2016 IL App (2d) 160652-U
No. 2-16-0652
Order filed December 22, 2016

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

In re D.S., a Minor,	)	Appeal from the Circuit Court
	)	of DeKalb County.
	)	
	)	No. 16-JA-13
	)	
(The People of the State of Illinois,	)	Honorable
Petitioner-Appellee, v. Iesha M.,	)	Ronald G. Matekaitis,
Respondent-Appellant).	)	Judge, Presiding.

JUSTICE BURKE delivered the judgment of the court.
Presiding Justice Hudson and Justice Zenoff concurred in the judgment.

ORDER

¶ 1 *Held*: The adjudication of neglect and abuse must be reversed and the dispositional order must be vacated because the trial court improperly allowed the DCFS investigator to testify to medical opinions of the minor's treating physicians.

¶ 2 D.S., who was four months old, suffered a fractured jawbone and a severely lacerated tongue while in the care of his mother, respondent, Iesha M. After an adjudicatory hearing, the trial court found D.S. to be neglected (see 705 ILCS 405/2-3(1)(b) (West 2014)) and abused (see 705 ILCS 405/2-3(2)(ii) (West 2014)). Following a dispositional hearing, the court found that respondent was unable to care for D.S. and appointed the Department of Children and Family

Services (DCFS) as the guardian, with the right to place him in foster care. D.S. was placed with his maternal grandmother, and respondent was granted supervised visitation.

¶ 3 Respondent appeals from the adjudication of neglect and abuse and the dispositional order. She argues that the trial court erred during the adjudicatory hearing by admitting certain testimony of Arma Johnson, the DCFS investigator, regarding the purported opinions of two physicians that D.S.'s injuries were not accidental and had resulted from neglect and abuse. The State responds that respondent has forfeited her claim by failing to object at the hearing, and even if we were to consider the issue, the admission of any hearsay testimony regarding the medical evidence does not amount to plain error. We conclude that the evidence was improperly admitted hearsay, and consistent with the trial court's acknowledgement of the weakness of the State's case, we hold that the error qualifies as plain error. We reverse the adjudication and vacate the dispositional order.

¶ 4 I. BACKGROUND

¶ 5 A. Adjudication

¶ 6 D.S. was born on November 4, 2015. On March 8, 2016, the State filed a petition for adjudication of neglect and abuse, alleging that, on March 5, 2016, respondent injured D.S. in that she caused a fracture to his lower jaw and a laceration to his tongue. The petition alleged neglect in that respondent placed D.S. in an environment injurious to his welfare. See 705 ILCS 405/2-3(1)(b) (West 2014). The petition alleged abuse in that respondent created a substantial risk of physical injury which would be likely to cause impairment of physical or emotional health. See 705 ILCS 405/2-3(2)(ii) (West 2014)).

¶ 7 At the start of the July 22, 2016, adjudicatory hearing, the State informed the trial court that it wished to proceed although the emergency room physician was not present to testify.

Brett Gautcher, a paramedic employed by the City of De Kalb fire department, testified that he and his partner were dispatched to respondent's home in response to a report that a baby had fallen and cut his lip. Upon entering the apartment, Gautcher observed respondent holding D.S., who was crying with blood coming from his mouth. Respondent told Gautcher that D.S. fell from a car seat that was sitting on the floor at the entrance of the bathroom. Respondent stated that she had set down the car seat with D.S. in it, when she needed to use the restroom. D.S. fell out of the car seat and onto the tile floor in the bathroom. Respondent had blood on her shirt, but Gautcher did not notice any blood on the floor. Gautcher held D.S. and noticed a cut on his lip and tongue. Respondent agreed to send D.S. to the hospital for treatment and observation. No one else was home at that time, but while Gautcher was preparing to transport D.S. to the hospital, a person who Gautcher believed to be D.S.'s father returned home. The man and respondent became increasingly upset and started arguing. Gautcher and his partner waited with D.S. in the ambulance 5 to 10 minutes before respondent finally emerged from the apartment to accompany them to the hospital.

¶ 8 Gautcher testified that the car seat had a sun visor that was broken on one side, but he did not know how it was damaged. The broken piece would have been on the right side of D.S. The handle to the car seat worked properly. On cross-examination, Gautcher described the height of the car seat as "normal" such that a baby would be about seven to nine inches from the ground.

