[Cite as *In re Adoption of Z.B.*, 2024-Ohio-4644.]

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

In the Matter of: the Adoption of	:	
		No. 24AP-69
[Z.B.,	:	(Prob. No. 599040)
T.B. and A.S.,	:	(REGULAR CALENDAR)
Appellants].	:	

D E C I S I O N

Rendered on September 24, 2024

On brief: *Signil Law Firm*, *L.L.C.*, and *Christopher L. Signil*, for appellee.

On brief: *David K. Greer*, for appellants.

APPEAL from the Franklin County Court of Common Pleas, Probate Division

LUPER SCHUSTER, J.

{¶ 1} Petitioners-appellants, T.B. and A.S., appeal from a judgment of the Franklin County Court of Common Pleas, Probate Division, denying their R.C. 3107.05 petition to adopt Z.B., a minor. For the following reasons, we reverse and remand.

I. Facts and Procedural History

{¶ 2} In July 2019, T.B. and A.S., husband and wife, filed a petition, pursuant to R.C. 3107.05, for adoption of their "paternal great-great nephew" Z.B., who was born in September 2016. (Petition for Adoption of Minor at 1.) In August 2019, they amended their petition to identify Z.B.'s biological parents, K.T. and N.D., and to allege consent from the parents was not required for the adoption because the parents had failed without justifiable cause to provide more than de minimis contact with Z.B. for a period of at least one year immediately preceding the filing of the adoption petition, and because the parents had

failed without justifiable cause to provide for the maintenance and support of the child as required by law or judicial decree for at least that same time frame. K.T. and N.D. objected to the adoption petition.

{¶ 3} In January 2020, a hearing was held on the issue of consent only. Appellants and N.D. appeared at that hearing, but K.T. did not. Based on N.D. not having adequate representation at the initial consent hearing in April 2020, the trial court ordered a new hearing on the issue of consent for February 2, 2021. In December 2020, N.D. died. Due to various procedural issues, the matter was ultimately delayed until January 2023 when the issues of consent and the child's best interest were tried before a magistrate.

{¶ 4} T.B. and A.S. each testified at trial. Their testimony, along with admitted exhibits relating to that testimony, indicated the following. When Z.B., a descendent of one of T.B.'s sisters, was born in September 2016, Franklin County Children Services ("FCCS") immediately become involved because Z.B. had drugs in his system and was underweight. A complaint was filed in Franklin County Court of Common Pleas, Division of Domestic Relations and Juvenile Branch, alleging Z.B. tested positive for cocaine, oxycodone, morphine, codeine, 6-MAM, and marijuana, and that he was an abused, neglected, and dependent child. FCCS was awarded temporary custody of Z.B. A few days after Z.B.'s birth, T.B., Z.B.'s great-great uncle, became involved in the child's care, and the child and K.T. resided in the home of T.B.'s mother, C.S. T.B. immediately bonded with Z.B. In October 2016, K.T. was ordered out of the home for the safety of C.S. and Z.B. Because C.S. had health issues, appellants would help care for Z.B. For example, when C.S. was hospitalized, Z.B. would stay with appellants. During Z.B.'s first year of life, K.T. visited a few times. Z.B.'s father was not involved, and he was incarcerated in approximately February 2017.

{¶ 5} In March 2017, the juvenile court found Z.B. to be an abused, neglected, and dependent child, and awarded temporary custody to C.S. In September 2017, C.S. was awarded legal custody of Z.B. In March 2018, appellants requested legal custody, or co-custody, of Z.B. In July 2018, appellants and C.S. reached an agreement that they would all have co-custody of Z.B. Between July 16, 2018 and August 5, 2019, K.T. did not visit Z.B. at the home of appellants. T.B. testified that, during this time-period, K.T. did not attempt

to contact appellants by any means; she was "lost as an addict." (Jan. 23, 2023 Tr. Vol. I at 79.)

{¶ 6} At the time of trial, Z.B. was six years old, and according to T.B., "a very loving child" who enjoys electronics, gaming, and art. (Tr. Vol. I at 97.) Z.B.'s interests are age appropriate, and he has some issues relating to physical coordination and processing his emotions. Z.B. receives occupational therapy at Nationwide Children's Hospital for his physical issues. Z.B. was in kindergarten and, with appellants' help, was doing well academically. T.B. also testified that Z.B. is bonded with A.S. Z.B.'s biological father, N.D., who had been sent to prison in February 2017, was released from incarceration in October 2020. N.D. died from a drug overdose within a month after his release from prison. T.B. had to stop working in the engineering field because of a physical issue, but he makes some money doing odd jobs for others. He has no concern that his physical issue will affect his ability to parent Z.B. Based on A.S.'s income, T.B. was not concerned about financially supporting Z.B. Z.B. refers to T.B. as "dad" and A.S. as "mom." (Tr. Vol. I at 37.)

