

NOTICE

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2014 IL App (4th) 140590-U
NOS. 4-14-0590, 4-14-0591 cons.
IN THE APPELLATE COURT

FILED
November 10, 2014
Carla Bender
4th District Appellate
Court, IL

OF ILLINOIS

FOURTH DISTRICT

In re: B.G., a Minor,)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,)	Circuit Court of
Petitioner-Appellee,)	Macon County
v. (No. 4-14-0590))	No. 13JA139
NAKIA GOODWIN,)	
Respondent-Appellant.)	
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In re: D.G., a Minor,)	No. 13JA140
THE PEOPLE OF THE STATE OF ILLINOIS,)	
Petitioner-Appellee,)	
v. (No. 4-14-0591))	Honorable
NAKIA GOODWIN,)	Thomas E. Little,
Respondent-Appellant.)	Judge Presiding.

JUSTICE STEIGMANN delivered the judgment of the court.
Justices Pope and Turner concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court affirmed the trial court's judgment, which (1) adjudicated the respondents' children neglected and abused minors and (2) made them wards of the court.

¶ 2 In September 2013, the State filed separate petitions for adjudication of wardship, alleging that B.G. (born August 10, 1998) and D.G. (born April 27, 2002)—the minor children of respondent, Nakia Goodwin—were neglected and abused minors as defined by article II of the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/2-1 to 2-34 (West 2012)). At a June 2014 adjudicatory hearing, the trial court found that B.G. and D.G. were neglected and abused minors as alleged by the State. Immediately thereafter, at respondent's request, the court

entered its dispositional order, which made B.G. and D.G. wards of the court and maintained the Department of Children and Family Services (DCFS) as their guardian.

¶ 3 Respondent appeals, arguing that the trial court's findings that (1) B.G. and D.G. were neglected and abused minors and (2) it was in the best interest of B.G. and D.G. to be made wards of the court were against the manifest weight of the evidence. We disagree and affirm.

¶ 4 I. BACKGROUND

¶ 5 In September 2013, the State filed separate petitions for adjudication of wardship, alleging that B.G. and D.G. were (1) neglected minors in that they were (a) not receiving the proper or necessary support as required by law for their well-being (count I) (705 ILCS 405/2-3(1)(a) West 2012)) and (b) living in an environment that was injurious to their welfare (count II) (705 ILCS 405/2-3(1)(b) (West 2012)); and (2) abused minors in that respondent created a substantial risk of physical injury to B.G. and D.G. (count III) (705 ILCS 405/2-3(2)(ii) (West 2012)). In each count of its petition, the State claimed that respondent had (1) a history of untreated mental-health issues, (2) failed to adequately feed B.G. and D.G., and (3) confined B.G. in respondent's home by preventing ingress and egress from the front and rear doors.

¶ 6 A. The Evidence Presented at the June 2014 Adjudicatory Hearing

¶ 7 In June 2014, the trial court held an adjudicatory hearing on the State's petition at which the parties presented the following evidence. (We note that respondent agreed to waive the 90-day rule, which requires the trial court to hold an adjudicatory hearing within 90 days of service of a petition for adjudication of neglect or abuse. 705 ILCS 405/2-14(b) (West 2012). Between the September 2013 service of the State's petition on respondent and the June 2014 adjudicatory hearing, the court granted respondent's multiple requests for continuances.)

¶ 8

1. *The State's Evidence*

¶ 9 Sherea James, a DCFS child-protection investigator, testified that on August 5, 2013, she received a hotline report indicating that B.G. and D.G. were "at risk." James explained that respondent had a previous DCFS case involving D.G. Specifically, in October 2012, a physician diagnosed D.G. with "failure to thrive" due to a lack of nutrition. (A failure to thrive occurs when a child's weight or rate of weight gain falls significantly below that of other children of a similar age and gender.) James's review of DCFS reports from the previous case revealed that (1) respondent had a history of mental-health issues and (2) respondent's former psychiatrist had prescribed medication, which respondent stopped taking after B.G. and D.G. returned to her care.

¶ 10 During her investigation, James received approximately nine additional hotline reports concerning respondent, which were similar in nature to the August 5, 2013, report. James spoke with respondent about mental-health services tailored to assist her in keeping B.G. and D.G. safe until respondent achieved stability. James requested respondent's consent to allow DCFS access to her mental-health history, but respondent refused.

¶ 11 During James's investigation, respondent told James that she fed B.G. and D.G. "at least once every day," usually providing hot dogs or pizza. On occasion, respondent would feed B.G. and D.G. a Pop-Tart for breakfast.

¶ 12 On September 13, 2013—a school day—James visited respondent's home, intending to take B.G. and D.G. into protective custody. Upon arriving at the home at noon, James found that respondent was not home and B.G., who was inside the home, could not provide James access because the front door was locked from both sides and the back door was wired shut from the inside. B.G.'s only means of exit involved breaking a window. Both the landlord

and police responded to the scene, but neither could gain entry into the home.

