

NOTICE  
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2014 IL App (4th) 131124-U  
NO. 4-13-1124

**FILED**  
April 30, 2014  
Carla Bender  
4<sup>th</sup> District Appellate  
Court, IL

IN THE APPELLATE COURT  
OF ILLINOIS

FOURTH DISTRICT

In re: P.K., a Minor,	)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,	)	Circuit Court of
Petitioner-Appellee,	)	Champaign County
v.	)	No. 13JA50
NAISHIA CARROLL,	)	
Respondent-Appellant.	)	Honorable
	)	Richard P. Klaus,
	)	Judge Presiding.

JUSTICE KNECHT delivered the judgment of the court.  
Justices Turner and Holder White concurred in the judgment.

**ORDER**

¶ 1 *Held:* The trial court properly placed custody and guardianship of the respondent minor with the Department of Children and Family Services.

¶ 2 Respondent mother, Naishia Carroll, appeals the order placing custody and guardianship of her daughter, P.K. (born September 29, 2013), with the Department of Children and Family Services (DCFS). Respondent contends the order is against the manifest weight of the evidence. We affirm.

¶ 3 I. BACKGROUND

¶ 4 In October 2013, the State filed a petition for adjudication of neglect and shelter care on behalf of P.K. The State alleged three counts of neglect involving respondent, contending P.K.'s environment was injurious to her welfare (1) when she resided with respondent because respondent failed to correct the conditions that resulted in the prior Ohio adjudications

of parental unfitness to exercise custody over P.K.'s six half-siblings; (2) when she resided with respondent and Anthony D. King, P.K.'s father and not a party to this appeal, because the environment exposed P.K. to domestic violence; and (3) when she resided with respondent and King because she was exposed to substance abuse. 705 ILCS 405/2-3(1)(b) (West 2012).

¶ 5 In November 2013, at the adjudicatory hearing, respondent admitted P.K. was neglected because her environment exposed her to domestic violence. The State dismissed the remaining counts.

¶ 6 The parties agreed the shelter-care report would serve as the factual basis for respondent's stipulation of neglect. According to the report, DCFS received a hotline report on September 30, 2013, one day after P.K.'s birth. It was reported respondent's parental rights to five of her children were in the process of being terminated in Ohio. The hotline report further indicated respondent's sixth child was in relative foster care, and respondent crossed state lines to give birth to her seventh child. On October 1, 2013, a child-protection specialist learned the termination of respondent's parental rights was "imminent." Respondent was supposed to appear on September 23, 2013, for a hearing, when she reported she could not appear due to "a late[-]term abortion." The specialist learned the children were removed in February 2011 because respondent left the children home alone for long periods of time, the conditions of the home were poor, and respondent had substance-abuse issues and untreated mental-health concerns.

¶ 7 According to the shelter-care report, DCFS received documents from the Department of Children and Family Services in Cleveland, Ohio (DCFS Ohio). Among the documents received was a report from a service plan dated July 29, 2013. These documents

demonstrated respondent completed parenting classes, but she needed to demonstrate learned skills. Respondent had a history of evictions and had seven different residences since the case opened. Respondent completed a psychological evaluation, and she sporadically attended counseling. She was diagnosed with depression, narcissism, and adjustment disorder.

Respondent had been referred to a domestic-violence class, but she did not attend it. Respondent failed to comply with five urine screens. Respondent was also usually late to visits and missed "many."

¶ 8 The report shows, on October 1, 2013, Marcus Truss, a child-protection specialist, and Tara Gilman, a child-protection supervisor, spoke with respondent. She was told, because of the unresolved issues in Ohio, DCFS would take protective custody of P.K. when the child was ready for release. Respondent asked where the baby would go. DCFS informed her, "foster care." unless respondent had a relative in Illinois. Respondent stated she had none and expressed concern over how she would visit her child because she lived in Missouri with her father. Respondent stated she had resided there for two months, but DCFS Ohio believed she was still in Ohio. Respondent was informed of a safety plan implemented by DCFS. Respondent agreed to comply with the requirements of the safety plan until she could meet with Marcus the next morning.

¶ 9 DCFS, in the shelter-care report, further stated respondent called Marcus at the DCFS office on October 2, 2013. When told Marcus was unavailable, respondent called the switchboard operator a name. Marcus was told respondent and another woman attempted to access locked areas of the building. Respondent denied these incidents occurred. Later that morning, respondent met with Marcus and Gilman. Respondent acknowledged, under the terms

of the safety plan given to her on the afternoon of October 1, she was not supposed to visit the hospital. Respondent called the hospital to check on P.K.'s status. Respondent denied having mental-health issues, asserting she suffered depression only after her children were removed from her custody. Respondent asserted she worked with a therapist in Ohio. Respondent denied substance abuse. Respondent asserted she was a victim of domestic violence, stating King battered her. Respondent last spoke to King, who was also the father of respondent's sixth child, in March 2013. Despite the recommendation of DCFS Ohio she attend domestic-violence services, she did not follow through with the services because she was not a perpetrator of domestic violence. Respondent denied telling the court she was having a late-term abortion.

