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SIXTH DIVISION  
December 10, 2014

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IN THE APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

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IN THE INTEREST OF CHRISTOPHER A.,	)	Appeal from the
	)	Circuit Court of
Minor and Respondent-Appellee,	)	Cook County.
	)	
(The People of the State of Illinois,	)	
	)	No. 13 JA 432
Petitioner-Appellee,	)	
	)	
v.	)	
	)	
Ashton A., Jr.,	)	Honorable
	)	Maureen Delehanty,
Respondent-Appellant).	)	Judge Presiding.

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JUSTICE LAMPKIN delivered the judgment of the court.  
Presiding Justice Hoffman and Justice Rochford concurred in the judgment.

**ORDER**

¶1 **HELD:** The circuit court’s finding that the minor was neglected due to an injurious environment was not against the manifest weight of the evidence where respondent repeatedly abused cocaine and engaged in domestic violence, and the circuit court did not abuse its discretion in denying respondent’s motion to reconsider the adjudication of neglect. The circuit court’s dispositional order, which found respondent unable for some reason other than financial

circumstances alone to care for the minor, was not against the manifest weight of the evidence where respondent did not complete domestic violence counseling, continued to test positive for cocaine use, and had discontinued his participation in services.

¶2 This appeal arises from the circuit court's judgment that found Christopher A. to be a neglected minor under section 2-3(1)(b) of the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/2-3(1)(b) (West 2012)) due to an environment injurious to his welfare. At the subsequent dispositional hearing, the circuit court found that the mother, Darlene A., and father, Ashton A., Jr., were unable for some reason other than financial circumstances alone to care for Christopher A.

¶3 On appeal, respondent Ashton A., Jr., argues that the circuit court's adjudication of neglect and dispositional order were against the manifest weight of the evidence. He also argues the trial court abused its discretion in denying his motion to reconsider the neglect adjudication. Darlene A. is not a party to this appeal. For the reasons that follow, we affirm the judgment of the circuit court.

¶4 **I. BACKGROUND**

¶5 Respondent and Darlene are the adoptive parents of Christopher, who was born on August 3, 1998. On May 9, 2013, the State filed a petition for adjudication of wardship and a motion to take temporary custody of Christopher and his sister E.J. The State alleged that Christopher was neglected due to an injurious environment and abused due to a substantial risk of injury other than by accidental means. Specifically, the State alleged: Christopher claimed that, on or about April 9, 2013, he was involved in a physical altercation with respondent; respondent had been diagnosed with post-traumatic stress disorder (PTSD), psychotic disorder and depressive disorder; respondent admitted using illegal substances and refused to follow through with mental health

services, including medication; Darlene admitted to an on-going issue of domestic violence with respondent; the parents twice violated the safety plan created for the minors' protection; Darlene just started services, but respondent refused to participate in services; and respondent was observed on multiple occasions displaying explosive, aggressive and threatening behaviors towards others.

¶6 At the September 6, 2013 adjudication hearing, the State entered into evidence respondent's records from Hines Veterans Administration (VA) Hospital, his report from Presence Behavioral Health Recovery Center, and Christopher's records from school.

¶7 Patricia Heard testified that she was employed by the Department of Children and Family Services (DCFS) and was assigned on April 9, 2013, to investigate the allegations of abuse and neglect in respondent's family. She initially spoke with Christopher at the police station. According to Christopher, at breakfast that morning, Darlene wanted him to take his medication but he told her to wait because he had food in his mouth. Respondent then ran into the room because he thought Christopher had said things to Darlene. Christopher and respondent got into a verbal altercation, and respondent insulted Christopher's deceased biological mother. Christopher did not recall how it started but he and respondent wrestled and fell on the floor. Then respondent put his hands around Christopher's neck and choked him. Christopher was afraid to go home because he believed respondent would follow-up on his threats. Heard, however, could not recall if Christopher told her the specific threats respondent had made.

¶8 Heard testified that she also had a conversation with respondent. According to respondent, Christopher told Darlene that he was going to kick her "f\_cking \_ss." Respondent then ran into the kitchen and got into an altercation with Christopher. Respondent admitted that he may have made some insulting remarks about Christopher's biological mother. Darlene told

Heard that Christopher had lied and respondent did not choke Christopher. Christopher's sister E.J. told Heard that she did not see respondent on top of Christopher. Heard did not see any marks on Christopher's neck. Heard informed respondent and Darlene that they needed to agree to a safety plan that would require either respondent or Darlene and the children to leave the house. Respondent agreed to leave the house and go to his sister's house for a couple of days. Christopher was sent to a neighbor's house until the family could be further assessed.