¶ 9 Johnson, the DCFS investigator, testified that she went to the hospital, checked D.S., and interviewed respondent, the treating physician, and the nurses. Respondent was adamant that she was the only person at the apartment when D.S. was injured. Respondent told Johnson that she was in the bathroom using the toilet, and D.S. was in the car seat on the floor in front of her. As respondent reached for some tissue, D.S. flipped over in the car seat. Upon questioning by the

trial court, Johnson elaborated that respondent claimed that D.S. was strapped in the car seat and flipped it over, so that he landed face down on the tile floor. Respondent denied that anyone else was home at the time.

¶ 10 Johnson described the car seat, noting that it had a broken piece that was sharp. On cross-examination by the father's counsel, Johnson acknowledged that she did not photograph the car seat or know its whereabouts.

¶ 11 Johnson opined that respondent's account of events was not consistent with D.S.'s injuries. Johnson explained that "[w]e have a three-month-old infant who has no teeth. He had a severe laceration to this tongue. The carrier was very short and low to the ground. Even in talking to Dr. Kim, the treating physician at that time, the laceration, the impact would have been greater than would have been caused from a child tipping over in a carrier." At the time of her assessment at the hospital, Johnson also was aware that D.S. might have a fractured jawbone. The laceration went across two-thirds of D.S.'s tongue and required sutures.

¶ 12 Johnson testified that, when she expressed her skepticism, respondent insisted that she was telling the truth. Johnson spoke with D.S.'s grandmother, who had arrived at the hospital, and Johnson's supervisor. Johnson concluded that D.S. should be taken into protective custody, and D.S. was placed with his grandmother. D.S.'s father said he was not interested in taking custody.

¶ 13 Based on D.S.'s injuries, Johnson concluded that D.S. had been abused, so she referred him to the Medical Evaluation Response Initiative Team (MERIT) for a more comprehensive and forensic examination. Dr. Ray Davis made a preliminary report that D.S.'s jawbone was not fractured, but he later reviewed the CT scans from the hospital and found a fracture.

¶ 14 Johnson explained that Dr. Kim was the treating physician in the emergency room. Johnson testified that Dr. Kim told her and the grandmother that respondent's explanation of what happened would not have created the necessary impact to cause the injuries. Dr. Kim allegedly said that "it's possible, but not probable." Johnson testified that she believed the injuries were not accidental "based on two physicians telling me that was more severe than the injuries which were presented."

¶ 15 Johnson testified that she performed a "reenactment" at the home, where she photographed the bathroom and measured the approximate distances among the car seat, toilet, and bathtub, and the court admitted the photographs. She described the bathroom as very small but large enough to accommodate the car seat on the floor in front of someone sitting on the toilet. The State introduced Johnson's report, and respondent's counsel objected to the extent that the report contained hearsay. The court admitted the full report over the objection.

¶ 16 On cross-examination by counsel for DCFS, Johnson reiterated that Drs. Kim and Davis told her that the injuries were probably the result of abuse and not accidental. Johnson recalled the doctors telling her that the injuries were consistent with a fall or a punch to the jaw.

¶ 17 Following the hearing, the trial court entered an adjudication of neglect and abuse, finding that the neglect and abuse was inflicted by respondent. The court observed the undisputed nature of the serious injuries to D.S.'s jawbone and tongue. The court also noted the discrepancies between what respondent told Gautcher and Johnson regarding the location of the car seat when it flipped over.

¶ 18 The court commented that "this Court would have benefited tremendously from hearing from the doctors directly, as well as cross-examination of those doctors as to their opinion as to what had happened and what force was necessary to cause the types of injuries that this child

sustained. The conclusions of those doctors and some of the statements of those doctors, nonetheless, did come in, albeit it's hearsay, but it did come into the record without objection, so the court will consider that." The court found that "[t]he information and the testimony and the evidence that did come in, even in the form that it did come in, is sufficient, albeit in the court's opinion barely sufficient" to prove by a preponderance of the evidence that D.S. was neglected and abused as alleged in the petition.

¶ 19 B. Dispositional Order

¶ 20 On August 5, 2016, the trial court held a dispositional hearing in which it reviewed respondent's progress since the adjudication of abuse and neglect. Lisa Entrekin, a caseworker with the DCFS contracting agency that was providing services, submitted a report and testified. Entrekin testified that D.S. was placed with the maternal grandmother in Chicago, where he was doing very well. The agency had no concerns with him, as he was "always happy, healthy." The grandmother was taking him to the doctor for appointments and followed up with the recommendations. D.S. was on target developmentally, crawling and starting to walk.

