guardianship, she would move to Lincoln, near where her mother lives, where they often had family gatherings. She denied ever refusing to meet with Ashley and V.R.W. for counseling, and she insisted she would do so and would pay for the counseling.

¶ 40 Apart from the trial testimony, the record includes many text messages between some of the witnesses, Miranda's medical records, a picture of a baby shower invitation for "Miranda & Veronica," and Miranda's obituary, which lists Grace as her "stepdaughter." Many family photographs were also introduced into evidence.

¶ 41 The trial court granted Ashley's petition for guardianship of V.R.W. The order explained, "Petitioner [Veronica] and biological mother, Miranda [W.] were involved in a relationship for a number of years when they sought out a person on social media who would act as [a] voluntary 'sperm donor', Andrew [H.]" The court found Andrew had voluntarily relinquished physical custody of V.R.W., and V.R.W. had no parent who was willing and able to care for her. The court also stated the Probate Act establishes a rebuttable presumption that it is in the minor child's best interests to remain in the care of a short-term guardian. The court found Miranda named Ashley as short-term guardian, and Veronica had not proved Miranda lacked the capacity to do so.

¶ 42 Finally, the trial court found appointment of Ashley as guardian was in V.R.W.'s best interests. The court reasoned:

"V.R.W. is currently placed with petitioner [Ashley] and her family. This placement meets the needs of the child in every way. Adequate housing, a loving and bonded family with other children in the household. She participates in all family activities. It is a relative placement. She had expressed her desire to remain placed with petitioner [Ashley]. Her school activities and engagement at school has improved since this placement began."

¶ 43 This appeal followed.

¶ 44 II. ANALYSIS

¶ 45 On appeal, Veronica argues the trial court erred in finding it had jurisdiction over Ashley's petition, in finding Ashley's appointment as guardian was in V.R.W.'s best interests, and in denying her own petition for visitation. Veronica also challenges the GAL fees and asks us to assign the case to a different judge on remand.

¶ 46 A. Jurisdiction.

¶ 47 First, Veronica argues section 11-5(b) of the Probate Act (755 ILCS 5/11-5(b) (West 2022)) requires the dismissal of Ashley's petition for guardianship. Section 11-5 provides:

"(b) The court lacks jurisdiction to proceed on a petition for the appointment of a guardian of a minor if it finds that (i) the minor has a living parent, adoptive parent or adjudicated parent, whose parental rights have not been terminated, whose whereabouts are known, and who is willing and able to make and carry out day-to-day child care decisions concerning the minor, unless: (1) the parent or parents voluntarily relinquished physical custody of the minor; *** There shall be a rebuttable presumption that a parent of a minor is willing and able to make and carry out day-to-day child care decisions concerning the minor, but the presumption

> may be rebutted by a preponderance of the evidence. If a short-term guardian has been appointed for the minor prior to the filing of the petition and the petitioner for guardianship is not the short-term guardian, there shall be a rebuttable presumption that it is in the best interest of the minor to remain in the care of the short-term guardian. The petitioner shall have the burden of proving by a preponderance of the evidence that it is not in the child's best interest to remain with the short-term guardian." *Id.*

¶ 48 This section establishes a "standing" requirement for a guardianship petition. *In re Guardianship of K.R.J.*, 405 Ill. App. 3d 527, 534 (2010) (citing *In re R.L.S.*, 218 Ill. 2d 428, 436 (2006)). We review questions of standing *de novo*, but "[w]here a trial court makes factual findings, this court reviews those factual findings under the manifest-weight-of-the-evidence standard." *Id.* at 535. We review questions of statutory construction *de novo*. *R.L.S.*, 218 Ill. 2d at 433.

¶ 49 Veronica argues Ashley lacked standing and the trial court lacked jurisdiction because V.R.W. has a living parent "whose parental rights have not been terminated, whose whereabouts are known, and who is willing and able to make and carry out day-to-day child care decisions concerning the minor," and that parent has not "voluntarily relinquished physical custody of the minor." 755 ILCS 5/11-5(b) (West 2022). She primarily argues that Andrew is such a parent, but she also characterizes herself as a parent of V.R.W.