¶9 DCFS caseworker Edekia Nalls testified that she was assigned to this case on or about April 11, 2013. Nalls spoke to Darlene, who felt the situation between Christopher and respondent was simply a misunderstanding and claimed the alleged April 9, 2013 incident did not occur. Nalls talked to both Darlene and respondent about the safety plan that required respondent to be out of the house when Darlene and the children were in the house, and respondent agreed to leave the house so Darlene and the children could return home. Nalls told respondent he could not have any unsupervised contact with the children or be in the house at the same time as the children. That agreement was scheduled to end on April 19, 2013.

¶10 When Nalls spoke to respondent on April 12, 2013, he said he mostly used marijuana and crack cocaine monthly and had last used drugs on March 30, 2013. On April 18, 2013, Nalls spoke to respondent and Darlene because respondent had returned to the house. Respondent claimed that a bad rainstorm caused him to go to the house to repair the sump pump and remove water from the house. He claimed that Darlene and the children were not at the house when he arrived and road closures prevented him from leaving the house after he had finished the work. In a later conversation, respondent told Nalls that he should not be required to leave the house and refused to leave.

¶11 Nalls spoke to Darlene on April 19, 2013. Darlene said respondent had returned home on April 18, 2013 and there had been some incidents, *i.e.*, some pushing. Prior to DCFS's involvement, Darlene did not know that the way respondent spoke to her was considered a form of domestic violence. Darlene also told Nalls about a December 2012 incident when Darlene tried to make a phone call and respondent tried to take the phone away from her. They got into a scuffle and Darlene fell.

¶12 On April 25, 2013, Nalls spoke to respondent about the safety plan again and respondent refused to abide by it. Consequently, the safety plan required Darlene to leave the house with the children and limited respondent to only supervised contact with the children. At that time, Nalls recommended a psychological assessment and domestic violence counseling for Darlene. Nalls also recommended a drug and alcohol assessment, a mental health evaluation, and a domestic violence assessment for respondent. After the assessments of Darlene and respondent were conducted, Nalls was concerned about domestic violence, respondent's long history of substance abuse and lack of treatment for it, his admission to using marijuana and crack cocaine on a monthly basis, his PTSD diagnosis, and his failure to comply with recommended mental health services. Nalls was also troubled about the home environment for Christopher and respondent's and Christopher's aggression toward each other because the April 9th incident was not the first physical altercation between respondent and Christopher.

¶13 Nalls testified that, based on the relevant available information, DCFS determined that the children would be at risk if they remained in the home with respondent, particularly if he continued to fail to comply with services. Nalls scheduled a drug and alcohol assessment for respondent on May 3, 2013, but he did not attend.

¶14 Christopher's testimony about the April 9th incident was generally consistent with caseworker Heard's testimony. Christopher added that when respondent insulted Christopher's biological mother, respondent said that the man who raped her when she was younger should have killed her. Respondent also said disrespectful things about Christopher's natural grandmother. Christopher became angry and cussed at Darlene and told her to get out of his face when she tried to calm him down. Then, respondent charged at Christopher, and they fell onto the kitchen floor. Christopher claimed respondent then put his hands around Christopher's neck and choked him, making it difficult to breathe. Christopher got so angry that he yelled and cussed at his parents and tore his shirt.

¶15 Christopher testified that Darlene did not want him to go to school that day because she was afraid he would tell people at school about the fight. Although Christopher told her he would not say anything, at school he told the social worker, the dean and the principal about the fight. Christopher told them he was afraid to go home because he had never seen respondent so angry before and feared another fight with him. Christopher claimed respondent had engaged in this type of behavior since Christopher was five years old. Furthermore, respondent had kicked Christopher's 15-year-old brother out of the house when the brother confronted respondent about his treatment of Darlene. Respondent also kicked Darlene out of the house into the snow, and she came crying to Christopher and asked him to tell respondent that Christopher wanted her to stay.

¶16 Christopher had seen respondent high before, and respondent told him respondent used drugs because he had to take them in Vietnam to stay awake. Christopher believed that respondent was high during the April 9th incident because respondent was paranoid, anxious, sweating, and his eyes were widened. Respondent never specifically told Christopher which drugs he used, but Darlene told Christopher she thought respondent was using crack cocaine.

Sometimes respondent would leave home at 10 p.m. and not return until 3 a.m., or leave on a Monday and not return until Tuesday or Wednesday.

¶17 Christopher testified that respondent also got physical with him in January of 2013. Specifically, when Christopher took a one dollar bill off the table in the house and went to the gas station to buy a drink, Darlene did not make a big deal out of it but respondent got very angry. Respondent told Christopher to put his phone on the table and his bicycle in the garage, but Christopher got angry and walked out of the house. Respondent followed him, grabbed his neck, and pulled him back inside. They started to tussle, and respondent tripped and fell when they got to the bottom of the stairs. Christopher's aunt and Darlene got between respondent and Christopher. When the aunt told Christopher to go upstairs, he refused, cussed, and complained that respondent knew Christopher did not like to be touched that way. When Christopher saw that he was bleeding, he went upstairs and punched two or three holes in the wall. The January 2013 and April 2013 incidents were the only times that respondent ever put his hands on Christopher.

