

NOTICE
This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

2012 IL App (4th) 120701-U

NO. 4-12-0701

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
November 15, 2012
Carla Bender
4th District Appellate
Court, IL

In re: P.V., a Minor,)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,)	Circuit Court of
Petitioner-Appellee,)	Vermilion County
v.)	No. 12JA2
LAQUESHA MILLER,)	
Respondent-Appellant.)	Honorable
)	Michael D. Clary,
)	Judge Presiding.

JUSTICE APPLETON delivered the judgment of the court.
Presiding Justice Turner and Justice Pope concurred in the judgment.

ORDER

¶ 1 *Held:* Even though the minor himself or herself suffers no physical abuse, the minor is in an environment injurious to his or her welfare, and hence is neglected, if the minor is present while domestic violence between the parents occurs in the home.

¶ 2 Respondent, Laquesha Miller, appeals from a dispositional order making her son, P.V. (born May 9, 2008), a ward of the court. She contends that the factual finding underlying that order—the finding that her son was neglected—is against the manifest weight of the evidence. Because we find evidence in the record to support that finding, we affirm the trial court's judgment.

¶ 3 I. BACKGROUND

¶ 4 The second amended petition for adjudication of wardship had two counts, both of which alleged that P.V. was "neglected" within the meaning of section 2-3(1)(b) of the Juvenile Court Act of 1987 (705 ILCS 405/2-3(1)(b) (West 2010) ("Those who are neglected include *** any

minor under 18 years of age whose environment is injurious to his or her welfare ***.")). Count I alleged that P.V.'s environment was injurious to his welfare "due to his mother's attempt to physically assault Thomas Garrett while [P.V.] was present." Count II alleged that P.V.'s environment was injurious to his welfare "due to his mother engaging in domestic violence against the father while the child was present in the home."

¶ 5 In May 2012, the trial court held an adjudicatory hearing on the second amended petition. After hearing evidence, the court found count I to be unproven, but count II to be proven.

¶ 6 With regard to count II, a Danville police officer, Nathan Howie, testified that on January 7, 2012, he went to 1604 Edgewood Drive, apartment 204, in response to a report of a domestic disturbance. Upon arriving, he heard people arguing inside the apartment. He knocked on the door, and P.V.'s father (who is not a party to this appeal) opened the door.

¶ 7 The assistant State's Attorney asked Howie:

"Q. Upon [P.V.'s father] opening the door could you observe anything else happening at the time?

A. Laquesha and [P.V.'s father] were still arguing. Laquesha had no pants on at that time. The only other person present at the time was their three year old son[,] [P.V.]

Q. Upon [P.V.'s father] opening the door did Miss Miller take any actions that you were able to observe?

A. Yes. She ran towards [P.V.'s father] and began punching him, slapping him. I was able to get the two apart and as I was pushing her away from him she then spit striking him in the face.

Q. And these actions happened and I believe you said [P.V.]
was also present in the room?

A. Yes."

¶ 8

II. ANALYSIS

¶ 9

Respondent argues that because there was no evidence of physical injury to P.V., the State failed to prove that his environment was injurious to his welfare. See 705 ILCS 405/2-3(1)(b) (West 2010).

¶ 10

We have held, however, that, even though the minor never has been physically abused, the minor nevertheless is in an environment injurious to his or her welfare if the minor is present while one parent physically abuses the other. *In re R.B.*, 336 Ill. App. 3d 606, 617 (2003); *In re A.D.R.*, 186 Ill. App. 3d 386, 391 (1989). Howie testified that on January 7, 2012, he saw respondent batter P.V.'s father in the living room of their apartment and that while this battery was occurring, P.V. also was present in the living room. Hence, the trial court's finding of neglect is not against the manifest weight of the evidence. See *id.*

¶ 11

III. CONCLUSION

¶ 12

For the foregoing reasons, we affirm the trial court's judgment.

¶ 13

Affirmed.