2016 IL App (5th) 160078-U

NO. 5-16-0078

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

In re R.A., a Minor	)	Appeal from the
	)	Circuit Court of
(The People of the State of Illinois,	)	Marion County.
	)	
Petitioner-Appellee,	)	
	)	
v.	)	No. 15-JA-62
	)	
	)	Honorable
K.A. and S.A.,	)	Ericka A. Sanders and
	)	Kevin S. Parker,
Respondents-Appellants).	)	Judges, presiding.

JUSTICE CATES delivered the judgment of the court.
Justices Chapman and Stewart concurred in the judgment.

ORDER

¶ 1 *Held*: Trial court properly found minor child to be neglected due to an environment that was injurious to her welfare.

¶ 2 The circuit court of Marion County entered an order of adjudication finding R.A., a minor, to have been abused or neglected due to an environment that was injurious to her welfare. After a dispositional hearing, the minor was found to be a ward of the court and placed in the custody of the Illinois Department of Children and Family Services (DCFS). The parents of the minor, K.A. and S.A., appeal the dispositional order contending that it

is against the manifest weight of the evidence. They assert that there was no proof, even by a preponderance of the evidence, that the minor was neglected. We affirm.

¶ 3 The minor, R.A., was born June 25, 2014. She came into the care of DCFS on October 21, 2015, following a temporary custody hearing. At this hearing, R.A. was found to be neglected by her parents because her person, clothing, and home were unclean and dirty. An adjudicatory order was entered on December 16, 2015, finding that R.A. was abused or neglected because she was in an environment injurious to her welfare in that her person and home were unclean and her body and clothing were dirty. At the dispositional hearing, the State's witnesses admitted that progress had been made with respect to the cleanliness of the home, but all were concerned about the ability of the parents to keep the home clean once R.A. was returned. The trial court found R.A. neglected and made her a ward of the court. The trial court noted in the order that the parents had been unable to correct the conditions that led to the removal of the minor's three older siblings, also wards of the court, and that they had only recently made progress while none of the minor children were residing with them. The parents argue there was no evidence of neglect presented at the dispositional hearing, and that the case was pursued under a theory of anticipatory neglect based upon the neglect of R.A.'s siblings and not based on the facts of R.A's case alone. They point out that the reason the child was removed from the home was for uncleanliness, and that had been remedied. They therefore believe R.A. should have been returned home and not made a ward of the court.

¶ 4 On appeal of a dispositional order, we will not reweigh the evidence or reassess the credibility of the witnesses. *In re April C.*, 326 Ill. App. 3d 245, 257, 760 N.E.2d 101, 111 (2001). The trial court's decision will only be reversed if the findings of fact are against the manifest weight of the evidence or if "the court committed an abuse of discretion by selecting an inappropriate dispositional order." *In re J.W.*, 386 Ill. App. 3d 847, 856, 898 N.E.2d 803, 811 (2008).

¶ 5 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, 847 N.E.2d 621, 628 (2006). The standard of proof for a circuit court's finding at a dispositional hearing is a preponderance of the evidence. *In re April C.*, 326 Ill. App. 3d at 257, 760 N.E.2d at 111. Here there was more than a preponderance of the evidence for the court's dispositional order. Contrary to the parents' assertions, R.A.'s case was not based solely on the neglect of parents' other three children. The evidence presented revealed that R.A. was also neglected in that her body and clothing were dirty and her house was unclean.

¶ 6 Over the course of several visits to R.A.'s residence, the home was reported to have had trash scattered throughout, old food and/or milk was left out within the grasp of R.A., and there were no clean sheets or blankets for the children. Toothpicks, safety pins, dirty dishes, and food littered the floors. In other words, R.A. had ready access to debris, trash, and rotting food throughout the home. In fact, she had been observed eating an old bagel and popcorn off the floor, and a half-eaten pizza was found in R.A.'s room with flies swarming around it.