¶18 Christopher testified that respondent punished him for getting detentions at school and sometimes for no reason. Respondent punished him by taking away his phone or tablet or sending him to his room. Christopher admitted that he would lie to DCFS in order to get what he wanted. For example, when Christopher, Darlene and E.J. were staying at a hotel, he threatened to call DCFS and lie to them if Darlene did not let him go swimming.

¶19 When the adjudication hearing continued on October 22, 2013, the State published portions of its exhibits. Specifically, the State referred the court to respondent's June 17, 2013 progress notes from the VA hospital, which indicated that respondent used alcohol, marijuana and crack cocaine, and had been using crack cocaine since his military service in Vietnam.

Furthermore, respondent was diagnosed with "Axis 1, PTSD, cocaine, DEO, adjustment disorder

with disturbance of conduct." The progress notes also indicated that respondent had not followed up with mental health treatment and had not seen a doctor in years.

¶20 The April 26, 2013 progress notes stated that respondent had disrupted sleep and described hearing voices telling him that he was not doing things right. Although respondent had no hallucinations, he had visions separate from his flashbacks, such as visions of the Vietnam landscape. Further, respondent has a history of substance abuse and a psychiatric history with an in-patient admission for depression related to substance abuse in 2004 and 2006. Respondent's symptoms increased with stress. His self-reported symptoms included avoidance, angry outbursts, yelling and screaming, swearing, hitting with fists, hyper-vigilance (abnormal awareness of environmental stimuli), and being easily startled. The progress notes also indicated that respondent reported having an altercation in the home on March 6, 2012, and injuring his hand, possibly by falling on it. The records did not indicate who was involved in the altercation with respondent.

¶21 Respondent testified that he and Darlene were the adoptive parents of Christopher and E.J. He said that on April 9, 2013, he was in his bedroom when Christopher and Darlene got into an altercation in the kitchen. Respondent heard Christopher tell Darlene, "I'll kick your f\_cken [sic] ass." Respondent went into the living room and looked into the kitchen and saw Christopher inches away from Darlene, and Christopher was huffing and puffing. This all started because Christopher had refused to take his medicine. Respondent told Christopher that Darlene should have "knocked him the f\_ck out" for talking to her the way he did. Christopher became angry, called respondent a "gray-haired punk b\_tch," and threatened to blow respondent's brains out with a shotgun. They continued to argue until respondent walked away. Darlene talked to Christopher and calmed him down, and Christopher then went to school. Respondent stated that

he never put his hands on Christopher's throat.

¶22 Respondent testified that he never used corporal punishment. He disciplined Christopher by taking things away from him or having him stay in his room. After the April 9th incident, respondent stayed away from the house until April 17, 2013. Respondent explained that he went home to prevent flood damage to the house because sometimes the sump pump did not work. He claimed that he could not leave the house that evening because many of the roads were closed but acknowledged that he was able to drive Darlene, Christopher, and E.J. to a hotel. Respondent also claimed that he never went inside the house, and asserted that the safety plan only prohibited him from going inside the house. Respondent admitted that he sometimes heard voices and stated that his PTSD was triggered by stress. He denied, however, that his PTSD would ever be triggered by something that happened at home.

¶23 Respondent published a portion of his hospital records, which stated that his recent exacerbation of his PTSD was triggered by the DCFS investigation and, although he was very angry and depressed, he did not present, on the date the findings were recorded, as a risk of harm to himself or others. Respondent also published a portion of Christopher's school records, which indicated that he sometimes annoyed others on purpose, threatened to hurt others, lost his temper too easily, seemed out of touch with reality, said things that made no sense, broke the rules, got into trouble, lied, and acted out of control. Further, the school records indicated Christopher often argued when denied his own way, had strange ideas, deceived others, acted without thinking, and had poor self-control.

¶24 After hearing all of the evidence, the trial court made a finding of neglect based on an environment injurious to Christopher's welfare due to the volatile relationship between Christopher and respondent and respondent's behavior in the home. The trial court stated that

Christopher appeared to be a very angry and frustrated young man. Further, he was manipulative, and the court did not believe he was entirely honest about the April 9th incident. Notably, there were no marks on his neck. The court believed that both Christopher and respondent had downplayed their roles in escalating the situation and the truth lay somewhere between their testimony. Specifically, the court did not believe that respondent just walked away from the scuffle on April 9th. The court believed that Christopher was a product of his environment and emulated respondent's disrespectful and abusive conduct toward Darlene. Moreover, respondent had not gotten control of his severe substance abuse and it impacted his relationships and the family. In the written adjudicatory order, the facts supporting the neglect finding were "evidence of hostility in the home, history of substance abuse, incident of 4-9-13, minor's behavior is a product of environment created by father." The court did not make adjudicatory findings for E.J. even though she was present in the home because the evidence concerning her did not rise to the level of abuse or neglect.

