

NOTICE

This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

2016 IL App (4th) 160090-U

NOS. 4-16-0090, 4-16-0091, 4-16-0092, 4-16-0094 cons.

FILED

June 2, 2016
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re: A.H., a Minor,	)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,	)	Circuit Court of
Petitioner-Appellee,	)	Vermilion County
v. (No. 4-16-0090)	)	No. 15JA55
FAITH HODGMAN,)	
Respondent-Appellant.)	
-----)	
)	
In re: X.H., a Minor,)	
THE PEOPLE OF THE STATE OF ILLINOIS,)	
Petitioner-Appellee,)	
v. (No. 4-16-0091)	)	No. 15JA56
FAITH HODGMAN,)	
Respondent-Appellant.)	
-----)	
)	
In re: D.R., a Minor,)	
THE PEOPLE OF THE STATE OF ILLINOIS,)	
Petitioner-Appellee,)	
v. (No. 4-16-0092)	)	No. 15JA57
FAITH HODGMAN,)	
Respondent-Appellant.)	
-----)	
)	
In re: A.B., a Minor,)	
THE PEOPLE OF THE STATE OF ILLINOIS,)	
Petitioner-Appellee,)	
v. (No. 4-16-0094)	)	No. 15JA58
FAITH HODGMAN,	)	Honorable
Respondent-Appellant.	)	Claudia S. Anderson,
	)	Judge Presiding.

JUSTICE APPLETON delivered the judgment of the court.
Justices Harris and Steigmann concurred in the judgment.

ORDER

Held: The appellate court affirmed the trial court's judgment, which adjudicated respondent's minor children neglected and made them wards of the court.

¶ 1 Respondent, Faith Hodgman, is the mother of A.B., born May 30, 2001; D.R., born August 26, 2004; and twins A.H. and X.H., born June 21, 2013. The minors' fathers are not parties to this appeal. In November 2015, the trial court adjudicated the minors neglected, and in January 2016, the court found respondent unfit and made the minors wards of the court. The court awarded custody and guardianship of the minors to the Illinois Department of Children and Family Services (DCFS). Respondent appeals, claiming the court's finding of neglect was against the manifest weight of the evidence. We affirm.

¶ 2 I. BACKGROUND

¶ 3 On June 15, 2015, the State filed separate petitions for adjudication of wardship as to each minor. Each petition was identical and alleged the minor was neglected on three grounds: (1) the environment was injurious to the minor's welfare when respondent failed to make progress in an intact case (705 ILCS 405/2-3(1)(b) (West 2014)); (2) respondent failed to provide the proper or necessary support, education, and other remedial care required (705 ILCS 405/2-3(1)(a) (West 2014)); and (3) the environment was injurious to the minor's welfare due to an unstable home environment (705 ILCS 405/2-3(1)(b) (West 2014)).

¶ 4 At the June 15, 2015, shelter-care hearing, Tracy Vincent, a DCFS investigator, testified she began her investigation on June 11, 2015. DCFS received a hotline report, alleging respondent refused to provide the medical card to the minors' maternal aunt, Jessica Morris, who was caring for the minors at the time. A.H. had an ear infection and needed medical treatment, but respondent refused to cooperate with securing that treatment. Vincent contacted respondent and asked to meet with her to discuss the situation. Respondent refused to tell Vincent where she

was residing, but she agreed to meet at a local restaurant. Vincent asked respondent to allow her sister to have temporary guardianship of the minors. According to Vincent, respondent refused because she did not want to risk losing her housing voucher, food stamps, or medical card. Vincent explained to respondent that A.H. needed medical attention for a possible ear infection. Respondent still refused Vincent's suggestion.