{¶ 7} Initially, T.B. understood that K.T. was going to consent to the adoption, which led to increased communications between them. In spring 2020, appellants received emails from K.T., asking how Z.B. was doing, and they provided updates and pictures to her. Subsequently, when it became clear that K.T. was not going to consent to the adoption, there was a breakdown in communication.

{¶ 8} A.S. works for Ohio State University Physicians, answering phones. She makes approximately $50,000 per year. A.S. is Z.B.'s great-great aunt through marriage. She testified that Z.B.'s reading and math skills are "off the chart." (Tr. Vol. I at 129.) She described T.B. as "a very awesome father as far as working with [Z.B.] physically and * * * with his school work." (Tr. Vol. I at 130.) K.T. never provided financial support for appellants' care of Z.B. On three or four occasions, deliveries were made to appellants' residence containing toys but there were no cards or letters. A.S. testified that the adoption was important because it would give Z.B. "stability" with "a family who loves and adores him and would do anything for him." (Tr. Vol. I at 143.) When asked whether Z.B. would have a relationship with K.T. if the adoption petition was granted, A.S. testified "[t]hat's going to be entirely up to [K.T.] * * * [she's] got to make some changes in her life, and she's got to be willing to come to us like an adult and talk to us, and then [T.B.] and I will make

the decision." (Tr. Vol. I at 152-54.) However, she would not encourage a relationship between Z.B. and K.T. A.S. acknowledged that K.T.'s change of mind about consenting to the adoption "disappointed" her. (Tr. Vol. I at 156.) A.S. also noted that Z.B. refers to K.T. by her first name.

{¶ 9} Larry Ezell testified that he was appointed as Z.B.'s guardian ad litem ("GAL") at the beginning of the case in the juvenile court. He remained the GAL until appellants became the co-custodians in the case. When the juvenile court case was reopened in 2018, Ezell declined to be reappointed GAL. During Ezell's involvement in the case, K.T. did not make any progress towards the goals that had been set forth in the FCCS case plan, including taking drug screens. Additionally, K.T. did not take advantage of any counseling or treatment services offered to her as part of the case plan. Nor did Ezell find anything that would indicate that C.S. was not providing proper care and protection for Z.B. He also observed appellants provide "[e]xcellent care" for Z.B., who would "stay glued" to T.B. when they were together. (Tr. Vol. II at 216.)

{¶ 10} K.T., Z.B.'s biological mother, testified to the following. When K.T. went into labor with Z.B., she "was on drugs." (Tr. Vol. II at 227.) Because drugs were found in Z.B.'s system at birth, FCCS became immediately involved in Z.B.'s care. When K.T. and Z.B. left the hospital, they stayed with C.S., where she and FCCS worked to develop a case plan. K.T. needed to "get clean," and she went through "horrible" withdrawal for a few weeks. (Tr. Vol. II at 229.) After those few weeks, K.T. was removed from the home, she began "living on the street," and C.S. would not let her back in the house. (Tr. Vol II at 231.) "[O]ther than the last two-and-a-half years, the four years before that, [K.T.] was pretty much homeless and on drugs." (Tr. Vol. II at 231.) A few times, K.T. appeared unannounced at C.S.'s residence, but C.S. would not let her in or bring Z.B. to the front door. K.T. would buy Christmas presents for Z.B. that were ultimately delivered to C.S.'s residence by others. She also placed birthday and Christmas cards for Z.B. in C.S.'s mailbox.

{¶ 11} In October 2019, K.T. learned that Z.B. was living with appellants. K.T. initially intended to consent to the adoption because she believed it would give her the best opportunity to be involved with Z.B. moving forward. K.T.'s communication with appellants was going well, but then she felt as though they were simply telling her what she wanted to hear. When she learned Z.B. was referring to appellants as his mom and dad,

she began to rethink her willingness to consent to the adoption. She eventually received appointed counsel and requested visitation with Z.B., which was granted. From the beginning of this matter, K.T. was dealing with drug addiction and related criminal matters. After K.T. was arrested for solicitation and "bonded out," she decided to go to a five-day in-patient rehab program for her substance abuse issues. (Tr. Vol. II at 259.) She then began to participate in a substance abuse program for women with children that has a residential component. She worked with a counselor and lived in an apartment with other participants, staying alcohol and drug free. Once she completed that program, she obtained her own apartment and worked as a housekeeper at a hotel.