¶25 The dispositional hearing commenced on January 22, 2014. Caseworker Don Johnson testified that he had been in the home the previous week and found it safe and appropriate. He had not seen any signs of abuse or neglect, and there had not been any unusual incidents. Christopher was being medicated for depression and oppositional defiant disorder, and was receiving domestic violence and family counseling. Christopher was currently seeing a psychiatrist and taking his medication.

¶26 Johnson testified that the services recommended for respondent included anger management, substance abuse, and domestic violence programs. It was unclear whether respondent completed an anger management program, and he did not complete a domestic violence program. Wherever respondent was in completing his substance abuse treatment, he

admitted that he used marijuana and crack cocaine on a monthly basis. Johnson was not able to obtain any more information because respondent had revoked his consent to release his information. Consequently, the VA hospital would only inform Johnson that respondent was attending services. Johnson had not spoken to respondent about reconsidering his revocation of his consent to release information. Johnson did not have information indicating respondent's progress in services, which would be necessary before respondent could engage in family therapy.

¶27 Johnson testified that respondent's visits with Christopher had to be supervised and would occur only if Christopher wanted the visits. At the time of the hearing, Christopher did not want to visit with respondent. Respondent was permitted to visit E.J. only outside of the home because the volatile relationship between Christopher and respondent made it unsafe to bring respondent into the home. Nevertheless, respondent continued to go to the house to bring food and help take care of the house. Christopher would call respondent and tell him to bring some food, and respondent would comply in order to gain access to the home. When Johnson confronted Darlene and respondent about their lack of compliance with the court order prohibiting any contact by respondent, respondent claimed that he did not go into the house.

¶28 Johnson testified that Christopher was hospitalized shortly before the dispositional hearing because he told the school that he wanted to hurt somebody or himself. Christopher was in the hospital for about two weeks, and during that time, Darlene participated in therapy and services at the hospital. When Christopher was discharged, he was put on a different medication. There currently were concerns that he was using marijuana, and Johnson assessed Christopher as being out of control. When Johnson was at the home the week before the disposition hearing, he noted that Christopher told Darlene that "he didn't give a f\_ck what she said or did"; he was going to do whatever he wanted to do. Christopher told Johnson that if respondent came home and began

"talking stuff" to him, Christopher was "going to beat his \_ss." For those reasons, as well as respondent's failure to complete services, respondent was unable to participate in family therapy. Furthermore, Darlene told Christopher that she had chosen him over her husband and asked why he treated her as badly and disrespectfully as respondent had treated her. Christopher responded by saying, "I don't give a f\_ck." It had been very difficult to stabilize Christopher, who told Johnson that he would continue to lie to his parents. Christopher did whatever he wanted to do, and Johnson believed that Christopher would run the house if there were no sanctions for his behavior. When Johnson talked to Christopher about getting involved in community activities, Christopher responded, "I ain't going to do any of that sh\_t." Based on his knowledge of the family, Johnson believed that it would not be safe for respondent and Christopher to be alone together or for respondent to live in the home with Darlene and the children.

¶29 The trial court stated that Christopher was basically running the home, and Johnson said the case might have come in as a dependency situation if it had been worked up differently from the outset. Johnson had spoken to Darlene a week ago about possibly looking at foster homes or residential homes for Christopher, and, for the first time, Darlene told Christopher that he might have to go to a group or youth home if he kept treating her badly. Previously, Darlene had not said anything when Johnson raised the issue of a foster or residential home. Christopher was attending a special education school that put noncompliant children in a separate room to calm them down. The school sent letters home on a weekly basis, and, since August, there was only one week when Darlene did not receive a letter saying that Christopher had to spend time in the room for noncompliant children.

¶30 The trial court stated that if the case had come before the court as a dependency case, Christopher would probably have been receiving services in a residential home by now and

respondent would not have been moved out of his house and paying rent somewhere else while Christopher ruled “the roost at the home.” The Assistant Public Guardian disagreed with the court, stating that there were circumstances involving the parents that needed to be addressed. The trial court agreed, and stated that Christopher was in Darlene's custody and she needed to make decisions about what she wanted. The trial court suggested a clinical staffing to see if other services were available.

¶31 The State again referred the court to tabbed portions of respondent’s VA hospital records, which showed that respondent had tested positive for cocaine although he denied any usage of cocaine at that time.