¶ 21 Entrekin testified that she set up a service plan for respondent after an integrated assessment. Based on the circumstances of the case and respondent's history, the agency recommended parenting classes and mental health therapy, which respondent had begun earlier that week. The mental health therapy was recommended because respondent was very attached to D.S. and the allegation of abuse was "a lot to process" for her. Respondent planned to provide verification of her housing and income from disability benefits, which she was receiving because she suffered from epilepsy. Entrekin testified that respondent's home was suitable for D.S. to return and that respondent was very good at maintaining contact with the agency. Respondent did not require any substance abuse treatment or counseling.

¶ 22 Entrekin reported that respondent was visiting D.S. two to three times per week at the grandmother's home and communicating by video over her cell phone. Respondent exhibited appropriate behavior in taking care of D.S. during the visits. Respondent was very attentive to his needs and followed him around to ensure his safety. Respondent had been very cooperative, and Entrekin had no concerns about her parenting. Entrekin recommended that D.S. remain placed with his grandmother and that DCFS retain guardianship while respondent finished her service plan, but with a goal of returning him home within five months. Entrekin stated that it was not appropriate to return D.S. to respondent at the time of the hearing. The next steps were reviewing the MERIT report, transitioning to unsupervised visitation, and completing the parenting and mental health services.

¶ 23 The trial court told respondent that, "from every bit of information *** you've been 100 percent cooperative and engaging in [the] services and that is absolutely to your credit." The court reiterated that its adjudicatory findings were not informed by any testimony of the doctors or the MERIT report, but nevertheless concluded that D.S. should not be returned home at that time. Based on respondent's level of cooperation and the absence of direct testimony from the doctors at the adjudicatory hearing, the court set a goal of returning D.S. home within five months. The court found respondent unable to have guardianship and custody returned to her because she had not completed the services, and DCFS was granted further guardianship and custody of D.S. Respondent filed a timely notice of appeal later that day.

¶ 24 II. ANALYSIS

¶ 25 Respondent appeals from the adjudication of abuse and neglect and the dispositional order. In this bifurcated process, abuse or neglect of the child is determined first, and then his status in relation to the parent is analyzed. *In re Harriett L.-B.*, 2016 IL App (1st) 152034, ¶ 26.

Accordingly, we turn to the adjudication phase first. In this case, the petition alleged neglect in that respondent placed D.S. in an environment injurious to his welfare. See 705 ILCS 405/2-3(1)(b) (West 2014). The petition alleged abuse in that respondent created a substantial risk of physical injury which would be likely to cause impairment of physical or emotional health. See 705 ILCS 405/2-3(2)(ii) (West 2014)).

¶ 26 The evidentiary standard of proof in adjudicatory hearings is that which pertains to civil proceedings, therefore, the State had to prove the allegations in the petitions by a preponderance of the evidence. 705 ILCS 405/2-18(1) (West 2014); *In re D.M.*, 2016 IL App (1st) 152608, ¶ 15. " 'Preponderance of the evidence is that amount of evidence that leads a trier of fact to find that the fact at issue is more probable than not.' " *D.M.*, 2016 IL App (1st) 152608, ¶ 15 (quoting *In re K.G.*, 288 Ill. App. 3d 728, 735 (1997)). " 'The admissibility of evidence rests within the discretion of the trial court, and its decision will not be disturbed absent an abuse of that discretion.' " *D.M.*, 2016 IL App (1st) 152608, ¶ 15 (quoting *People v. Pikes*, 2013 IL 115171, ¶ 12. "Under this standard, an abuse occurs when the trial court's ruling is fanciful, unreasonable or when no reasonable person would adopt the trial court's view." *D.M.*, 2016 IL App (1st) 152608, ¶ 15 (quoting *People v. Taylor*, 2011 IL 110067, ¶ 27).

¶ 27 Section 2-3(1)(b) of the Act defines a "neglected minor" to include "any minor under 18 years of age whose environment is injurious to his or her welfare." 705 ILCS 405/2-3(1)(b) (West 2014). Generally, "neglect" is defined as the failure to exercise the care that circumstances justly demand. *In re Arthur H.*, 212 Ill. 2d 441, 462-63 (2004). The term "injurious environment" has been recognized by our courts as an amorphous concept that cannot be defined with particularity. *In re N.B.*, 191 Ill. 2d 338, 346 (2000). In general, however, the term "injurious environment" has been interpreted to include "the breach of a parent's duty to

ensure a 'safe and nurturing shelter' for his or her children." *N.B.*, 191 Ill. 2d at 346 (quoting *In re M.K.*, 271 Ill. App. 3d 820, 826 (1995)).