¶ 5 Vincent said she contacted The Center for Youth and Family Solutions (CYFS) supervisor and the current caseworker, Luanne Smalley. An intact family case was opened in December 2013 based upon allegations that D.R.'s stepfather kicked him in the back. DCFS suspected domestic violence and alcohol abuse in the home. By June 2015, the family had not successfully participated in the recommended services in the intact case. In particular, respondent had not (1) secured safe and suitable housing; (2) required A.B. to attend school; (3) made A.B. and D.R. attend counseling; and (4) participated in individual counseling to address a number of parenting issues. Vincent said she spoke with Morris, who advised she had requested the medical card from respondent. Vincent also spoke with the older minors, A.B. and D.R., who advised they were residing with their maternal grandmother, Audene Equils. However, Equils obtained an order of protection against respondent because she alleged physical and emotional abuse by respondent and A.B. The order of protection resulted in respondent and the children being evicted from Equil's home. The eviction notice was served on respondent on June 5, 2013. The children then moved in with Morris. Respondent refused to disclose to Morris where she would be residing, revealing only that she was living somewhere on Perrysville Road. For these reasons, Vincent said, she took the children into protective custody.

¶ 6 After considering Vincent's testimony, the trial court found it was in the minors' best interest and a matter of immediate and urgent necessity that they be placed in the temporary care and custody of DCFS. The court also ordered respondent to submit to random drug drops.

¶ 7 Respondent's case plan, which was filed on July 23, 2015, required respondent to (1) maintain appropriate and stable housing, (2) participate in a mental-health assessment and cooperate with any recommendations, (3) participate in domestic-violence counseling, and (4) attend all prenatal medical appointments.

¶ 8 On November 18, 2015, the trial court conducted an adjudicatory hearing. The State presented the testimony of Luanne Smalley, the intact-family caseworker from CYFS. Smalley testified the intact case was opened in December 2013, after the report regarding D.R.'s injury to his back was indicated as abuse inflicted upon him by his stepfather, Alex H., who is the father of the minors, A.H. and X.H. Alex was indicated for the "cuts, welts, bruises" on D.R. and respondent was indicated for "substantial risk of harm." Alex and respondent have a history of domestic violence, with Alex having mental-health issues and respondent having "alcohol issues."

¶ 9 Smalley testified that a safety plan was implemented when the case was opened and ended in May 2014. The plan was for the minors to be placed with Equils due to the domestic-violence and alcohol issues. The plan ended because the parents were engaged in recommended services. The minors were returned to the home with respondent and Alex. Smalley testified the case was close to being closed in November 2014; however, she learned (1) of a new report for environmental neglect, (2) A.B. was truant, (3) Alex was arrested for possession of a gun, and (4) the family was facing eviction due to nonpayment of rent. The family was evicted in March 2015 and began living with Equils. However, Equils had a difficult

time with the family due to the minors' behavior and respondent's parenting. She consulted an elder-abuse agency, alleging A.B. and respondent were physically and emotionally abusive. Equils was awarded an order of protection against respondent. At this time, respondent advised Smalley she was pregnant and contemplating leaving Alex. Due to the order of protection, respondent and the minors moved out of Equils' home and the minors moved into Morris's home. Respondent sought shelter elsewhere. At this point, respondent was not engaged in her recommended services. On June 12, 2015, DCFS received the hotline report, which preceded the minors being taken into protective custody.

¶ 10 Tracy Vincent testified next for the State, consistent with her testimony at the shelter-care hearing. She said she was assigned the investigation of the hotline report in June 2015, which included allegations of a "substantial risk of physical injury, environment injurious to the health and welfare by neglect to all four children, and the allegations of medical neglect to [A.H.]" Vincent explained that, after the family was evicted from Equils' home on June 5, 2015, the minors went to live with Morris. On June 11, 2015, Morris called DCFS, worried because A.H. had an ear infection and she did not know how to contact respondent in order to get A.H. medical treatment. Vincent contacted respondent by telephone to encourage her to contact Morris. Respondent failed to reveal where she was staying. She eventually agreed to meet Vincent at a local restaurant on June 12, 2015. Respondent refused to allow Morris to have a temporary guardianship of the minors because she did not want to lose her food stamps and housing voucher. Vincent testified respondent refused to give Morris any authority, power, or control to physically care for the minors with regard to medical care or their education. After speaking with Smalley and others involved, Vincent proceeded with taking protective custody of the minors.