¶32 Respondent testified that he had been receiving services through the VA hospital and completed an in-patient drug program in July and received a certificate. Respondent stated that the treatment program was working well for him. He acknowledged that he tested positive for cocaine in October 2013 and admitted that he had been using cocaine in October, but stated that he had not used cocaine since then. Respondent also admitted that he did not comply with the order of protection and sometimes brought McDonald’s food to Christopher and E.J. when they called him and asked for it.

¶33 According to respondent, Christopher had discipline when respondent was living in the house, but now there was no discipline and Christopher was out of control. Respondent stated that DCFS’s intervention was the problem because Christopher threatened to call DCFS when he wanted something. Respondent did not believe that Christopher should be living with Darlene because he needed structure. Respondent believed that DCFS did not do a complete investigation before removing him from the home and stated that DCFS was upset with him because he had filed complaints against DCFS. In order to maintain his sobriety, respondent was in a bowling league,

went to VA hospital to talk to people, and was getting ready to volunteer at a second-hand store. Respondent stated that he did not attend Alcoholics Anonymous or Narcotics Anonymous meetings because he did not think it helped to talk about his drug use.

¶34 Respondent testified that he did not complete his anger management program at the VA hospital until November 2013, which was after he revoked his consent to release his treatment information. Respondent stated that, at this time, he was willing to re-sign a consent form and take a drug test. He agreed to receive mental health services from the VA hospital and would go to counseling with Darlene and the children.

¶35 The trial court stated that the father-son relationship needed to be addressed because Darlene was being dominated by both respondent and Christopher. The court laid the blame for respondent's inability to participate in family counseling on respondent because he had revoked his consent to allow the caseworker to obtain the necessary records to track respondent's progress with his substance abuse and mental health issues. The court stated that it would not remove Christopher from his home until there was an appropriate placement for him. Accordingly, the trial court ordered that a clinical staffing be conducted and continued the hearing.

¶36 When the dispositional hearing resumed in March 2014, the trial court stated that if it had known at adjudication what it had subsequently learned, it would have changed its ruling at adjudication. The trial court went through the reports it had, including one from Christopher's psychiatric hospitalization, which recommended a structured setting for Christopher in the form of a residential program.

¶37 Caseworker Johnson testified that Christopher was hospitalized, released in January, readmitted in February, and discharged again on February 28, 2014. He was diagnosed with oppositional defiant disorder, explosive disorder, ADHD, a mood disorder, and substance abuse

problems. Upon Christopher's release to Darlene, he was taken to Alexian Brothers for an intensive out-patient evaluation for substance abuse. After his release from Alexian Brothers, Christopher went back to his therapeutic school, where he acted out in front of the principal, the social worker, and Darlene.

¶38 Johnson testified that Christopher had threatened to shoot another student at school and claimed to have the means to obtain a gun. Johnson did not know if Christopher was under the influence of drugs when he made the threat. Prior to his hospitalization, Christopher had "chest-bumped" Darlene and pulled E.J. down the stairs by her hair. When Christopher expressed homicidal ideation at school, he told school officials that he felt drunk because he had been drinking alcohol at home. Johnson discussed the drinking with Darlene, who assured Johnson that it would not happen again.

¶39 Johnson's agency, Lutheran Social Services of Illinois, recommended that DCFS be given custody of Christopher to place him in a specialized residential facility. Johnson believed such a structured residential treatment facility would be in Christopher's best interest. If Christopher remained at home, his explosive behaviors and careless attitude raised safety concerns for himself, Darlene, and E.J. Furthermore, Christopher did not always take his medication when he resided at home. In addition, respondent had violated every safety plan or court order that had been put in place.

¶40 Johnson testified that both Darlene and Christopher wanted Christopher to remain at home with Darlene. Darlene was still engaged in domestic violence counseling. Respondent had not engaged in any services after his release from the VA hospital upon completion of its substance abuse program. Respondent was not complying with the order of protection.

¶41 Johnson testified that a meeting was held after Christopher's hospitalization to discuss a safety plan in the event residential treatment did not occur. Johnson had suggested that, in addition to the order of protection already in place, there should be additional safety factors to ensure that no contact occurred between Christopher and respondent. Respondent, however, would not sign the plan and wanted the judge to decide what should be done.

¶42 Darlene testified that Christopher had been seeing a psychiatrist and taking medication for over 10 years. She ensured that he took his medication and went to school, but admitted that he may have missed a dose over the weekend when she fell asleep after taking her own medication for severe arthritis. Christopher was currently attending a therapeutic school and receiving services at the school. She claimed that she would adhere to and enforce the provisions of the safety plan and the order of protection. She wanted what was best for Christopher, but did not agree with Johnson's residential facility recommendation and wanted Christopher to remain at home with her. However, Darlene thought that if removal from her home would help Christopher, then that was what should be done.