¶ 28 An "abused minor" includes "any minor under 18 years of age whose parent or immediate family member, or any person responsible for the minor's welfare, or any person who is in the same family or household as the minor, minor's parent: *** (ii) creates a substantial risk of physical injury to such minor by other than accidental means which would be likely to cause death, disfigurement, impairment of emotional health, or loss or impairment of any bodily function." 705 ILCS 405/2-3(2)(ii) (West 2014).

¶ 29 Respondent's sole contention on appeal is that the trial court erroneously based its adjudication of neglect and abuse, in part, on Johnson's testimony regarding what Drs. Kim and Davis told her about D.S.'s injuries and their likely cause. Respondent asserts that all the evidence regarding the doctors' purported opinions was improperly admitted hearsay.

¶ 30 The rules of evidence in civil cases apply to adjudicatory hearings under the Juvenile Court Act of 1987 (Act) (705 ILCS 405/2-18(1) (West 2014)), with a limited exception for hearsay, as contained in section 2-18(4) (705 ILCS 405/2-18(4) (West 2014)). *In re J.G.*, 298 Ill. App. 3d 617, 629 (1998). The rules of evidence provide that " '[h]earsay' is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted." Ill. R. Evid. 801(c) (eff. Jan.1, 2011). Hearsay is generally not admissible unless it falls within a recognized exception. Ill. R. Evid. 802 (eff. Jan. 1, 2011); *People v. Cloutier*, 178 Ill. 2d 141, 154 (1997).

¶ 31 Although a trial court's evidentiary rulings generally are reviewed for an abuse of discretion (*People v. Caffey*, 205 Ill. 2d 52, 89 (2001)), our review of whether the statements are hearsay may be reviewed *de novo* because the determination does not involve fact finding or

weighing the credibility of the witnesses. See *People v. Steele*, 2014 IL App (1st) 121452, ¶ 34.

¶ 32 A. Statutory Hearsay Exception

¶ 33 First, the State argues that evidence of the doctors' opinions was properly admitted under section 2-18(4)(b) of the Act, which provides that "[a]ny indicated report filed pursuant to the Abused and Neglected Child Reporting Act [(Reporting Act) 325 ILCS 5/1 *et seq.* (West 2014)] shall be admissible in evidence." 705 ILCS 405/2-18(4)(b) (West 2014). The Reporting Act provides for the reporting of suspected cases of abused or neglected children (325 ILCS 5/4 (West 2014)), and DCFS is responsible for receiving and investigating those reports (325 ILCS 5/2 (West 2014)). Reports made pursuant to the Reporting Act "shall include, if known, the name and address of the child and his parents or other persons having his custody; the child's age; the nature of the child's condition including any evidence of previous injuries or disabilities; and any other information that the person filing the report believes might be helpful in establishing the cause of such abuse or neglect and the identity of the person believed to have caused such abuse or neglect." 325 ILCS 5/7 (West 2014); *In re J.C.*, 2012 IL App (4th) 110861, ¶ 21.

¶ 34 Once a report is received, the investigative staff of DCFS conducts an initial investigation to determine "whether there is reasonable cause to believe that child abuse or neglect exists." 89 Ill. Adm. Code 300.100(a) (2012); see also 325 ILCS 5/7.4(b)(3) (West 2014); *J.C.*, 2012 IL App (4th) 110861, ¶ 22. If reasonable cause is found, the formal investigation begins. 89 Ill. Adm. Code 300.110(a) (2012). "Upon completion of a formal investigation of abuse or neglect, investigative staff shall make a final determination as to whether a child was abused or neglected" and allegations may be determined to be indicated, undetermined, or unfounded. 89 Ill. Adm. Code 300.110(i)(2) (2012); see also 325 ILCS 5/7.12 (West 2014). *J.C.*, 2012 IL App

(4th) 110861, ¶ 22. An "indicated report" is "any report of child abuse or neglect made to [DCFS] for which it is determined, after an investigation, that credible evidence of the alleged abuse or neglect exists." 89 Ill. Adm. Code 300.20 (2012). See also 325 ILCS 5/3 (West 2014) (" 'An indicated report' means a report made under [the Reporting] Act if an investigation determines that credible evidence of the alleged abuse or neglect exists").