¶ 50 1. *Andrew*

¶ 51 The trial court found Andrew was not "willing and able to make and carry out day-to-day child care decisions" concerning V.R.W. It reasoned Andrew failed to establish legal paternity, he provided no care or support for V.R.W., and he expressed no intention of being

involved in her life in the future. He knows practically nothing about V.R.W., and he testified that he is not willing or able to care for her. The court also found Andrew had "voluntarily relinquished physical custody," and he continued to relinquish custody throughout the case.

¶ 52 Veronica challenges the trial court's finding that Andrew was not "willing and able to make and carry out day-to-day child care decisions." After Andrew learned V.R.W. existed and Miranda had died, he signed a consent for Veronica to adopt V.R.W. and be appointed as guardian. Veronica argues Andrew took care of V.R.W.'s needs by attempting to place her in Veronica's care and custody.

¶ 53 Veronica compares this case to *In re Guardianship of E.S.*, 2017 IL App (1st) 170737-U. There, a grandmother petitioned an Illinois circuit court for permanent guardianship of her grandchild, alleging the child's parents were incarcerated in an Indonesian prison. *Id.* ¶ 7. The appellate court found the allegations in the grandmother's petition insufficient to establish jurisdiction under the Probate Act. *Id.* ¶ 26. The court found:

> "[Grandmother's] allegation about the parent's continued incarceration for several more years fails to rebut the presumption that they are willing and able to make and carry out decisions about [the child's] daily care. [Grandmother's] allegation that the father wants her to raise [the child] in the Chicago area essentially concedes that the parents have the ability to decide to place [the child] with a guardian. [Grandmother's] allegations also indicate that the mother is reluctant to give up physical custody of [the child] and, thus, likely would choose to place [the child] with a guardian located near Bali instead of Chicago so the mother could have as much contact as possible." *Id.* ¶ 27.

Veronica contends Andrew's attempt to ensure her appointment as V.R.W.'s guardian is comparable to the parents' ability to name a guardian in *E.S.*, so we should find Andrew was willing and able to make child care decisions for V.R.W.

¶ 54 We disagree. Andrew has never met V.R.W. He has never even spoken to her. He testified he never wanted to see her, and he always intended to have no responsibility for her. When asked if he was willing to be a parent to V.R.W., Andrew said, "[A]t this point, no." Even if it became "necessary" for him to be a parent, he said, "we'd cross that bridge when we got to it" and "we'd have to reassess the situation." He did not commit to parenting V.R.W., even if it were "necessary." We therefore agree with the trial court's conclusion that Andrew is not "willing and able to make and carry out day-to-day child care decisions concerning [V.R.W.]"

¶ 55 *E.S.* does not convince us otherwise. First, the appellate court in *E.S.* found the trial court lacked jurisdiction over the case because the minor child was in Indonesia. She was not present in Illinois, had never been to Illinois, and had no property or estate in Illinois. *Id.* ¶ 28. Any additional discussion regarding the parents' willingness to care for the minor is not controlling. Moreover, we note that *E.S.* is an unpublished case from 2017. It therefore has no precedential value.

¶ 56 Finally, even considering the parents' willingness and ability to care for the minor, *E.S.* is easily distinguishable. There, the parents apparently had plans for the child to be raised in either Chicago or Bali. *Id.* ¶ 27. The mother wanted the child to remain in Bali so they could maintain their relationship. Although the parents' incarceration may have temporarily limited their ability to make day-to-day child care decisions, none of the allegations indicated the parents were permanently unwilling or unable to care for the child. Perhaps most importantly, at the time of the petition, the minor child was living with the mother in the Indonesian prison. *Id.* ¶¶ 7, 26.