¶ 10 According to the shelter-care report, on the afternoon of October 2, 2013, Marcus received a log entry from the hospital. The statement was dated "10/1/13 Night shift 2300-0730." According to the statement, respondent attempted to enter the labor-and-delivery department. The labor-and-delivery staff told respondent she was not supposed to be at the hospital. Security told her to leave. After arguing for 5 to 10 minutes, respondent left the building but remained in the parking lot. Security called the Urbana police department, which responded. Respondent argued with the police for over 15 minutes and then left hospital property.

¶ 11 The dispositional hearing was held on December 16, 2013. The trial court stated it had read the dispositional report prepared by Arnetha Truss, a child-protection specialist. Arnetha reported the same history that appeared in the shelter-care report. Arnetha also reported respondent was not employed, but she received \$639-per-month in social security benefits. Although respondent began receiving those benefits when she was a child, she did not know why

she continued to receive them. Respondent reported being in a relationship with King, and their relationship was "sometimes good and sometimes bad." According to respondent, King had a history of infidelity, physically abused her in the past, used marijuana, and had a criminal history. Respondent reported living with her sister in Ohio. She had resided in eight homes during the course of her case.

¶ 12 Arnetha further reported respondent completed a 16-week parenting class in Ohio. This was the only recommended service completed by respondent. According to the dispositional report, respondent remained unable to demonstrate her parenting skills during visits and struggled with appropriate disciplinary methods. Respondent also missed several visits and did not understand how missed visits could cause children emotional trauma. Respondent, however, also bought clothes for her children, took pictures of them, celebrated their birthdays, and had relatives attend the visits with her.

¶ 13 According to the dispositional report, respondent denied previous mental-health diagnoses, hospitalizations, or treatments. Records from DCFS Ohio showed a psychological evaluation of respondent was performed, and she was diagnosed with depression, narcissism, and adjustment disorder. Although counseling was recommended as treatment, respondent did not attend counseling.

¶ 14 DCFS further reported respondent denied traveling to Illinois to avoid DCFS Ohio's involvement. Respondent stated she was driving through to visit relatives and P.K. was not due for another month.

¶ 15 DCFS reported King did not participate in the interview. He had an extensive criminal history, including arrests in 2002 for aggravated robbery and attempted aggravated

murder in Ohio. He was sentenced to three years' imprisonment. Other arrests included domestic violence and kidnapping, as well as drug-related offenses.

¶ 16 At the conclusion of the dispositional report, DCFS recommended custody and guardianship be placed with DCFS.

¶ 17 The trial court also considered orders from Ohio courts terminating respondent's parental rights to five of her children. In addition, respondent asked to make some corrections to the evidence. Respondent stated she was not in a relationship with King. Respondent indicated she completed three classes of a seven-week domestic-violence course and expected to finish the course in another month. Respondent stated she attempted to schedule counseling sessions in the beginning of December and was waiting for a return call.

¶ 18 At the conclusion of the hearing, the trial court found it was in P.K.'s best interest that she be made a ward of the court and adjudged neglected. The court found respondent and King unfit and unable to act as custodial parents and ordered custody and guardianship of P.K. be placed with DCFS.

¶ 19 This appeal followed.

¶ 20 II. ANALYSIS

¶ 21 On appeal, respondent does not challenge the finding of neglect. She argues the trial court erred in removing custody of P.K. from her. Respondent emphasizes she began domestic-violence treatment, ended her relationship with King, completed parenting classes, and had family support.

¶ 22 Once a child has been found neglected, the second step in an adjudication of wardship is the dispositional hearing. *In re A.P.*, 2012 IL 113875, ¶ 21, 981 N.E.2d 336 (citing

705 ILCS 405/2-21(2) (West 2010)). At the dispositional hearing, a trial court determines whether a child may be committed to the custody and guardianship of DCFS. The court may grant custody and guardianship to DCFS if it finds (1) the parents are "unfit or \*\*\* unable, for some reason other than financial circumstances alone, to care for, protect, train or discipline the minor or are unwilling to do so, and [(2)] the health, safety, and best interest of the minor will be jeopardized if the minor remains in the custody of his or her parents." 705 ILCS 405/2-27(1)(a), (1)(d) (West 2012). This law reflects the superior right of biological parents to custody of their children, meaning, in general, both parents must be found unfit, unable, or unwilling before a court may place a minor with DCFS. *In re Ta. A.*, 384 Ill. App. 3d 303, 307, 891 N.E.2d 1034, 1037 (2008). This court will not overturn a trial court's decision on this issue unless the findings of fact are against the manifest weight of the evidence or the court abused its discretion in selecting an improper dispositional order. *Id.*, 891 N.E.2d at 1037-38.

¶ 23 The trial court's order granting custody and guardianship of P.K. to DCFS is not against the manifest weight of the evidence. The record firmly establishes respondent is unfit and unable to act as a custodial parent and P.K.'s health, safety, and best interest would be jeopardized if returned to respondent. Respondent's parental rights to five children had recently been terminated because respondent failed to complete all but one of the tasks asked of her. She had only recently begun domestic-violence treatment, and the record raises a question of whether respondent's relationship with King had ended. Respondent's conduct at the hospital before and after P.K.'s arrival is not indicative of a parent ready to address and correct her failures as a parent in order to provide a safe and stable home for P.K.

¶ 24

### III. CONCLUSION

¶ 25 We affirm the trial court's judgment.

¶ 26 Affirmed.