¶ 35 Johnson's report of the investigation and her conclusion was admitted into evidence at the adjudicatory hearing as the State's exhibit No. 2., but it is not part of the record on appeal. Under *Foutch v. O'Bryant*, 99 Ill. 2d 389 (1984), respondent, as appellant, has the burden to present a sufficiently complete record of the proceedings at trial to support a claim of error; and the State contends that, in the absence of such a record on appeal, we should presume that the adjudication entered by the trial court conformed with the law and had a sufficient factual basis. See *Foutch*, 99 Ill. 2d at 391-92. We disagree.

¶ 36 The term "indicated report" as used in that section has two components, referring both to the report of suspected child abuse or neglect and the ultimate finding by a DCFS investigator that the report is supported by credible evidence. *J.C.*, 2012 IL App (4th) 110861, ¶ 23. Apparently in this case, as in *J.C.*, the exhibit included the entire investigation into the report of neglect or abuse, including the doctors' comments. "While the finding that a report of abuse or neglect is 'indicated' is necessarily based upon an investigation into the report, it does not follow that the entire record of the investigation is admissible under the hearsay exception contained in section 2-18(4)(b)." *J.C.*, 2012 IL App (4th) 110861, ¶ 23. Here, the State improperly attempts to invoke section 2-18(b)(4) as a catchall exception to the rule against hearsay in adjudicatory proceedings. The contents of a report properly admitted under section 2-18(4)(b) are prescribed

by statute and regulation, and the State has cited none that authorizes the inclusion of the doctors' out-of-court medical opinions.

¶ 37 The trial court expressly relied on the report of the full investigation when entering the adjudicatory order, but the entire report was not admissible under the hearsay exception of section 2-18(4)(b) of the Act. See *J.C.*, 2012 IL App (4th) 110861, ¶ 24. Even if we had the benefit of reviewing the exhibit, we would be compelled to disregard the doctors' purported opinions contained therein. See *J.C.*, 2012 IL App (4th) 110861, ¶ 24 ("Even giving the Act the most liberal construction, we find no basis for including an entire DCFS investigatory file within the definition of 'indicated report' ").

¶ 38 B. Plain Error

¶ 39 Second, the State contends that, by failing to object to Johnson's testimony at the hearing, respondent has forfeited any claim that the court improperly considered the doctors' opinions. Ordinarily, an appealing party in a jury case forfeits review of an issue unless the party both "object[ed] to an error at trial and includ[ed] it in a written posttrial motion." *Thornton v. Garcini*, 237 Ill. 2d 100, 106 (2009); see also *In re Parentage of Kimble*, 204 Ill. App. 3d 914, 916 (1990) ("Petitioner's failure to file a post-trial motion following the jury trial amounted to failure to preserve any matters for review"). However, in a nonjury civil trial like this one, "[n]either the filing of nor the failure to file a post-judgment motion limits the scope of review." Ill. S. Ct. R. 366(b)(3)(ii) (eff. Feb.1, 1994).

¶ 40 Respondent did not object to Johnson's testimony but later objected to the State's exhibit to the extent that it contained hearsay statements of the doctors. The trial court overruled the objection. Respondent argues that she preserved the issue by objecting to the exhibit, but she cites no authority for the proposition that an objection may be applied to related testimony that

had been admitted earlier. Even if respondent failed to preserve the issue, we agree with her that the plain-error doctrine compels reversal.

¶ 41 We may review an unpreserved error under the plain-error doctrine found in Illinois Supreme Court Rule 615(a) (eff. Jan. 1, 1967), which provides a limited and narrow exception to the general rule of procedural default. *People v. Lewis*, 234 Ill. 2d 32, 42 (2009). There are two avenues for arguing plain error, and respondent relies on both.