Therefore, the allegations in the petition essentially conceded the mother was willing and able to care for the child at the time of the petition. Here, Andrew never carried out day-to-day child care decisions for V.R.W and had no intention of carrying out such decisions in the future. Therefore, his presence did not disrupt the trial court's jurisdiction over Ashley's petition.

¶ 57 2. *Veronica*

¶ 58 Throughout these proceedings, Veronica has repeatedly characterized herself as a parent to V.R.W. To support this claim, she emphasizes she, Miranda, and Andrew always intended for her to be a parent to V.R.W. The baby shower for V.R.W. celebrated both "Miranda & Veronica" as V.R.W.'s parents. She has a close bond with V.R.W. She and Miranda raised V.R.W. together for the first few years of her life. Veronica testified, even after she and Miranda separated, they "coparented." In her initial petition for guardianship, Veronica listed herself as one of V.R.W.'s parents or nearest adult relatives, describing herself as V.R.W.'s "mother—non-biological."

¶ 59 Based on *Scarlett Z.-D.*, 2015 IL 117904, the trial court found Veronica did not establish legal parentage. There, the respondent adopted a young girl with the support of her fiancé, the petitioner, and the couple cared for the child together. *Id.* ¶¶ 4-6. The petitioner and respondent never married, and the petitioner never adopted the girl. When the couple separated, the petitioner sued, seeking to establish parental rights. He conceded he lacked standing under the Illinois Marriage and Dissolution of Marriage Act (Marriage Act) (750 ILCS 5/601 (West 2012)), but he argued his relationship with the child established him as a "*de facto*, equitable and psychological parent of" the child. *Scarlett Z.-D.*, 2015 IL 117904, ¶¶ 34, 38.

¶ 60 The supreme court rejected this argument. It surveyed various views of a "functional" theory of parentage. *Id.* ¶¶ 38-43. Some "[c]ourts and commentators" distinguished

definitions of "psychological parent" or "*de facto* parent" from the doctrine of "*in loco parentis*," and some combined these concepts into a four-pronged test to determine "*de facto* parentage." *Id.* ¶ 40. The court found, "The relevant policy considerations do not invariably point in one direction, and there is vehement disagreement over the validity of their underlying assumptions. The very difficulty of these policy considerations, and the legislature's superior institutional competence to pursue this debate, suggest that legislative and not judicial solutions are preferable." *Id.* ¶ 44. It concluded, "Illinois does not recognize functional parent theories." *Id.* ¶ 45. Therefore, to the extent that Veronica relies on a "functional" or "*de facto*" theory of parentage, *Scarlett Z.-D.* clearly rules against her.

¶ 61 Apart from any "*de facto* parentage" theory, Veronica also relies on a series of artificial insemination cases. *In re Parentage of M.J.*, 203 Ill. 2d 526, 540 (2003), involved a man and woman in a long-term romantic relationship. With the man's support and encouragement, the woman became pregnant through artificial insemination using the sperm of an anonymous donor. The woman gave birth to twins, and the man supported them and "acknowledged the children as his own." *Id.* at 531. However, the couple never married, the man signed no written consent or agreement regarding care for the children, and he never legally adopted them. The parties eventually separated, and the man stopped supporting the woman and her children. She petitioned the court to impose child support obligations on him.

¶ 62 The supreme court interpreted the Illinois Parentage Act (750 ILCS 40/1 *et seq.* (West 1998)) as it existed at the time and found it did not impose child support obligations on the man without his written consent. *Id.* at 534. However, the court found the Parentage Act did not prevent the woman from pursuing common law claims for child support against him based on oral contract or promissory estoppel. The court commented, "Illinois has a strong interest in protecting

and promoting the welfare of its children," adding, "[C]ases involving assisted reproduction must be decided based on the particular circumstances presented." *Id.* at 539. The court concluded, "[T]he best interests of children and society are served by recognizing that parental responsibility may be imposed based on conduct evincing actual consent to the artificial insemination procedure." *Id.* at 540.