¶ 13 James contacted respondent shortly after noon, who told her that she was "getting groceries" and would be home around 7:30 p.m. After police finally located respondent at Walmart and brought her to the house, respondent was "irate" and swearing at everyone. Respondent told James that B.G. was not in school because she needed B.G. to "stay home and watch the house." Thereafter, James took protective custody of B.G. and D.G., concluding that respondent was not able to safely care for them. James expressed concern that B.G. and D.G. were "extremely thin" when DCFS took them into protective custody. James testified that at a subsequent medical evaluation of both children at a healthcare facility, "there was a lot of concern about [B.G.'s] weight and lack of nutrition for both of the kids."

¶ 14 After the minors were taken into protective custody, respondent gave no indication that she intended to cooperate with DCFS, informing James that she would (1) not seek any mental-health treatment, (2) not request visitation with B.G. or D.G., and (3) "just see [B.G. and D.G.] when they were grown." James later attempted to introduce respondent to her caseworker, but respondent refused. Respondent also declined to schedule visitation with B.G. and D.G.

¶ 15 B.G., who was 15 years old at the time of the hearing, testified that in August 2013, she ran away from home for one day because she had not been getting enough food. B.G. explained that she and D.G. "had two or three meals a day," which included pizza and chicken, but the portion sizes were too small. B.G. also stated that respondent would occasionally wake her and D.G. at "strange" hours and make them "watch her clean the dishes." B.G. stated that she worries respondent is "not really in her right mind." B.G. acknowledged that she eats a school lunch every day, and respondent provides her a snack when she returns from school.

¶ 16

2. Respondent's Evidence

¶ 17 In reference to the September 13, 2013, visit by DCFS, respondent testified that she locked up her home because she lived in a bad neighborhood, and a year earlier, she was robbed at gunpoint, which terrified her. Respondent explained that in an emergency, B.G. and D.G. could have exited the home through the windows, which were not "nailed down." Respondent also denied telling James that B.G. stayed home from school to watch the house. Instead, respondent explained that she woke up late for a 1:30 p.m. court date that afternoon, which prevented her from taking B.G. to school. Respondent added that although she does feed B.G. and D.G. hot dogs and pizza, she occasionally cooks meals for them as well.

¶ 18 Respondent also acknowledged that she had been diagnosed with schizophrenia but denied (1) the accuracy of that diagnosis and (2) her need for medication to treat that condition.

¶ 19

3. The Trial Court's Judgment

¶ 20 After considering the evidence presented and counsels' arguments, the trial court found that B.G. and D.G. were neglected and abused minors, as alleged in the State's September 2013 petition. The court noted that it found James's testimony "credible" and respondent's testimony "incredible."

¶ 21

B. The Trial Court's Dispositional Order

¶ 22 At the conclusion of the adjudicatory hearing, the trial court (1) ordered the preparation of a dispositional report and (2) attempted to schedule a dispositional hearing. The following exchange then occurred:

"[THE COURT]: [Respondent's counsel], shall I set it for a contested hearing or do you wish to just set it on a Wednesday

morning?

[RESPONDENT'S COUNSEL]: Your Honor, I have talked to my client about what could possibly happen and the outcome in this case, and I'm not entirely sure how to proceed. The best I can suggest is that maybe a Wednesday morning would be best for now."

Respondent then interrupted the proceedings, stating as follows: "Your honor, I didn't want you to waste your time. If you're not going to rule in my favor, if I have been guilty [*sic*] of neglect, then I'm just going to let it go."

¶ 23 In response, the trial court asked respondent's counsel whether he was requesting an immediate dispositional hearing. Counsel responded, "I see no reason why the case cannot be called for immediate disposition." The court then asked whether anyone present had anything else to say on the matter, to which the State simply requested that the court adjudicate B.G. and D.G. wards of the court and maintain DCFS as their guardian with power to consent to medical treatment. Respondent did not present any evidence or argument. Without objection from respondent, the court entered a dispositional order, adjudicating B.G. and D.G. wards of the court and maintaining DCFS as their guardian.

¶ 24 This appeal followed.

¶ 25 II. ANALYSIS

¶ 26 A. The Trial Court's Adjudicatory Finding

¶ 27 Respondent argues that the trial court's finding that B.G. and D.G. were neglected and abused minors was against the manifest weight of the evidence. We disagree.

¶ 28 A wardship proceeding constitutes a significant intrusion into the sanctity of the

family and should not be undertaken lightly. *In re A.P.*, 2012 IL 113875, ¶ 18, 981 N.E.2d 336.

The primary consideration at an adjudicatory hearing is whether the minor is neglected as alleged by the State and not who might be responsible for the neglect. *Id.* ¶ 19, 981 N.E.2d 336. On appeal, a reviewing court will not reverse a trial court's determination of abuse or neglect unless it is against the manifest weight of the evidence. *In re An. W.*, 2014 IL App (3d) 130526, ¶ 55, 17 N.E.3d 878. "A finding is against the manifest weight of the evidence only if it is clearly apparent from the record that the trial court should have reached the opposite conclusion." *Id.*

¶ 29 In support of her argument, respondent directs our attention to the evidence showing that (1) the minors did not go a day without eating, (2) respondent's untreated mental illness was not testified to by a psychologist or psychiatrist, and (3) the children were locked in the home for their own protection. We are not persuaded.