¶ 11 Respondent testified on her own behalf. She said her prenatal doctor ordered her to leave her job at the end of January 2015 because she suffered from severe morning sickness, was extremely dehydrated, and was considered a high-risk pregnancy. Respondent explained A.B. and her mother did not get along. They each accused the other of pushing and shoving them. She said A.B. "went from being a straight-A student and loving school to ditching, lying, and failing." She said the school could not help because A.B. had not talked to anyone at the school. She withdrew him from school in November 2014 in order to homeschool him. However, when the family lived with Equils, they had no Internet access, so they could not participate in the program. She testified she has been trying to make things better for her family in terms of a stable home environment, but her primary concern is income for the family.

¶ 12 After the presentation of evidence, the trial court found the State had proved all three allegations of neglect by a preponderance of the evidence. The court's findings were based on evidence demonstrating (1) respondent's failure to complete her intact services in 19 months (count I), (2) the minor A.B. missed half of the school year and respondent was not participating in the homeschool program (count II), and (3) respondent's home environment was "unstructured and unstable" (count III). The court entered a written adjudicatory order on November 18, 2015.

¶ 13 On January 6, 2016, the trial court conducted a dispositional hearing. The State called Johnson Flanagan, the caseworker at CYFS, who testified about the recommended services in respondent's case plan. Flanagan said respondent was participating in individual counseling with Amy Farrow at CYFS and doing "[v]ery well." Respondent had been referred to domestic-violence counseling at Family Life Skills with Janette Reynolds. They should begin sessions in the near future. Respondent was participating in a parenting course at New Directions and "doing very well." Flanagan said respondent's current home was appropriate.

However, respondent needed to obtain a job to support her family. Flanagan said respondent has also been referred to mental-health counseling at Crosspoint. Flanagan testified respondent would soon be referred for a substance-abuse evaluation.

¶ 14 Flanagan said that, although respondent was caring for her infant in her home, it was "necessary" for the other minors to be in foster care. Flanagan clarified that the primary reasons the minors were not in respondent's custody was because she had yet to successfully complete her domestic-violence counseling.

¶ 15 According to the dispositional report, prepared by Flanagan, the minors were all doing well in their relative foster placement. A.B., a 14-year-old boy, was in 8th grade and was described as "a solid B student." He reportedly enjoyed spending most of his time reading novels. The foster parents reported no problems with him at school. He was to begin counseling to help him cope with being placed in foster care, as he seemed to struggle with expressing his feelings. D.R., an 11-year-old boy, was doing average in school. Like A.B., D.R. struggles with expressing his feelings regarding respondent and being placed in foster care. He reportedly feels guilty for the family's DCFS involvement. He will continue individual counseling to address these issues. A.H. and X.H. are twin toddlers and, other than "some developmental delays," experience no issues or concerns.

¶ 16 The report also indicated respondent had stable housing and income and was engaged in all recommended services, including individual counseling, mental-health services, domestic-violence counseling, and parenting education. She had custody and guardianship of her infant daughter. Nevertheless, the caseworkers recommended (1) respondent be found unfit and unable to care for the minors, (2) she successfully complete her recommended services, (3) the minors remain in foster care, and (4) respondent maintain stable housing and income.

¶ 17 After considering the evidence and the dispositional report, the trial court found respondent unfit, unable, and unwilling to care for, protect, train, educate, supervise, or discipline the minors. The minors' placement with respondent was contrary to the health, safety, and best interests of the minors because respondent "need[s] services; lack of progress [with] intact case; unstable hous[ing]; and fail[ing] to provide proper support." The court adjudicated the minors neglected and made them wards of the court.

