

¶ 4

I. BACKGROUND

¶ 5 In December 2013, the State filed a petition for adjudication of neglect. Therein, the State alleged respondent's three minor children, Jaz. B. (born December 3, 2012), Jad. B. (born June 22, 2011), and K.B. (born June 22, 2011), were neglected in that their environment was injurious to their welfare (705 ILCS 405/2-3(1)(b) (West 2012)). Specifically, the State alleged respondent (1) exposed the minors to inadequate supervision (count I); (2) exposed the minors to domestic violence (count II); (3) exposed the minors to the risk of physical harm (count III); and (4) failed to protect the minors from domestic violence (count IV).

¶ 6 In April 2014, the matter was called for an adjudicatory hearing. As the hearing was about to commence, the assistant State's Attorney stated, "it's my understanding that the respondent mother *** will stipulate to *count [I]* of the petition with the remaining counts as to each of them being withdrawn and dismissed." (Emphasis added.) Counsel for respondent represented to the trial court the State's understanding was correct.

¶ 7 After the trial court admonished the parties of the possible consequences of a finding of neglect, the trial court stated the following:

"In *count [III]* in this petition it's alleged that [the minors] are neglected pursuant to Illinois law by reason of being minors under 18 years of age whose environment is injurious to their welfare when residing with [respondent] ***. It alleges that said environment exposes the minors to domestic violence." (Emphasis added.)

The court then explained the burden the State would have to meet if the cause proceeded to an evidentiary hearing and the rights the parties would relinquish by admitting the allegation.

¶ 8 Thereafter, the following exchange took place between respondent and the court:

"THE COURT: And [respondent], please feel free to also ask your lawyer before answering my question. The question being, do you admit the allegation in *count [II]* is true?

RESPONDENT ***: Yes.

THE COURT: Has anyone forced, coerced, or threatened you to make this admission?

RESPONDENT ***: No.

THE COURT: Ms. Kesler, to your understanding the promises to your client are *withdrawal of counts [I] and [III]*?

MS. KESLER [counsel for respondent]: Yes, and [IV]. I'm sorry.

* * *

THE COURT: So [respondent], I understand given your admission to *count [II]* you're— that *counts [I, III, and IV]* are going to be withdrawn; is that your understanding ma'am?

RESPONDENT ***: Yes, sir." (Emphases added.)

Respondent then indicated she was acting of her own free will and no other promises had been made in exchange for her admission.

¶ 9 The trial court found respondent's offer to admit was knowing and voluntary. As factual support, the State presented, without objection from respondent, two police reports which detailed separate incidents of domestic violence in the home in which the minors resided. Additionally, the State asked the court to take judicial notice of the orders entered in Champaign

County case No. 13-CF-248, in which the children's father pleaded guilty to domestic battery (720 ILCS 5/12-3.2(a)(1) (West 2012)) for a physical altercation between him and respondent. Respondent did not object to the court taking judicial notice of the orders entered in Champaign County case No. 13-CF-248.

¶ 10 The trial court concluded the factual basis was sufficient to support respondent's admission and found in favor of the State as to count II only. On the State's motion, the court dismissed counts I, III, and IV of the State's petition. The court thereafter entered a written order setting forth the factual basis for respondent's admission—the minors' father struck respondent and "another male" and caused respondent to suffer a broken jaw.

¶ 11 In May 2014, the cause proceeded to a dispositional hearing, following which the court adjudged the minors neglected, found it in their best interests to be made wards of the court, and granted custody and guardianship to the Department of Children and Family Services.

¶ 12 This appeal followed.

¶ 13 **II. ANALYSIS**

¶ 14 On appeal, respondent argues the trial court "abused its discretion when it mistook the parties' representation of a stipulation to count [I] as a stipulation to count [II] and when the proffered factual basis included no evidence about [the allegation contained in count I]."

Essentially, respondent argues the State's factual basis was not sufficient to sustain her offer to admit to count I of the State's petition. However, because we find respondent intended, at all times, to stipulate to count II, the court did not abuse its discretion when it determined a factual basis existed for respondent's admission.

¶ 15 "A finding of abuse, neglect or dependence is a necessary predicate to an adjudication of wardship of a child." *In re N.B.*, 191 Ill. 2d 338, 343, 730 N.E.2d 1086, 1088

(2000). Before a court may adjudicate a minor to be a ward of the court, the State must prove abuse, neglect, or dependence by a preponderance of the evidence. *In re M.H.*, 196 Ill. 2d 356, 365, 751 N.E.2d 1134, 1141 (2001). This may be accomplished by an admission of the party, as long as the admission is made knowingly and voluntarily. *Id.* at 366, 751 N.E.2d at 1142. To meet this requirement, it must be apparent from the record that the parent making the admission understood its consequences. *In re Johnson*, 102 Ill. App. 3d 1005, 1012, 429 N.E.2d 1364, 1371 (1981).

¶ 16 A. Whether Respondent's Stipulation Was Knowing and Voluntary

¶ 17 Respondent first argues her stipulation to count II was not made knowingly and voluntarily. Respondent's argument focuses on the assistant State's Attorney's opening remark at the adjudicatory hearing, in which he stated, "it's my understanding that the respondent mother *** will stipulate to count [I] of the petition." Based on this statement, respondent asserts the trial court mistook respondent's offer to stipulate to count I as an offer to stipulate to count II. The transcript of the hearing shows otherwise. After the prosecutor's initial remark regarding the parties' stipulation, the court proceeded on count II. The parties indicated count II was the allegation to which respondent would stipulate and confirmed their agreement. No one mentioned this discrepancy when the court proceeded on count II. Moreover, respondent never attempted to withdraw her admission or object to the stipulation after its entry. Based on what transpired after the prosecutor's opening remark, we find the parties, at all times, intended to proceed on count II.