¶ 63 *In re T.P.S.*, 2012 IL App (5th) 120176, extended *M.J.*'s reasoning to recognize common law contract and promissory estoppel claims for custody and visitation. The petitioner and respondent were two women in a long-term romantic relationship, and they agreed the respondent would become pregnant through artificial insemination and they would coparent the children together. *Id.* ¶ 1. The respondent gave birth to two children, but the couple separated, and the respondent prevented communication between the petitioner and the children. The petitioner sued, seeking to establish parentage, custody, visitation, and child support. *Id.* The trial court dismissed the petition, but the appellate court reversed, holding, "[W]ith respect to children born of artificial insemination, under the facts of this case, the Illinois legislature has not barred common law contract and promissory estoppel causes of action for custody and visitation brought by the nonbiological parent." *Id.* ¶ 20. The court followed *M.J.*'s reasoning, concluding the Parentage Act did not prohibit such common law actions. *Id.* ¶¶ 38-39.

¶ 64 *In re Marriage of Dee J.*, 2018 IL App (2d) 170532, involved a couple who married in Iowa before Illinois recognized same-sex marriages. One of the parties became pregnant through artificial insemination. When the couple later divorced, the child's biological mother argued the child was not a child of the marriage and her former spouse was not a parent. *Id.* ¶¶ 2, 5. The trial court disagreed and allocated parental responsibilities between both parties. *Id.* ¶ 23. The appellate court affirmed the decision, relying on *M.J.* and *T.P.S.* to award parental responsibilities to the

partner of the biological mother in artificial insemination cases based on "actual consent" to the procedure. *Id.* ¶¶ 4, 11 (citing *M.J.*, 203 Ill. 2d at 540; *T.P.S.*, 2012 IL App (5th) 120176, ¶ 41).

¶ 65 Most recently, in *In re J.M.*, 2023 IL App (4th) 220537, DCFS petitioned to adjudicate a minor neglected. The minor's biological mother had become pregnant by artificial insemination, and her spouse was presumptively the minor's parent under the Parentage Act. *Id.* ¶ 4 (citing 750 ILCS 46/204(a)(1) (West 2020)). After the court learned the name of the minor's biological father and entered an order naming him as the minor's "biological and legal" father, the minor's GAL petitioned to disestablish the spouse as the minor's parent. The trial court denied the petition, finding the minor was conceived through artificial insemination and the spouse was an "intended parent," so she was a legal parent. *Id.* ¶ 10.

¶ 66 The appellate court agreed with the trial court. The court's opinion focused on the proper interpretation of the Illinois Parentage Act of 2015 (750 ILCS 46/101 *et seq.* (West 2020)). Section 201 states the spouse of a biological mother is presumptively the child's parent. *J.M.*, 2023 IL App (4th) 220537, ¶ 22 (citing 750 ILCS 46/201(a)(1) (West 2020)). Section 702 provides a "donor is not a parent of a child conceived by means of assisted reproduction." *Id.* ¶ 25 (citing 750 ILCS 46/702 (West 2020)). Section 703 states an "intended parent," as defined in the Parentage Act of 2015, is a "legal parent" of a child resulting from assisted reproduction. *Id.* (citing 750 ILCS 46/703(a) (West 2020)). The appellate court found the trial court's order naming the biological father as a "legal father" did not rebut the presumption that the spouse was a parent. The biological father had not signed a written agreement relinquishing his rights, but the unrebutted evidence showed he, the biological mother, and her spouse all intended for the spouse to be a parent and not the biological father, and this intention controlled. *Id.* ¶ 29.

¶ 67 Based on these cases, Veronica contends "the intention of the parties creating the child is what controls" parentage. When she and Miranda wanted a child, they intended to raise the child together. Although V.R.W. was conceived through sexual intercourse and not artificial insemination, Veronica contends this distinction is insignificant when she, Miranda, and Andrew always intended for Veronica to be a parent to V.R.W. She also insists the trial court's characterization of Andrew as a "sperm donor" eliminates any potential distinction between this case and the artificial insemination cases she cites.