¶43 Darlene did not think that Christopher benefited from the hospitalizations. She thought his mental state deteriorated when he was hospitalized and he was more agitated upon release from the hospital. She did not visit him frequently while he was hospitalized due to her lack of transportation and illness. She admitted that Christopher had "chest bumped" her and had bitten her, but claimed those incidents occurred nine months to a year ago and while he had not been taking his medication regularly. She also stated that E.J. was not harmed when Christopher pulled her down the stairs by her hair and Christopher might not have taken his medication that day. Darlene claimed that she had not seen signs of physical violence, substance abuse or alcohol consumption by Christopher since his release home from the hospital, and she no longer kept

alcohol in the house.

¶44 The Assistant State's Attorney told the court that the State agreed with the recommendation of clinical residential placement and a finding that both parents were unable for some reason other than financial circumstances alone to care for, protect, train, or discipline Christopher.

Christopher's attorney and Darlene's attorney recommended that Christopher should be returned home. Respondent's attorney waived argument.

¶45 Prior to making its ruling, the trial court stated that it wished this case had been screened in as a dependency case. Nevertheless, the trial court made Christopher a ward of the court and found that both Darlene and respondent were unable to care for Christopher at this time. The trial court did not believe that Christopher could safely remain at home, as he had been violent with Darlene, E.J., and respondent.

¶46 Respondent filed a motion asking the trial court to reconsider and vacate its finding of neglect due to an injurious environment. Respondent also asked the trial court to amend the petition for adjudication of wardship to conform to the proofs by including an allegation of no-fault dependency pursuant to section 2-4(1)(c) of the Juvenile Court Act (705 ILCS 405/2-4(1)(c) (West 2012)). Respondent argued that the trial court should change its prior ruling from a finding of neglect to a finding of dependency and order the State to amend the petition based on evidence that came to light subsequent to the court's ruling. Darlene joined in respondent's motion.

¶47 The State and Public Guardian argued the court should deny the motion, contending there was no reason to believe the evidence of Christopher's behavior after the adjudication hearing would have produced a different result because his behavioral problems were evident from the beginning and were the same behavioral and mental health issues that he had when his case came

into the system.

¶48 The trial court denied respondent's motion. The trial court stated that it previously had expressed concerns about this case not coming before the court as a dependency case.

Nevertheless, the court believed the evidence supported the October 2013 finding of neglect because the severity of Christopher's behavior was not present in the information before the court at the adjudicatory hearing. Furthermore, despite its previous comments, the court did not believe the evidence supported a finding of no-fault dependency because there was not enough evidence to establish that Christopher's behavior was out of control and that the parents were doing everything they could to get help and handle Christopher's behaviors.

¶49 Respondent now appeals the trial court's finding of neglect, its dispositional ruling, and its denial of respondent's motion to reconsider the finding of neglect. Darlene is not a party to this appeal.

¶50

## II. ANALYSIS

¶51

### A. Neglect Due to Injurious Environment

¶52 Respondent argues the trial court's finding that Christopher was neglected due to an injurious environment was against the manifest weight of the evidence. Respondent argues Christopher's allegations of abuse were not credible and he admitted to lying and manipulating to get his way.

¶53 Cases involving allegations of neglect and adjudication of wardship are *sui generis* and must be decided on the basis of their unique circumstances. *In re Arthur H.*, 212 Ill. 2d 441, 463 (2004). The State must establish the allegations of neglect by a preponderance of the evidence. *In re N.B.*, 191 Ill. 2d 338, 343 (2000). On review, a trial court's finding of neglect will not be reversed unless it is against the manifest weight of the evidence. *In re D.S.*, 217 Ill. 2d 306, 322

(2005). A finding is against the manifest weight of the evidence only if the opposite conclusion is clearly evident. *Id.*

¶54 In a proceeding for the adjudication of wardship, the juvenile court's primary concern is the best interest of the child. *In re N.B.*, 191 Ill. 2d at 343. The juvenile court has broad discretion when determining whether a child has been abused or neglected, or is dependent. *In re Malik B.-N.*, 2012 IL App (1st) 121706, ¶35. Neglect encompasses any child under 18 years of age whose environment is injurious to his welfare. 705 ILCS 405/2-3(1)(b) (West 2012); *In re Arthur H.*, 212 Ill. 2d at 463. The phrase "injurious environment" is broad and amorphous, and includes the breach of a parent's duty to ensure a safe and nurturing shelter for the child. *In re Alexis H.*, 401 Ill. App. 3d 543, 557 (2010). In general, neglect is defined as the failure to exercise the care that circumstances justly demand, and includes both willful and unintentional disregard of parental duties. *In re L.H.*, 384 Ill. App. 3d 836, 841 (2008). In contrast, a dependent child includes any child under 18 years of age who is without the care necessary for his well-being through no fault, neglect or lack of concern by his parent. 705 ILCS 405/2-4(1)(c) (West 2012).