{¶ 12} In April 2022, K.T., who resides in Cincinnati, began to have juvenile court-approved supervised visitations with Z.B. in Columbus, and initially "he was a little shy" because he did not know her. (Tr. Vol. II at 270.) But after having about 19-20 supervised visits in 8 or 9 months, they created a bond. The biweekly (every other week) visits were one hour until shortly before trial when they were approved for two hours. At the time of trial, K.T. was taking action to maintain her sobriety, including going to "NA meetings" and working with a drug addiction counselor. (Tr. Vol. II at 284.) The solicitation charge against her was dismissed, and she has not had any new criminal charges against her. K.T. acknowledged that Z.B. knows appellants as his mom and dad, but she believes it is in his best interest for her to "fit into the picture." (Tr. Vol. II at 286.) This was why she requested visitations with him. And having become part of Z.B.'s life, she believes it will be harmful to him for her to no longer have visitations. K.T. acknowledged that appellants have "done a wonderful job" taking care of Z.B., and that, under the current circumstances, it would be harmful for Z.B. to be removed from their home. (Tr. Vol. II at 365.)

{¶ 13} In May 2023, the magistrate filed her decision recommending the trial court deny appellants' adoption petition. The magistrate concluded that consent to the adoption of Z.B. was not required, pursuant to R.C. 3107.07(A), because K.T. failed, without justifiable cause and for the period of one year prior to the filing of the petition, to provide Z.B. with maintenance and support. The magistrate also concluded, however, that appellants did not meet their burden of establishing by clear and convincing evidence that the adoption would be in Z.B.'s best interest. Appellants objected to the magistrate's decision, arguing, among other things, that the magistrate, in denying the adoption

petition, did not properly consider the best interest of the child. The trial court overruled appellants' objection, adopted the magistrate's decision, and denied their adoption petition.

{¶ 14} Appellants timely appeal.

II. Assignment of Error

{¶ 15} Appellants assign the following sole assignment of error for our review:

> The trial court abused its discretion in denying the adoption petition without due consideration of all statutory best-interest factors, including the child's stability in appellants' home, need for permanency, and care for his health issues from birth, focusing its best-interest analysis instead on the start of long-distance visits with the birth mother more than two years after the petition was filed.

III. Discussion

{¶ 16} In appellants' sole assignment of error, they contend the trial court erred in denying their adoption petition without duly considering all statutory best-interest factors. We agree.

{¶ 17} A probate court's decision to grant or deny an adoption petition is generally reviewed under an abuse of discretion standard. *In re Adoption of Ridenour*, 61 Ohio St.3d 319, 320 (1991). An abuse of discretion connotes a decision that is unreasonable, arbitrary, or unconscionable. *Blakemore v. Blakemore*, 5 Ohio St.3d 217, 219 (1983). "[T]he vast majority of cases in which an abuse of discretion is asserted involve claims that the decision is unreasonable." *Effective Shareholder Solutions v. Natl. City Bank*, 1st Dist. No. C-080451, 2009-Ohio-6200, ¶ 9. A decision is unreasonable where it is not supported by a sound reasoning process. *Id.* On questions of law, this court's review is de novo. *In re A.G.*, 10th Dist. No. 23AP-55, 2024-Ohio-2136, ¶ 28.

{¶ 18} Under Ohio law, "an adoption proceeding is a two-step process involving a 'consent' phase and a 'best-interest' phase." *In re Adoption of Jordan*, 72 Ohio App.3d 638, 645 (12th Dist.1991). Generally, written parental consent must be given before a court may grant an adoption petition. *In re Adoption of O.S.R.*, 2d Dist. No. 2024-CA-2, 2024-Ohio-2090, ¶ 48, citing R.C. 3107.06. Consent to adoption is not required, however, when a "parent has failed without justifiable cause to provide more than de minimis contact with the minor or to provide for the maintenance and support of the minor as required by law

or judicial decree for a period of at least one year immediately preceding either the filing of the adoption petition or the placement of the minor in the home of the petitioner." R.C. 3107.07(A).