¶ 68 We disagree. This case differs from those Veronica cites in at least three important ways. First, none of these cases involve interpretations of the Probate Act. The trial court lacked jurisdiction over Ashley's petition if Veronica was V.R.W.'s "parent" under section 11-5(b) of the Probate Act (755 ILCS 5/11-5(b) (West 2022)), but the cases Veronica cites either interpret the Parentage Act and the Parentage Act of 2015 or discuss common law contract or promissory estoppel claims for custody or child support. They do not tell us how to interpret the terms of the Probate Act.

¶ 69 Second, the three cases discussing common law contract or estoppel claims each involved one party to the alleged contract suing another party to the contract or suing the alleged promisor to enforce the contract or promise. Here, Veronica seeks to deny standing under the Probate Act to a third party, Ashley, who was not a party to any agreement with Miranda and Andrew and who made no promises to Veronica. Theories based on contract and promissory estoppel do not apply to the facts of this case.

¶ 70 Finally, and perhaps most importantly, all the cases she cites explicitly limit their holdings to parentage by artificial insemination. In *M.J.*, the supreme court explained, "Claims of parentage and support of children produced as a result of assisted reproductive technologies are

unique and must be decided based on the particular facts in each case." *M.J.*, 203 Ill. 2d at 541. In *T.P.S.*, the appellate court's holding applied only to "children born of artificial insemination, under the facts of [that] case." *T.P.S.*, 2012 IL App (5th) 120176, ¶ 20. *Dee J.* explained Illinois courts had recognized common law claims of parentage in artificial inseminations cases "particularly because one's participation in artificial insemination is not some whimsical or trivial act." *Dee J.*, 2018 IL App (2d) 170532, ¶ 4. Finally, *J.M.* found conception by artificial insemination "crucial" to its reasoning because the article 7 of the Parentage Act of 2015 "does not apply to the birth of a child conceived through sexual intercourse." *J.M.*, 2023 IL (4th) 220537, ¶ 27 (citing 750 ILCS 46/701 (West 2020)).

¶ 71 Furthermore, we note the supreme court, in *Scarlett Z.-D.*, considered and rejected essentially the same argument Veronica makes here. Apart from the "functional" or "*de facto*" parentage theory, the petitioner in *Scarlett Z.-D.* also sought to establish parental rights based on breach of oral contract, promissory estoppel, and implied contract. *Scarlett Z.-D.*, 2015 IL 117904, ¶ 63. The supreme court upheld the trial court's dismissal of these claims. It reasoned, although these claims "sounded in contract, the relief sought in each count was a determination of custody, visitation, and child support." *Id.* ¶ 65. Dismissal was proper because allowing such claims to proceed would "circumvent the statutory standing requirements." *Id.* The petitioner had relied on *M.J.*, and *T.P.S.*, just as Veronica does. The court found those decisions inapplicable. It explained, "Neither decision recognized the equitable parent doctrine as a basis to assert standing to petition for custody, visitation, and support." Instead, "both decisions expressly limited their holdings to cases involving children born by means of artificial insemination." *Id.* ¶ 67.

¶ 72 We find none of these cases support Veronica's claim. Moreover, the trial court's reference to Andrew as a "sperm donor" was not a finding that V.R.W. was conceived through

artificial insemination. Both parties acknowledge V.R.W. was conceived through sexual intercourse, so the statute and cases governing artificial insemination cannot establish Veronica as a parent of V.R.W. under section 11-5(b) of the Probate Act (755 ILCS 5/11-5 (West 2022)). Ashley therefore had standing to petition for guardianship, and the trial court had jurisdiction over that petition.