¶ 30 In this case, the trial court adjudicated B.G. and D.G. abused and neglected minors because it found the State's evidence, primarily James's testimony, credible. James's uncontroverted testimony revealed that respondent locked her children in a home where the only means of escape in the event of an emergency would have been to break a window or remove wiring from a door. James also testified about the physical condition of the children, namely their low weight and malnourishment. Respondent's and B.G.'s testimony further confirmed that inadequate nutrition was an ongoing problem in the household. Leaving children locked inside a home for hours on end, unsupervised, and causing them to miss school and go without food is a textbook example of neglect.

¶ 31 B.G. also described respondent's unusual behavior, which indicated the existence of an untreated mental-health disorder. Respondent asserts on appeal that "no evidence was put forth to show that she [(respondent)] still suffers from a mental illness." However, setting aside

B.G.'s testimony, respondent herself testified that despite being diagnosed with schizophrenia, she refused to take her prescribed medication. The trial court could have reasonably concluded that respondent did not become cured of her schizophrenia in the absence of medication. B.G.'s testimony showed that respondent's mental-health disorder adversely affected the children.

¶ 32 In light of the evidence presented, we conclude that the trial court's judgment adjudicating B.G. and D.G. neglected and abused minors was not against the manifest weight of the evidence.

¶ 33 B. The Trial Court's Dispositional Finding

¶ 34 Respondent argues that the trial court's dispositional finding—namely, to make the minors wards of the court and continue custody with DCFS—was against the manifest weight of the evidence. In making this argument, respondent draws from the evidence presented at the adjudicatory hearing, contending that that evidence showed respondent "is able to care for her children."

¶ 35 Although respondent does not raise the issue on appeal, we note that "[t]he [Juvenile Court] Act requires that the adjudicatory hearing be conducted separately from the dispositional hearing." *In re Timothy T.*, 343 Ill. App. 3d 1260, 1265, 799 N.E.2d 994, 999 (2003). However, this court has previously held that a parent may waive the right to separate adjudicatory and dispositional hearings. *In re Prough*, 61 Ill. App. 3d 227, 231, 376 N.E.2d 1078, 1082 (1978). In this case, after announcing its adjudicatory finding, the trial court attempted to schedule the dispositional hearing for a later date, but respondent insisted that the court render an immediate dispositional order. The natural consequence of this request was that the court would base its dispositional order on evidence presented at the adjudicatory hearing. Prior to respondent making this request, respondent's counsel represented that he spoke with respondent about

"what could possibly happen and the outcome in this case." Accordingly, we conclude that respondent's insistence upon an immediate dispositional order constituted a knowing waiver of her right to a separate dispositional hearing.

¶ 36 Under section 2-27 of the Juvenile Court Act, the trial court may appoint DCFS as guardian of a minor if it determines that the parents are unfit or unable, for reasons other than financial circumstances alone, "to care for, protect, train or discipline the minor or are unwilling to do so, and that 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) (West 2012). The trial court's dispositional determination will be reversed only if the factual findings are against the manifest weight of the evidence or if the court abused its discretion by selecting an inappropriate dispositional order. *In re Juan M.*, 2012 IL App (1st) 113096, ¶ 68, 968 N.E.2d 1184.

¶ 37 The evidence presented revealed respondent's ongoing inability to provide adequate parental care and protection for her children. Specifically, respondent failed to meet the children's needs in terms of nutrition, parental supervision, and discipline. The children were malnourished and underweight because respondent did not provide them with enough wholesome food. Respondent's willingness to leave the children home alone on a school day because she needed someone to "watch the house" indicates a fundamental misunderstanding of her children's needs.

¶ 38 Respondent's actions also showed a reckless disregard for the children's safety and their need for adult supervision. On the day respondent locked the children inside the home so that she could have someone watch the house while she went to Walmart, respondent told James—shortly after noon—that she intended to return home at 7:30 p.m. Respondent's expectation that the children, in case of an emergency, could escape the home by breaking a window

showed that respondent's parenting—or lack thereof—put the children's safety at risk. This evidence, as well as the children's obvious malnutrition, revealed that respondent's inability to adequately parent the children was not limited to a single isolated incident. Instead, respondent's shortcomings as a parent were chronic in nature and severely detrimental to the children's physical, emotional, and intellectual growth.

¶ 39 We also note that throughout these proceedings respondent has voiced her disinterest in having custody—or even visitation—with the children. The trial court was free to consider this in determining whether to continue the children in DCFS custody. Accordingly, we conclude that the evidence amply supported the trial court's finding that it was in the children's best interest to be made wards of the court and continued under the guardianship of DCFS.

¶ 40

III. CONCLUSION

¶ 41

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

¶ 42

Affirmed.