¶55 Under the Juvenile Court Act, proof that a parent repeatedly used a drug, to the extent that it would ordinarily produce a state of stupor, intoxication, hallucination, disorientation, or incompetence, or a substantial manifestation of irrationality, shall be *prima facie* evidence of neglect. 705 ILCS 405/2-18(2)(f) (West 2012). Moreover, an ongoing pattern of substance abuse can create an injurious environment. *In re Z.Z.*, 312 Ill. App. 3d 800, 805 (1999) (minor was neglected due to injurious environment where the mother has used marijuana before the minor's birth and admitted to repeated drinking binges). In addition, a finding of neglect due to an injurious environment is appropriate where a parent has a history of drug abuse and makes no

progress to ameliorate the drug problem. *In re Kenneth D.*, 364 Ill. App. 3d 797, 802 (2006); *In re Sharena H.*, 366 Ill. App. 3d 405, 412, 416-17 (2006).

¶56 Here, respondent admitted in April 2013 to caseworker Nalls that he used marijuana and crack cocaine monthly. Nalls testified that it was not safe for respondent to be in the home because of his admitted drug use and his failure to comply with mental health services for his PTSD. Christopher testified that he had seen respondent high before and Darlene thought he used crack cocaine. Christopher believed respondent was high during the April 9 incident because he was anxious, paranoid and sweating, and his eyes were wide. Moreover, respondent told Christopher that he did drugs because he had to use drugs in Vietnam to stay awake. In addition, respondent's medical and substance abuse treatment records showed the extent of his drug abuse. Specifically, he admitted that he used cannabis and cocaine since Vietnam and used the drugs monthly. His treatment records indicated that he tested positive for cocaine use on May 16, 2013. The evidence supports the trial court's finding that respondent did not gain control of his drug abuse.

¶57 Although respondent had completed several in-patient treatments in the past, he continued to use crack cocaine monthly. This court takes judicial notice that cocaine is a powerful addictive stimulant drug and cocaine abusers can experience severe paranoia and auditory hallucinations. Respondent, who was diagnosed with longstanding PTSD, auditory and visual hallucinations, and cocaine and marijuana use, has not presented any evidence to rebut the *prima facie* evidence of neglect based on his repeated drug use.

¶58 In addition to respondent's severe issues with substance abuse, which adversely impacted Christopher and the family, respondent also engaged in domestic violence in the home and had a volatile relationship with Christopher. See *In re R.B.*, 336 Ill. App. 3d 606, 615 (2003) (a court

may find neglect due to an injurious environment due to one incident of domestic violence witnessed by a child); *In re Sharena H.*, 366 Ill. App. 3d at 417 (child was subject to an injurious environment where the mother was involved in a relationship with domestic violence); *In re T.S.-P.*, 362 Ill. App. 3d 243, 249 (2005) (the presence of domestic violence in addition to illegal drug abuse shows neglect due to an injurious environment).

¶159 Here, Darlene admitted that she and respondent were involved in a pushing incident in April 2013 and a “scuffle” in December 2012 when defendant took the phone away from her and caused her to fall. Darlene acknowledged that she did not realize that respondent’s way of speaking to her constituted domestic violence. Moreover, the evidence supports the trial court’s finding that respondent and Christopher engaged in a physical altercation. Although Christopher’s account of the April 9th incident was not credible in many respects, particularly concerning his allegation that respondent choked him, respondent’s assertion that he merely walked away from the altercation was similarly incredible. The detailed testimony of the caseworkers, Christopher, Darlene, and respondent supported the trial court’s finding that Christopher was emulating respondent’s disrespectful and abusive conduct toward Darlene. Finally, the trial court’s dismissal of the State’s neglect petition concerning E.J. does not somehow invalidate the neglect finding concerning Christopher. See generally, *In re G.L.*, 329 Ill. App. 3d 18, 26 (2002) (in a termination of parental rights case, the fact that the court did not terminate the mother’s parental rights to her three older children did not mean that the orders terminating her rights to her two younger children were incorrect). Although E.J. was present in the hostile and angry home environment, it did not rise to the level of neglect or abuse for her because respondent’s volatile relationship was with Christopher, not E.J.

¶60 We conclude that respondent's drug abuse, domestic violence in the home, and volatile relationship with Christopher support the trial court's finding that Christopher was neglected due to an injurious environment.

¶61 **B. Motion to Reconsider**

¶62 Respondent contends the trial court abused its discretion in denying his motion to reconsider the adjudication of neglect. Specifically, respondent argues the post-adjudication evidence of Christopher's mental health and behavioral issues was relevant to the allegations made in the petition for adjudication of wardship and showed that Christopher was out of control. Respondent asserts the trial court should have changed the finding of neglect to a finding of no-fault dependency.