¶ 73 B. Best Interests

¶ 74 Veronica also challenges the trial court's best interests determination. Section 11-5 of the Probate Act allows the court to appoint a guardian of a minor "as the court finds to be in the best interest of the minor." *Id.* § 11-5(a). "Historically, Illinois courts have found guidance in the [Marriage Act] when determining the best interests of a minor in guardianship proceedings." *In re Guardianship of A.G.G.*, 406 Ill. App. 3d 389, 393 (2011). The Marriage Act provides the following list of factors that are relevant to determining a child's best interests:

> "(1) the wishes of the child, taking into account the child's maturity and ability to express reasoned and independent preferences as to decision-making;
>
> (2) the child's adjustment to his or her home, school, and community;
>
> (3) the mental and physical health of all individuals involved;
>
> (4) the ability of the parents to cooperate to make decisions, or the level of conflict between the parties that may affect their ability to share decision-making;
>
> (5) the level of each parent's participation in past significant decision-making with respect to the child;
>
> (6) any prior agreement or course of conduct between the parents relating to decision-making with respect to the child;
>
> (7) the wishes of the parents;

(8) the child's needs;

(9) the distance between the parents' residences, the cost and difficulty of transporting the child, each parent's and the child's daily schedules, and the ability of the parents to cooperate in the arrangement;

(10) whether a restriction on decision-making is appropriate under Section 603.10;

(11) the willingness and ability of each parent to facilitate and encourage a close and continuing relationship between the other parent and the child;

(12) the physical violence or threat of physical violence by the child's parent directed against the child;

(13) the occurrence of abuse against the child or other member of the child's household;

(14) whether one of the parents is a sex offender, and if so, the exact nature of the offense and what, if any, treatment in which the parent has successfully participated; and

(15) any other factor that the court expressly finds to be relevant." 750 ILCS 5/602.5(c) (West 2022).

When reviewing a trial court's order appointing a guardian, the appellate court "will not overturn the court's decision unless the court abuses its discretion or its decision is against the manifest weight of the evidence." *In re Estate of R.D.*, 2021 IL App (5th) 200294-U, ¶ 53 (citing *In re Estate of Green*, 359 Ill. App. 3d 730, 735 (2005)).

¶ 75 The trial court found placement with Ashley to be in V.R.W.'s best interests. It reasoned:

> "V.R.W. is currently placed with petitioner [Ashley] and her family. This placement meets the needs of the child in every way. Adequate housing, a loving and bonded family with other children in the household. She participates in all family activities. It is a relative placement. She had expressed her desire to remain placed with petitioner [Ashley]. Her school activities and engagement at school has improved since this placement began."

¶ 76 The trial court presumed the appointment of Ashley as guardian was in V.R.W.'s best interests because Ashley was V.R.W.'s short-term guardian. Section 11-5(b) of the Probate Act states:

> "If a short-term guardian has been appointed for the minor prior to the filing of the petition and the petitioner for guardianship is not the short-term guardian, there shall be a rebuttable presumption that it is in the best interest of the minor to remain in the care of the short-term guardian. The petitioner shall have the burden of proving by a preponderance of the evidence that it is not in the child's best interest to remain with the short-term guardian." 755 ILCS 5/11-5(b) (West 2022).

Based on this provision, the trial court found a rebuttable presumption that awarding Ashley guardianship was in V.R.W.'s best interests, and Veronica bore the burden of rebutting that presumption by a preponderance of the evidence. At trial, Veronica argued Miranda lacked the mental capacity to appoint Ashley as short-term guardian. On appeal, she criticizes the trial court for privileging Ashley in this way, but she does not argue the court misapplied this provision of the Probate Act. We therefore agree with the trial court in finding a rebuttable presumption that Ashley's appointment as guardian was in V.R.W.'s best interests.