{¶ 19} "Even if a court determines that a parent's consent is not required [pursuant to R.C. 3107.07(A)], it must still make a separate determination that the adoption is in the child's best interest." *Jordan* at 645, citing *In re Adoption of Jorgensen*, 33 Ohio App.3d 207, 209 (3d Dist.1986). The "polestar by which courts in Ohio, and courts around the country, have been guided is the best interest of the child to be adopted." *In re Adoption of Charles B*, 50 Ohio St.3d 88, 90 (1990). R.C. 3107.161(B) sets forth a non-exhaustive list of factors relevant to the child's best interest, stating as follows:

> When a court makes a determination in a contested adoption concerning the best interest of a child, the court shall consider all relevant factors including, but not limited to, all of the following:
>
> (1) The least detrimental available alternative for safeguarding the child's growth and development;
>
> (2) The age and health of the child at the time the best interest determination is made and, if applicable, at the time the child was removed from the home;
>
> (3) The wishes of the child in any case in which the child's age and maturity makes this feasible;
>
> (4) The duration of the separation of the child from a parent;
>
> (5) Whether the child will be able to enter into a more stable and permanent family relationship, taking into account the conditions of the child's current placement, the likelihood of future placements, and the results of prior placements;
>
> (6) The likelihood of safe reunification with a parent within a reasonable period of time;
>
> (7) The importance of providing permanency, stability, and continuity of relationships for the child;
>
> (8) The child's interaction and interrelationship with the child's parents, siblings, and any other person who may significantly affect the child's best interest;

> (9) The child's adjustment to the child's current home, school, and community;
>
> (10) The mental and physical health of all persons involved in the situation;
>
> (11) Whether any person involved in the situation has been convicted of, pleaded guilty to, or accused of any criminal offense involving any act that resulted in a child being abused or neglected; whether the person, in a case in which a child has been adjudicated to be an abused or neglected child, has been determined to be the perpetrator of the abusive or neglectful act that is the basis of the adjudication; whether the person has been convicted of, pleaded guilty to, or accused of a violation of section 2919.25 of the Revised Code involving a victim who at the time of the commission of the offense was a member of the person's family or household; and whether the person has been convicted of, pleaded guilty to, or accused of any offense involving a victim who at the time of the commission of the offense was a member of the person's family or household and caused physical harm to the victim in the commission of the offense.

{¶ 20} Additionally, R.C. 3107.161(C) states that a "person who contests an adoption has the burden of providing the court material evidence needed to determine what is in the best interest of the child and must establish that the child's current placement is not the least detrimental available alternative." For this purpose, "the least detrimental available alternative" is the "alternative that would have the least long-term negative impact on the child." R.C. 3107.161(A). Despite the burden placed on the person contesting the adoption pursuant to R.C. 3107.161(C), the petitioner retains the ultimate burden of proving adoption is in the child's best interest. *In re Adoption of A.L.S.*, 12th Dist. No. CA2017-09-146, 2018-Ohio-507.

{¶ 21} Here, the trial court concluded appellants did not meet their burden of proving that adoption is in Z.B.'s best interest. The trial court's decision states that, in determining Z.B.'s best interest, it considered and applied the factors set forth in R.C. 3107.161(B) to the facts and circumstances of this case. The reasoning the trial court expressed for denying the adoption petition primarily focused on K.T.'s testimony regarding the bond created between her and Z.B. resulting from one- or two-hour biweekly

supervised visitations in the eight or nine months before trial. The trial court concluded that "it could be harmful to the minor to simply sever their relationship." (Dec. 27, 2023 Jgmt. Entry Overruling Objs. and Adopting Mag.'s Decision at 2.)

{¶ 22} Appellants argue the trial court erred in even considering evidence relating to K.T.'s visitations with Z.B., including the bond that was formed, after the adoption petition was filed in July 2019. This argument is unpersuasive, however, because it conflates the issues of parental consent and a child's best interest. Evidence relating to K.T.'s visitations with Z.B., and their bond that formed after the filing of the adoption petition, could not be considered in connection with determining the consent issue—whether K.T.'s consent to the adoption was not required—because this inquiry looks at the "year immediately preceding either the filing of the adoption petition or the placement of the minor in the home of the petitioner." R.C. 3107.07(A). But an inquiry into a child's best interest is not so limited, as that inquiry is only limited by what the trial court finds as relevant to the child's best interest. *See* R.C. 3107.161(B). Thus, we reject appellants' argument that evidence, relating to the development of K.T.'s relationship with Z.B. after the filing of the adoption petition, cannot be considered for the purpose of determining Z.B.'s best interest. Although we reject this particular argument, we agree with appellants' contention that the trial court erred in making its determination concerning Z.B.'s best interest.