¶63 The purpose of a motion to reconsider is to bring the court's attention to changes in the law, errors in the court's previous application of existing law, or newly discovered evidence that was not available at the time of the hearing. *In re Ashley F.*, 265 Ill. App. 3d 419, 426 (1994). To justify a rehearing on the basis of newly discovered evidence, there must be a showing of due diligence and a demonstration that justice has not been done. *Id.* The trial court's decision will not be reversed absent an abuse of discretion. *Id.*

¶64 Respondent's argument that the trial court should have entered a finding of no-fault dependency rather than finding Christopher a neglected minor lacks merit. The purpose of an adjudication hearing is to determine whether the child has been neglected, not to determine the status of the parent. See 705 ILCS 405/1-3(1) (West 2012). Here, the circuit court's finding that Christopher was neglected justifiably was based on respondent's conduct in this case and was not against the manifest weight of the evidence. As discussed above, the record supports the trial court's finding that Christopher was neglected due to an injurious environment because

respondent repeatedly abused cocaine, engaged in domestic violence and had a volatile relationship with Christopher. Furthermore, the record supports the trial court's findings that respondent failed to address his severe drug abuse, which adversely impacted the family and Christopher, who emulated respondent's disrespectful and abusive conduct toward Darlene. In addition, respondent demonstrated a lack of concern for Christopher's welfare by failing to abide by the orders of protection and safety plans and by failing to complete all the services assessed by DCFS in order to be eligible to participate in family counseling. There was no evidence that respondent was doing everything he could to address his drug abuse and domestic violence issues and mend his relationship with Christopher.

¶65 Respondent's claim on appeal that Christopher was out of control in the Spring of 2013 is inconsistent with respondent's testimony during the January 2014 dispositional hearing, which blamed DCFS for Christopher's behavioral issues and asserted Christopher had the necessary discipline and structure until DCFS required respondent to leave the home. There is evidence in the record that Christopher was physically aggressive and difficult to control, which respondent argues supports a finding of dependency. However, there is also ample evidence that respondent acted affirmatively to engage in physical and verbal altercations with Christopher and Darlene, had a volatile relationship with Christopher, and refused to participate in and complete all the services assessed by DCFS to address his substance abuse and domestic violence issues. The post-petition evidence of Christopher's deteriorating behavior after the spring of 2013 and mental health issues does not somehow absolve or erase respondent's initial failings—drug abuse and domestic violence—that triggered the State's intervention. Based on the evidence, we cannot say that the conclusion that Christopher should have been adjudged dependent rather than neglected is clearly evident.

¶66 Because we find that the circuit court properly entered a finding of neglect, we reject respondent's argument that the circuit court should have entered a finding of no-fault dependency under section 2-4(1)(c) of the Juvenile Court Act. Therefore, we find no abuse of discretion in the trial court's denial of respondent's motion to reconsider.

¶67 **C. Dispositional Ruling of Unable to Care for Minor**

¶68 Respondent contends the evidence showed that he was fit, willing and able to care for Christopher because respondent testified that he was receiving services through the VA hospital and completed an in-patient drug treatment program and an anger management program. We disagree.

¶69 The standard of proof at the dispositional hearing is a preponderance of the evidence. *In re Lakita B.*, 297 Ill. App. 3d 985, 994 (1998). The trial court's dispositional ruling will not be disturbed if it is supported by the manifest weight of the evidence. *In re April C.*, 326 Ill. App. 3d 245, 257 (2001).

¶70 When the dispositional hearing commenced in January 2014, the caseworker testified that respondent had not completed substance abuse and domestic violence counseling and could not join the family's counseling sessions until he completed services. Moreover, respondent and Christopher were not visiting. Furthermore, there was no evidence that respondent was drug-free and cooperating with services. Respondent revoked in October 2013 his consent for the release of information from the VA hospital to the caseworker. Consequently, respondent's counselor at the hospital was only able to tell the caseworker that respondent had tested positive for drug use but could not reveal the identity of the drug. Although respondent claimed he completed in-patient drug treatment in July 2013, he admitted to using cocaine in October 2013 and his VA hospital records showed that he tested positive for drug use in October 2013 and had two more positive

drug tests in November 2013. Furthermore, when the dispositional hearing continued in March 2014, the caseworker testified that respondent was not engaged in any services and was violating the court order of protection.

¶71 We conclude that the trial court's finding that respondent was not able to care for Christopher was not against the manifest weight of the evidence.

¶72 **III. CONCLUSION**

¶73 The record demonstrates the trial court's findings that Christopher was a neglected minor and respondent was unable to care for him were not against the manifest weight of the evidence.

Accordingly, we affirm the judgment of the circuit court.

¶74 Affirmed.