¶ 77 Veronica argues the trial court erred in finding Ashley's guardianship was in V.R.W.'s best interests. She contends the factors supporting Ashley's petition, such as the wishes of the child and adjustment to her current home, resulted from Ashley's manipulation of the court process and the court's wrongful denial of Veronica's petition for visitation. For example, Ashley denied Veronica any contact with V.R.W. for two years, and she filed three petitions for orders of protection against Veronica, all of which were dismissed. Veronica claims Ashley refused to facilitate and encourage V.R.W.'s relationship with Veronica. In contrast, Veronica emphasizes her loving relationship with V.R.W. She was highly involved in V.R.W.'s life prior to Miranda's death. In the regular course of conduct before Miranda's death, Veronica acted as a mother to V.R.W., but Ashley acted as a cousin.

¶ 78 In response, Ashley argues the trial court's determination was proper. Ashley is V.R.W.'s cousin, so they are blood relatives. Ashley and her husband provide for V.R.W.'s basic needs, including food, clothing, and healthcare. A teacher testified V.R.W. is doing very well in school. A social worker indicated V.R.W. said she was afraid of Veronica, did not want to be with her, and wanted to stay with Ashley. Ashley has biological children in the home, and V.R.W. is included in all the family activities. Ashley and her husband provide a stable home, which they own free of any mortgage. They are both employed and are financially responsible. They contrast their stability with Veronica's unstable employment history, including a leave of absence from one position for hitting a coworker's vehicle.

¶ 79 Ashley also criticizes Veronica's behavior. In addition to hitting her coworker's car, Veronica struck her ex-boyfriend's car with her own. Ashley emphasizes Veronica could have established a legal relationship with V.R.W., but she did not. If Miranda and Veronica had married, the marriage could have established Veronica's parentage. Veronica could have adopted V.R.W.

or petitioned for guardianship during Miranda's lifetime. Ashley further contends, during these proceedings, Veronica refused to participate in family counseling sessions, as recommended by the GAL.

¶ 80 After reviewing the record, we do not find a sufficient basis to reverse the trial court's determination that Veronica failed to rebut the presumption in favor of awarding Ashley guardianship. Ashley provided a stable, loving home, where V.R.W. could live with her biological relations. Ashley and her husband were financially secure and provided for V.R.W.'s needs. They were actively involved in her education, and V.R.W. was doing well in school after Ashley's guardianship began. The record provides some support for finding V.R.W. wished to remain with Ashley. The court's conclusion was consistent with the recommendation of V.R.W.'s GAL. Although the record also contains enough evidence for Veronica to present Ashley in a negative light, the court's conclusion that Ashley's appointment was in V.R.W.'s best interests was not contrary to the manifest weight of the evidence or an abuse of discretion.

¶ 81 C. Visitation

¶ 82 The trial court denied Veronica's petition for visitation. Section 11-7.1 of the Probate Act states:

> "Whenever both parents of a minor are deceased, visitation rights shall be granted to the grandparents of the minor who are the parents of the minor's legal parents unless it is shown that such visitation would be detrimental to the best interests and welfare of the minor. In the discretion of the court, reasonable visitation rights may be granted to any other relative of the minor or other person having an interest in the welfare of the child. However, the court shall not grant visitation privileges to any person who otherwise might have visitation privileges

> under this Section where the minor has been adopted subsequent to the death of both his legal parents except where such adoption is by a close relative. For the purpose of this Section, 'close relative' shall include, but not be limited to, a grandparent, aunt, uncle, first cousin, or adult brother or sister." *Id.* § 11-7.1.

This section provides a "standing" requirement for a petition for visitation. *In re Guardianship of A.N.B.*, 2021 IL App (4th) 210215-U, ¶ 17. "Questions of standing are reviewed *de novo*." *Id.* (quoting *Piccioli v. Board of Trustees of Teachers' Retirement Systems*, 2019 IL 122905, ¶ 12). We review questions of statutory interpretation *de novo*. *R.L.S.*, 218 Ill. 2d at 433.