{¶ 23} We find the trial court's consideration of the factors relevant to Z.B.'s best interest to be unreasonably limited. We construe the trial court's decision as reflecting a conclusion that Z.B.'s bond with his biological mother is the sole and controlling factor in denying the adoption petition. Other than referencing the evidence of a recently developed relationship between Z.B. and his biological mother, based on one- or two-hour biweekly supervised visitations, the trial court did not cite to any other factor reasonably weighing against granting the adoption petition. Conversely, in denying the adoption petition, the trial court also denied Z.B. permanency in a household the trial court found to be safe, stable, and loving. Z.B., a six-year-old child at the time of trial, was removed from K.T.'s care weeks after his birth, and K.T. never regained custody. K.T. had no relationship with the child until the one- or two-hour biweekly supervised visits began in March or April 2022. Appellants are well-bonded with Z.B., and he has thrived in their home. Even K.T.

herself testified that appellants have done a "wonderful" job caring for Z.B. (Tr. Vol. II at 365.) Moreover, although K.T. testified that she wanted to remain part of Z.B.'s life, she presented no evidence of any plan for reunification. Preserving the status quo preserves uncertainty in Z.B.'s future. These circumstances require due consideration.

{¶ 24} Although the trial court's decision states it considered and weighed all the statutory factors in determining the best interest of the child, we find that its analysis was effectively limited to finding the existence of a bond between K.T. and Z.B., and then denying the adoption petition based on its conclusion that potentially severing this bond could be harmful to the child. Under these circumstances, we conclude the trial court, in determining whether adoption would be in the best interest of the child, erred in not duly considering all the factors pertinent to that analysis.[1]

{¶ 25} For these reasons, we sustain appellants' sole assignment of error.

IV. Disposition

{¶ 26} Having sustained appellants' sole assignment of error, we reverse the judgment of the Franklin County Court of Common Pleas, Probate Division, and remand this matter to that court for further proceedings consistent with law and this decision.

Judgment reversed;
cause remanded.

BOGGS, J., concurs.
LELAND, J., dissents.

LELAND, J., dissenting.

{¶ 27} Being unable to concur with the majority opinion, I respectfully dissent. Appellants contend the trial court failed to "explicitly analyze the 11 factors" under R.C. 3107.161(B). (Appellants' Brief at 33.) I find the record does not support this argument, nor does it show the probate court abused its discretion. In this respect, a probate court "does not have to enumerate its findings in regard to each factor, but the court's decision must clearly indicate that the court considered the statutory factors." *In re A.M.L.*, 12th Dist. No. CA2015-01-004, 2015-Ohio-2224, ¶ 11, citing *In re Adoption of Tucker*, 11th Dist.

[1] Because it has been over one and one-half years since the January 2023 trial, on remand, it may be necessary for the trial court to consider additional evidence relevant to Z.B.'s best interest.

No. 2002-T-0154, 2003-Ohio-1212, ¶ 14. Here, the magistrate's decision specifically cited and discussed the statutory factors, including the "least detrimental available alternative," the age when the child was removed from the home, whether the child's age and maturity permitted him to "articulate" his wishes, the duration of separation of the child from the mother , the importance of a "stable" household for the child "for the foreseeable future," the child's interaction and interrelationship with the mother, the child's adjustment to his current home, school, and community, the "physical or mental health" of all persons involved, and whether any person has been "accused of the criminal offenses described in R.C. 3107.16(B)(11)." (Mag.'s Decision at 22-25.) In overruling appellants' objection to the magistrate's decision, the probate court noted the magistrate had concluded appellants failed to meet their burden of establishing adoption would be in the child's best interest "[a]fter applying the eleven factors set forth in R.C. 3107.161(B)." (Decision at 2.)

