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AFFIRME
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This is an appeal from a juvenile court judgment terminating parental rights. For the following reasons, we affirm the juvenile court's judgment.

FACTS

Kelly Bales (“Bales”) is the mother of J.S., a son born on April 19, 1995. J. S. was placed in the custody of the State of Louisiana (“ the State’), Department of Health and Human Resources (“DSS”), Office of Community Services (“OCS”), in Orleans parish on August 23, 2000. The State’s petition asserted that J.S. was a neglected and dependent child in need of care because Bales left him with a caretaker and had not returned.

On October 25, 2000, the Juvenile Court adjudicated J. S. in need of care and the OCS placed him in foster care. On October 31, 2000, the court agreed to the State’s case plan for reunification of the child with his mother but ordered that she participate in parenting classes, substance abuse

counseling, random and /or scheduled drug screening and obtain adequate housing. On December 12, 2000, at the initial review hearing the case plan goal remained reunification. However, the mother's compliance with the case plan was noted to be minimal.

On March 14, 2001, at the interim hearing the case plan goal was noted to change to include reunification with the father of J. S. but the orders issued by the court in regard to the mother remained in effect. DSS/OCS continued to provide reunification services to the mother.

On July 26, 2001, the court approved the State's case plan of reunification with the child's father. The court noted that the mother's reunification was only moderately in compliance with the case plan. On October 25, 2001, at the review hearing, the court suspended the mother's visitation with J.S., in order to facilitate reunification with the father. Further, the court ordered that all previously issued orders continue. On November 15, 2002, at the review hearing, the case plan goal was changed to a concurrent plan of unification and termination of parental rights if reunification could not be successfully achieved. On January 15, 2002, at the review hearing, visitation between the mother and son was reinstated after reunification with the father failed. The father surrendered his parental rights.

Two and half years after J. S. entered foster care, DSS/OCS concludes that reunification of the family was not feasible so the permanency plan for J.S. became termination of parental rights/adoption. On April 30, 2003, OCS filed a petition for termination of parental rights. On July 1, 2003, the court terminated Bales' parental rights and declared J.S. free for adoption.

Bales appeals.

DISCUSSION

On appeal, Bales contends the following:

- (1) Whether the trial court erred in terminating the mother's parental rights.
- (2) Whether the termination of the mother's parental rights was in the best interest of the minor child.

The purpose of Title VI of the Children's Code, "Child in Need of Care," is to protect children whose physical or mental health and welfare is substantially at risk of harm by physical abuse, neglect or exploitation. Ch.C. art. 601. Title VI is intended to provide the "greatest possible protection as promptly as possible for such children; it shall be administered and interpreted to avoid unnecessary interference with family privacy and trauma to the child while, at the same time, to authorize the protective and preventive intervention needed to safeguard and enhance the health and

well-being of children." *Id.*

La.Ch.C. art. 606(A) provides in pertinent part:

"Allegations that a child is in need of care must assert one or more of the following grounds: (1) The child is a victim of abuse...."

The state shall have the burden to prove the allegations of the petition by a preponderance of evidence. La.Ch.C. art. 665; *State In Interest of CW, RW, JW v. Womack*, 28,310, p. 2 (La. App. 2 Cir. 2/28/96), 669 So.2d 700, 703. It is not the state's duty to prove its case beyond a reasonable doubt, by clear and convincing evidence or to disprove every hypothesis of innocence.

Under the manifest error standard of review, in reviewing the factual findings of a trial court, an appellate court is limited to a determination of manifest error. *Hill v. Morehouse Parish Police Jury*, 95-1100 (La.1/16/96), p. 4, 666 So.2d 612, 614.

We are instructed that before a fact-finder's verdict may be reversed, we must find from the record that a reasonable factual basis does not exist for the verdict, and that the record establishes the verdict is manifestly wrong. *Lewis v. State, Through Dept. of Transp. and Development*, 94-2370 (La.4/21/95), 654 So.2d 311, 314; *Stobart v. State through Dept. of Transp. and Development*, 617 So.2d 880

(La.1993). Although we accord deference to the fact-finder, we are cognizant of our constitutional duty to review facts not merely to decide if we, as a reviewing court, would have found the facts differently, but to determine whether the trial court's verdict was manifestly erroneous, clearly wrong based on the evidence, or clearly without evidentiary support. *Ambrose v. New Orleans Police Department Ambulance Service*, 93-3099 (La.7/5/94), 639 So.2d 216, 221; *Ferrell v. Fireman's Fund Ins. Co.*, 94-1252 (La.2/20/95), 650 So.2d 742, 745.

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Title X of the Children's Code governs the involuntary

termination of parental rights. As applicable to this case, the grounds for termination of parental rights are:

(5) Unless sooner permitted by the court, at least one year has elapsed since a child was removed from the parent's custody pursuant to a court order; there has been no substantial parental compliance with a case plan for services which has been previously filed by the department and approved by the court as necessary for the safe return of the child; and despite earlier intervention, there is no reasonable expectation of significant improvement in the parent's condition or conduct in the near future, considering the child's age and his need for a safe, stable, and permanent home.