¶ 42 The plain-error doctrine allows a reviewing court to consider unpreserved error where either: (1) a clear or obvious error occurs and the evidence is so closely balanced that such error threatens to tip the scales of justice against the accused, regardless of the seriousness of the error, or (2) a clear or obvious error occurs and is so serious that it affects the fairness of the trial and challenges the integrity of the judicial process, regardless of the closeness of the evidence. *People v. Walker*, 232 Ill. 2d 113, 124 (2009); *People v. Piatkowski*, 225 Ill. 2d 551, 565 (2007). In both instances, the burden of persuasion remains on the party invoking the doctrine. *People v. Herron*, 215 Ill. 2d 167, 187 (2005) (citing *People v. Hopp*, 209 Ill. 2d 1, 12 (2004)). While the plain-error doctrine is most commonly applied to criminal proceedings, a parent's right to raise his or her biological child is a fundamental liberty interest (*In re Haley D.*, 2011 IL 110886, ¶ 90), and rulings affecting that right may be reviewed for plain error. *Cf.*, *In re Andrea D.*, 342 Ill. App. 3d 233, 242 (2003) (citing *In re J.J.*, 201 Ill. 2d 236, 243 (2002) (the termination of parental rights affects a fundamental liberty interest).

¶ 43 The first step in conducting plain-error review, however, is to determine whether error occurred at all. *Walker*, 232 Ill. 2d 113, 124 (2009). Hearsay evidence is inadmissible in adjudicatory proceedings, but the trial court allowed Johnson to testify to the doctor's purported opinions that D.S. was injured due to neglect and abuse. The State elected to proceed at the

adjudicatory hearing without either doctor being present, and the court even commented that it "would have benefited tremendously from hearing from the doctors directly, as well as cross-examination of those doctors as to their opinion as to what had happened and what force was necessary to cause the types of injuries that this child sustained." The court essentially acknowledged that their opinions had been presented improperly as hearsay. The court had the opportunity to cure the error by expressly disregarding the hearsay when entering its findings, but the court elected to consider them because respondent's counsel had failed to object.

¶ 44 Furthermore, we disagree with the State that Johnson's own opinions regarding the medical evidence qualify as properly admitted expert testimony under Illinois Rule of Evidence 703 (eff. Jan. 1, 2011). As a general rule, "[a] person will be allowed to testify as an expert if his experience and qualifications afford him knowledge that is not common to laypersons, and where his testimony will aid the trier of fact in reaching its conclusions." *Thompson v. Gordon*, 221 Ill. 2d 414, 428 (2006). Here, the State failed to lay a foundation for Johnson's qualifications as an expert or the court's need of an expert opinion from this witness. *In re Marriage of Theis*, 121 Ill. App. 3d 1092, 1094-95 (1984) ("even assuming that [the DCFS investigator] is a qualified expert, a foundation must first be laid to demonstrate that the trier of fact needs the assistance of an expert opinion, as contrasted with evidentiary facts, in order to decide an issue"). The State also failed to present at the adjudicatory hearing any testimony regarding D.S.'s development to establish whether he could have been physically capable of flipping over the car seat. Regardless of the lack of a proper foundation, Johnson testified that her opinion was based on the doctors' opinions, which were not properly admitted.

¶ 45 Johnson's medical opinion testimony was plain error. The trial court found that "[t]he information and the testimony and the evidence that did come in, even in the form that it did

come in, is sufficient, albeit in the court's opinion *barely sufficient*" to prove by a preponderance of the evidence that D.S. was abused and neglected as alleged in the petition. (Emphasis added). Consistent with the court's observations, we conclude that the evidence was so closely balanced that the error threatened to tip the scales of justice against respondent. To show a *prima facie* case of neglect or abuse, the State attempted to prove that D.S.'s injuries were of such a nature as would ordinarily not be sustained or exist except by reason of the acts or omissions of the parent. See 705 ILCS 405/2-18(2)(e) (West 2014). The State emphasizes minor inconsistencies in respondent's accounts of the events to show that she is not credible, but that does not excuse the State from presenting competent medical evidence that the injuries were not accidental. Excluding the inadmissible hearsay, we conclude that the State failed to sustain its burden of proof by a preponderance of the evidence. The adjudication of neglect and abuse must be reversed because it is against the manifest weight of the evidence, and the resulting dispositional order must be vacated.

¶ 46 III. CONCLUSION

¶ 47 We conclude that the adjudication of neglect and abuse was against the manifest weight of the evidence. The State's exhibit contained information in excess of what is permitted by section 2-18(4)(b) of the Act, and therefore, we conclude that the court erred in admitting the exhibit in its entirety. We further conclude that (1) the DCFS investigator's own medical opinions lacked an adequate foundation to be considered expert testimony and (2) the court committed plain error by allowing the investigator to testify to the doctors' purported opinions. We therefore reverse the adjudication and vacate the dispositional order.

¶ 48 Reversed and vacated.