{¶ 28} Appellants' primary contention is essentially that the probate court gave undue consideration to one factor, i.e., the child's interaction and interrelationship with his birth mother (under R.C. 3107.161(B)(8)). Appellants assert that the child's visits with the mother "should have never occurred in the first place," arguing this factor "contemplates some relationship with the child that existed prior to the adoption petition" and that "it would be logically inconsistent with the statutory year lookback period." (Appellants' Brief 40-41.) As appropriately recognized by the majority, the probate court did not err in considering the relationship between the mother and child subsequent to the filing of the petition. *See*, *e.g.*, *In re Adoption of Wagner*, 11th Dist. No. 97-T-0024 (June 30, 1999) (noting that, while R.C. 3107.07(A) "limited the 'consent' phase of this adoption proceeding to the time period consisting of the year immediately preceding the filing" of the petition, "there is no such" one-year restriction "in the determination of the best interest of the child" under R.C. 3107.161).

{¶ 29} In the present case, the magistrate and probate court, while recognizing the "[appellants] have provided the minor a safe, stable, and loving home," further found credible by the birth mother's testimony that "she and the minor had bonded * * * during their months of visitation, such that it could be harmful to the minor to simply sever their relationship." (Decision at 2.) The probate court concluded that "[u]nder the status quo, the minor has a well-established relationship with competent and loving caretakers, and he

also has the opportunity to grow and enjoy a bond with his birth mother." (Decision at 2.) The probate court further observed: "If the adoption were to be granted, the minor would still live with competent and loving caretakers, and those caretakers would gain additional rights and responsibilities with respect to the minor, but the minor would lose out on the chance to keep up or deepen another positive relationship with another adult who cares about him." (Decision at 2-3.)

{¶ 30} This court and other Ohio courts have upheld a probate court's denial of a petition for adoption under similar circumstances and reasoning. *See*, *e.g.*, *In re B.M.S.*, 192 Ohio App.3d 394, 2011-Ohio-714, ¶ 25 (10th Dist.) (trial court did not abuse its discretion by concluding adoption was not in the best interest of the children; father's evidence concerning his ability to be a positive influence in boys' lives "supports the court's conclusion that adoption was not the least detrimental available alternative" but, rather, "adoption and the loss of their father's involvement in their lives would be more detrimental than [father's] presence and influence through regular visitation and support"); *In re Adoption of M.R.P.*, 12th Dist. No. CA2022-01-001, 2022-Ohio-1631, ¶ 44 (while testimony demonstrated stepfather and mother "provided a safe, supportive, and positive environment" for child, father established that granting adoption "was not the least detrimental available alternative" as doing so would terminate child's opportunity to develop a similar relationship with father and would also cut off child from other relatives); *In re Adoption of C.B.*, 6th Dist. No. L-12-1153, 2013-Ohio-1354, ¶ 12 (probate court did not abuse its discretion in finding lack of clear and convincing evidence that finalization of adoption would be in child's best interest; while probate court acknowledged there had been times in past where mother's involvement may have had negative effect, evidence indicated mother had worked hard the past two years "through counseling and training sessions to improve her ability to be a positive influence" in child's life and, although child's current living situation "provided stability" in child's life, "it did not support an interruption of that process"); *In re M.R.M.*, 7th Dist. No. 17 MA 0088, 2017-Ohio-7710, ¶ 47, 54 (affirming probate court's denial of adoption and concluding evidence indicated least detrimental alternative "is the status quo" based in part on probate court's finding that "having three (3) people in * * * child's life will not hurt * * * child but will help her develop into a well-rounded mature individual"); *In re J.A.M.*, 2d Dist. No. 2022-CA-14, 2022-

Ohio-2313, ¶ 27 (finding probate court did not abuse its discretion in denying petition for adoption and observing that child's relationship with father and stepmother "would not change regardless of the outcome of the adoption petition," but that "foreclosing an opportunity to resume what was a good relationship" with his mother would not be in child's best interest).

{¶ 31} Here, the record indicates the magistrate and probate court considered the requisite statutory factors. Further, the magistrate found the birth mother "met her burden of producing some material evidence that the loss of her presence in the minor's life may be detrimental to the minor following their establishment of a new bond." (Mag.'s Decision at 25.) In overruling appellants' objection, the probate court concluded that "[l]ooking at the benefit to the minor, rather than the benefit to either the [appellants] or the birth mother, the court cannot find the evidence to be clear or convincing that adoption is the best and least detrimental alternative for the minor at this time." (Decision at 3.) Because I find no abuse of discretion, I would affirm the judgment of the probate court. Accordingly, I respectfully dissent.