¶ 18 This appeal followed.

¶ 19 II. ANALYSIS

¶ 20 Respondent appeals from the trial court's adjudicatory order, claiming the State failed to demonstrate the minors' environment was injurious to their welfare. Respondent does not challenge the remaining finding of neglect on the basis of respondent's failure to provide the necessary support, education, and other remedial care. Nor does she challenge the court's dispositional order.

¶ 21 The State filed a three-count petition for adjudication of neglect—two of those counts alleged the minors were neglected due to their injurious environment. Count I alleged the minors' environment was injurious to their welfare due to respondent's failure to make progress in the intact case. Count III alleged the minors' environment was injurious to their welfare due to their unstable home environment. In her brief, respondent claims the evidence presented at the adjudicatory hearing demonstrated she was attending parenting classes, individual counseling, domestic-violence classes, and mental-health services. She argues the evidence also showed she had income and stable housing. Further, she claims, the caseworker testified the only reason the minors were not in her care was because she had yet to complete the domestic-violence classes.

Based on this evidence, she claims, the trial court's finding of neglect was against the manifest weight of the evidence.

¶ 22 Respondent asserts the court erred in adjudicating the minors neglected under section 2-3(1)(b) of the Juvenile Court Act of 1987 (Juvenile Act) (705 ILCS 405/2-3(1)(b) (West 2014)). "Neglect" is defined as "the failure to exercise the care that circumstances justly demand and encompasses both willful and unintentional disregard of parental duty." *In re Kamesha J.*, 364 Ill. App. 3d 785, 792-93 (2006). A parent has a duty to shield his or her child from harm. *Kamesha J.*, 364 Ill. App. 3d at 793. When the petition for adjudication of neglect alleges the minor has been subjected to an injurious environment, the case should be reviewed based on the specific circumstances of that case. *In re Arthur H.*, 212 Ill. 2d 441, 477 (2004). The court's findings of fact are afforded great deference and will not be overturned unless those findings are against the manifest weight of the evidence. *In re R.S.*, 382 Ill. App. 3d 453, 459 (2008). "A finding is against the manifest weight of the evidence only if the opposite conclusion is clearly evident." *R.S.*, 382 Ill. App. 3d at 549.

¶ 23 In this case, respondent has not contested the trial court's finding the minors were neglected within the meaning of section 2-3(1)(a) of the Juvenile Act (705 ILCS 405/2-3(1)(a) (West 2014)). We therefore affirm the court's judgment. See *In re Faith B.*, 216 Ill. 2d 1, 14 (2005) (only one count need be proved under section 2-3 of the Juvenile Act to affirm the trial court's judgment).

¶ 24 Nevertheless, we give deference to the trial court's findings of fact at an adjudicatory hearing because the court "is in the best position to observe the conduct and demeanor of the parties and the witnesses and has a degree of familiarity with the evidence that a reviewing court cannot possibly obtain." *In re D.F.*, 201 Ill. 2d 476, 498-99 (2002). In this

instance, evidence existed to support the court's findings on all grounds. Respondent admitted A.B. did not attend school or participate in the homeschooling program for approximately six months. Further, the evidence showed respondent refused to cooperate when asked to assist her sister in obtaining medical care for the minors. The evidence also showed (1) respondent had not sufficiently progressed with the services in her intact case at the time the hotline call was made; and (2) the family had difficulty maintaining a stable residence. In fact, respondent's residence was unknown at the time the hotline call was made.

¶ 25 The evidence relied upon by respondent to support her position in this appeal was presented in the dispositional hearing and has no bearing on the court's finding of neglect. Based upon the evidence presented at the adjudicatory hearing, we conclude the trial court's finding of neglect was not against the manifest weight of the evidence.

¶ 26 Because respondent has not specifically challenged the trial court's dispositional order, we affirm that portion of the court's judgment without discussion.

¶ 27 **III. CONCLUSION**

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

¶ 29 Affirmed.