The method of proving these elements is provided in La. Children's Code Art. 1036. La. Children's Code Art. 1036(C) and (D) provide:

(C) Under Article 1015(5), lack of parental compliance with a case plan may be evidenced by one or more of the following:

(1) The parent's failure to attend court-approved scheduled visitations with the child.

(2) The parent's failure to communicate with the child.

(3) The parent's failure to keep the department apprised of the parent's whereabouts and significant changes affecting the parent's ability to comply with the case plan for services.

(4) The parent's failure to contribute to the costs of the child's foster care, if ordered to do so by the court when approving the case plan.

(5) The parent's repeated failure to comply with the required program of treatment and rehabilitation services provided in the case plan.

(6) The parent's lack of substantial improvement in redressing the problems preventing reunification.

(D) Under Article 1015(5), lack of any reasonable expectation of significant improvement in the parent's conduct in the near future may be evidenced by one or more of the following:

(1) Any physical or mental illness, mental deficiency, substance abuse, or chemical dependency that renders the parent unable or incapable of exercising parental responsibilities without exposing the child to a substantial risk of serious harm, based upon expert opinion or based upon an established pattern of behavior.

(2) A pattern of repeated incarceration of the parent that has rendered the parent unable to care for the immediate and continuing physical or emotional needs of the child for extended periods of time.

(3) Any other condition or conduct that reasonably indicates that the parent is unable or unwilling to provide an adequate permanent home for the child, based upon expert opinion or based upon an established pattern of behavior.

State ex rel. A.C., 2000-2670 p.6 (La. App. 4 Cir. 4/11/01), 785

So.2d 227.

The State must prove the elements of one of the enumerated grounds by clear and convincing evidence to sever the parental bond.

La. Children's Code art. 1035(A); *Santosky v. Kramer*, 455 U.S. 745,

102 S.Ct. 1388, 71 L.Ed.2d 599 (1982) (holding that the minimum standard of proof in termination of parental rights cases is clear and convincing evidence); *State ex rel. J.A.*, supra at 811. The State must only establish one statutory ground for termination, but the trial judge must also find that termination is in the best interest of the child. La. Children's Code art. 1039; *State ex rel. J.A.*, supra.

"It is well-settled that an appellate court cannot set aside a juvenile court's findings of fact in the absence of manifest error or unless those findings are clearly wrong." *In re A.J.F.*, 00-0948 (La.6/30/00), 764 So.2d 47, 61. "Where there is conflicting testimony, reasonable evaluations of credibility and reasonable inferences of fact should not be disturbed upon review, even when the appellate court may feel that its own evaluations and inferences are as reasonable as those of the trial court." *Id.*; *Rosell v. ESCO*, 549 So.2d 840 (La.1989). "[I]f the trial court or jury findings are reasonable in light of the record reviewed in its entirety, the court of appeal may not reverse even though convinced that had it been sitting as the trier of fact, it would have weighed the evidence differently." *Rosell*, supra at 844. "Where there are two permissible views of the evidence, the fact finder's choice between them cannot be manifestly erroneous or

clearly wrong." *Id.* "In its manifest error review, it is important that the appellate court not substitute its opinion when it is the juvenile court who is in the unique position to see and hear the witnesses as they testify." *In re A.J.F., supra.* at 62. "The trier of fact is not disadvantaged by the review of a cold record and is in a superior position to observe the nuances of demeanor evidence not revealed in a record." *Id.*

Therefore, in the instant case, the State had the burden of proving the elements of La. Children's Code Art. 1015(5) by following the guidelines provided in La. Children's Code Art. 1036(C) and (D). The trial court was required to find that the State had proven the required elements by clear and convincing evidence and also to find that termination of parental rights was in the best interest of the children.

In the instant case, the court found that in terminating Bales' parental rights that DSS/OCS had proven the elements of article 1015 (5). The court found that the State had proven the required elements by clear and convincing evidence and also found termination of parental rights was in the best interest of the child.

The court stated that it found no consistent compliance with the

case plan by Bales. Also, the mother made no attempt to provide child support. She failed to take advantage of the drug treatment program that was available to her. The court stated “At no point, though, in this case has Ms. Bales ever successfully obtained suitable housing for the child”. Also, the court opined that the condition of the house that Bales lived was a hazard, and lacked cleanliness.

CONCLUSION

For the reason provided, we conclude that DSS/OCS provided clear and convincing evidence of the statutory grounds for termination of Bales’ parental rights and obligations. We further find that the court was not manifestly erroneous in rendering judgment terminating Bales’ parental rights based on its finding that DSS/OCS had proven the grounds for termination of parental rights and that such action was in the best interest of the child.

Accordingly, for the reason given, we affirm the judgment of the court.

AFFIRMED