¶ 7 At the shelter care hearing, R.A. arrived in a dirty condition. Her socks were black with food material stuck to them, and the bottoms of her feet were black underneath the socks. Her clothes were dirty and smelled badly. She had crusty material under her neck, and brown debris in her ears. Her face and fingernails were dirty, and her hair was matted. Father believed the debris in R.A.'s hair at the shelter care hearing was from Pop-tarts she had had for breakfast that morning. He also claimed her clothes had been washed the night before, and any stains found on them were from that morning. A DCFS caseworker who took R.A. for a bath immediately prior to the hearing testified she believed that, based on the condition of R.A.'s clothing, they had not been washed the day before. Dirt and stains were visible, and a foul odor emanated from the clothing. It was further revealed that the children generally were bathed only once a week, and teeth were brushed only once a week as well.

¶ 8 The guardian *ad litem* recommended that, for R.A.'s safety, it was of immediate necessity to remove her from the home because of neglect and an injurious environment. While safety plans had been instituted to keep the family intact, the parents failed to comply with those plans. The severity of the situation had been stressed to the parents, but the changes were inconsequential. Instead, the parents blamed the children for the disarray. According to the parents, the children all had chores to do to help keep the house clean, but they were not doing their chores. Father further believed it was best not to clean up messes during the day but to wait until the end of the evening when all the mess has been made for the day and then clean once at night. He also believed it was better for the children to only be bathed once a week unless they soiled themselves in

between bath times. Father acknowledged that he has "a different standard of cleanliness."

¶ 9 The court found probable cause to believe R.A. was neglected, and that there was an immediate and urgent necessity for the removal of R.A. The court noted caseworkers were in the home on multiple occasions and their reports contradicted father's testimony. The court stressed that there were safety plans put in place to keep the family together, but the plans did not work, and the parents failed to correct things. Despite interventions by DCFS, despite the threat of losing a child at a shelter care hearing, and despite the fact that the parents had been involved in the juvenile court system multiple times for the same issues, the parents did not improve the condition of the home. While it was true that as of the date of the dispositional hearing, the home was much cleaner, there was a concern the condition would not last once all of the children returned home. It was also noted that there was no information from the parents' mental health counselors concerning their progress and attendance in counseling.

¶ 10 One of the main concerns here was the parents' ability to maintain the home because of their history of not being able to sustain a clean and suitable environment for the children. The parents believe their history with R.A.'s siblings is being used against them in order to make R.A. a ward of the court as well. They believe it was improper for the court to consider such evidence to make an anticipatory ruling. Contrary to parents' assertions, the court could properly consider the evidence concerning R.A.'s siblings, as well as any prior reports and dispositions, in making its determination with respect to R.A. Under the Juvenile Court Act of 1987, "proof of the abuse, neglect or dependency

of one minor shall be admissible evidence on the issue of the abuse, neglect or dependency of any other minor for whom the respondent is responsible." 705 ILCS 405/2-18(3) (West 2014). *In re April C.*, 326 Ill. App. 3d at 260, 760 N.E.2d at 113. Additionally, section 2-22(1) of the Juvenile Court Act states in part:

> "At the dispositional hearing, the court shall determine whether it is in the best interests of the minor and the public that he be made a ward of the court, and, if he is to be made a ward of the court, the court shall determine the proper disposition best serving the *** interests of the minor and the public. *** All evidence helpful in determining these questions, including oral and written reports, may be admitted and may be relied upon to the extent of its probative value, even though not competent for the purposes of the adjudicatory hearing." 705 ILCS 405/2-22(1) (West 2014).

Clearly, the trial court has wide latitude in considering any evidence that is relevant and helpful to the court's determination of a proper disposition. *In re April C.*, 326 Ill. App. 3d at 261, 760 N.E.2d at 114. Under the circumstances presented, we find no error. Accordingly, the trial court's ruling finding R.A. to be neglected was not against the manifest weight of the evidence. See *In re Christopher S.*, 364 Ill. App. 3d 76, 89, 845 N.E.2d 830, 841 (2006).

¶ 11 For the aforementioned reasons, we affirm the order of the circuit court of Marion County finding R.A. to be neglected due to an environment that is injurious to her welfare and making her a ward of the court.

¶ 12 We note that pursuant to Supreme Court Rule 311(a)(5) (eff. Feb. 26, 2010) our decision in this case was to be filed on or before July 24, 2016, absent good cause shown. The case, however, was not ready to be heard until June 28, 2016, and both parties requested oral argument. The earliest oral argument date available, after all briefs were filed, was July 27, 2016, three days after the decision due date. We therefore find that good cause exists for issuing our decision after July 24, 2016.

¶ 13 Affirmed.