¶ 18 Respondent argues her youth, lack of education, and unfamiliarity with courtroom proceedings raise doubts about the integrity of her admission and stipulation to count II. Further, respondent argues, the record "leaves unacceptable uncertainty about whether or not this teenage

girl understood what she was doing when she gave those affirmative answers" to the trial court's questions regarding the allegation contained in count II. We disagree. The record shows the court explained count II alleged exposure to domestic violence. Prior to her admission, the court explained to respondent the consequences of a finding of neglect and the rights she would be relinquishing by admitting to the allegation in count II. The court directed respondent to "feel free" to consult with her attorney before admitting to "the allegation in count [II]." Respondent then admitted to the allegation contained in count II. She stated no one had forced, coerced, or threatened her to make the admission. Additionally, respondent's attorney confirmed the parties' agreement was an admission to count II in exchange for the withdrawal of counts I, III, and IV. Respondent thereafter stated (1) she understood the agreement was an "admission to count [II]" in exchange for the withdrawal of counts I, III, and IV; (2) no other promises had been made to her; and (3) she was acting of her own free will. Nothing in the record indicates respondent failed to understand she was admitting to the count pertaining to exposure to domestic violence or the consequences of that admission. See *In re April C.*, 326 Ill. App. 3d 225, 243-44, 760 N.E.2d 85, 100 (2001) (admission was knowing and voluntary where the respondent (1) was advised of the nature of the stipulation and proceedings, (2) was represented by counsel, and (3) made no effort to withdraw or object to the stipulation after its entry).

¶ 19

B. Factual Basis

¶ 20

Respondent next contends the factual basis submitted by the State was insufficient to sustain her stipulation to count I. However, because we have found respondent intended to stipulate to count II and not count I, we will assess the sufficiency of the factual basis on count II. "When a respondent challenges the sufficiency of the factual basis, the standard of review is

whether the trial court abused its discretion by determining that a factual basis existed for the admission." *In re C.J.*, 2011 IL App (4th) 110476, ¶ 49, 960 N.E.2d 694.

¶ 21 The evidence submitted by the State overwhelmingly supports the trial court's finding the children were neglected due to an exposure to domestic violence. The police reports submitted by the State show police were dispatched to the residence in which the minors resided on two separate occasions in February 2013. In the first instance, the Champaign police department arrested the minors' father for domestic battery after he struck respondent in the face, causing her to lose several teeth and suffer a broken jaw. In April 2013, the minors' father pleaded guilty to domestic battery stemming from this incident. In the second instance, the Champaign County sheriff's office responded to a call concerning an altercation between the minors' father and respondent's brother, which resulted in the arrest of both men. Based on these circumstances, the court did not abuse its discretion by determining a factual basis existed for respondent's stipulation to count II.

¶ 22 Respondent would have us assume the parties "meant what they said when they said the agreement was a stipulation to count [I]," making the State's proffered factual basis insufficient to sustain the admission as it contained no facts relating to inadequate supervision. We decline to make this assumption, as it would require us to ignore the transcript of the entire hearing, which shows the parties and the court understood respondent would be admitting to count II in exchange for the withdrawal of counts I, III, and IV. See *People v. Townsel*, 14 Ill. App. 3d 105, 109, 302 N.E.2d 213, 215 (1973) ("It is fundamental that [the appellate] court has the authority and the responsibility, to review the record before it and to determine [an] appeal based upon the entire record.").

¶ 23 C. Respondent's Brief

¶ 24 In closing, we note respondent's failure to comply with Illinois Supreme Court Rule 341(h)(4) (eff. Feb. 6, 2013), which requires the appellant's brief to include a statement of this court's jurisdiction. Rule 341(h)(4) provides, in pertinent part:

"In a case appealed to the Appellate Court, a brief, but precise statement or explanation under the heading 'Jurisdiction' of the basis for appeal including the supreme court rule or other law which confers jurisdiction upon the reviewing court; the facts of the case which bring it within this rule or other law; and the date that the order being appealed was entered and any other facts which are necessary to demonstrate that the appeal is timely." Ill. S. Ct. R. 341(h)(4)(ii) (eff. Feb. 6, 2013).

¶ 25 In this case, respondent's statement of jurisdiction states, in its entirety, "In accordance with Illinois Supreme Court Rule 303 [(eff. May 30, 2008)], [respondent] appeals from the aforementioned orders." The "aforementioned orders" referred to in her statement of jurisdiction are the court's adjudicatory order, entered on April 17, 2014, and its dispositional order, entered on May 23, 2014. Respondent's statement of jurisdiction does not contain the facts of the case which bring it within the scope of Rule 303, including the date she filed her notice of appeal. While this deficiency in respondent's brief has not hindered our review of this case, we trust counsel will fully comply with Rule 341 when submitting future briefs to this court. See *Hall v. Naper Gold Hospitality LLC*, 2012 IL App (2d) 111151, ¶ 8, 969 N.E.2d 930.

¶ 26 III. CONCLUSION

¶ 27 For the reasons stated, we affirm the trial court's judgment.

¶ 28 Affirmed.