¶ 83 The trial court determined section 11-7.1 barred Veronica's petition for visitation. The court did not issue a written order, but its docket entry explains its reasoning. Relying on the plain language of section 11-7.1, the court concluded "both parents must be deceased for interested parties to request that visitation rights be granted by the Court." At the time the court ruled, Veronica had not yet located Andrew, so the court found, "Biological Father is unknown but not alleged to be deceased and is most likely, based upon testimony before the Court of his unknown nature, still living." It therefore denied Veronica's petition for visitation. After Veronica moved to reconsider and found Andrew's whereabouts, the court denied Veronica's motion to reconsider because no new evidence was introduced that changed the outcome.

¶ 84 Although the trial court's docket entry does not reflect this, both Veronica and Ashley represent the court relied on *A.N.B.*. There, a minor child's maternal grandparents had been appointed as coguardians, although the child's parents were still alive. *A.N.B.*, 2021 IL App (4th) 210215-U, ¶ 5. Later, the minor's paternal grandparents petitioned for visitation, and the trial court granted their petition. The appellate court reversed, finding the paternal grandparents lacked standing because section 11-7.1 allowed visitation only if "both parents of a minor are deceased."

Id. ¶ 22 (quoting 755 ILCS 5/11-7.1 (West 2018)). The court found the trial court impermissibly exceeded its power under the statute by disregarding this clear direction and the legislature's intent. *Id.* ¶¶ 24-26.

¶ 85 Veronica argues the reasoning in *A.N.B.* does not apply here because *A.N.B.* involved permanent guardians denying visitation to the minor's grandmother, but here, Ashley was only a short-term guardian when she denied Veronica visitation. Veronica contends Miranda never consented to Ashley being the permanent guardian, and the trial court gave Ashley too much power by letting her deny Veronica visitation.

¶ 86 We agree with the trial court. Section 11-7.1 clearly applies only "[w]henever both parents of a minor are deceased." 755 ILCS 5/11-7.1 (West 2022). *A.N.B.* relied on this text. Whether the minor's guardian was a short-term or long-term guardian is irrelevant. *A.N.B.*, 2021 IL App (4th) 210215-U, ¶ 22 (explaining the "plain and unambiguous statutory language renders section 11-7.1 inapplicable"). That same reasoning applies here. V.R.W.'s father was alive, so both of her parents were not deceased, and section 11-7.1 did not permit the trial court to grant Veronica visitation rights.

¶ 87 D. GAL Fees

¶ 88 Veronica challenges the trial court's order requiring her to pay one-half of the GAL fees. The GAL did not interview V.R.W. until nearly six months after his appointment, and Veronica contends he therefore failed to fulfill his obligations under Illinois Supreme Court Rule 907 (eff. Mar. 8, 2016) to interview the minor child "[a]s soon as practicable." He also delayed interviewing Veronica's mother and daughter. Finally, Veronica claims the GAL discounted her relationship with V.R.W. and pressured Andrew to reconsider his stance on Veronica's

guardianship. Based on this alleged misconduct, Veronica argues the court abused its discretion in denying her objections to the GAL fees, and she asks us to find her not liable for those fees.

¶ 89 We affirm the trial court's decision. "Determination of who must pay GAL fees rests within the discretion of the trial court." *In re Estate of K.E.S.*, 347 Ill. App. 3d 452, 468 (2004) (citing *In re Estate of Dyniewicz*, 271 Ill. App. 3d 616, 622-23 (1995)). When allocating GAL fees, the court should consider the totality of the circumstances, including the parties' financial resources and relative ability to pay. *McClelland v. McClelland*, 231 Ill. App. 3d 214, 228 (1992). Here, Veronica has not argued the court misjudged the parties' financial resources or ability to pay. She alleges the GAL behaved unprofessionally, but notably, she did not ask the court to disqualify the GAL. We have reviewed the record and find the trial court did not abuse its discretion in requiring Veronica and Ashley each to pay one-half of the GAL fees.

¶ 90 Finally, because we affirm the trial court's judgment, we need not address Veronica's request that we order a different judge be assigned on remand.

¶ 91 III. CONCLUSION

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

¶ 93 Affirmed.