

No. 1-16-3094

**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).

---

IN THE INTEREST OF R.T.,	)	Appeal from the
	)	Circuit Court of
Minor-Respondent-Appellee,	)	Cook County
	)	
(THE PEOPLE OF THE STATE OF ILLINOIS	)	
	)	
Petitioner-Appellee	)	No. 15 JA 1138
v.	)	
	)	
LAWANDA T.	)	Honorable
	)	Devlin Schoop,
Respondent-Appellant.)	)	Judge Presiding.

---

JUSTICE PIERCE delivered the judgment of the court.  
Presiding Justices Hyman and Justice Mason concurred in the judgment.

**ORDER**

- ¶ 1 *Held:* The orders of the juvenile court finding R.T. abused and neglected and terminating respondent’s guardianship are affirmed.
- ¶ 2 Respondent Lawanda T., appeals from an order of the juvenile court finding R.T. abused and neglected, making R.T. a ward of the court and vacated respondent’s legal guardianship. On appeal, she argues that the juvenile court’s findings that: (1) R.T. was abused and neglected; (2) it was in R.T.’s best interest to be made a ward of the court; and (3) vacating her guardianship

were against the manifest weight of the evidence. For the following reasons, we affirm the judgment of the juvenile court.

¶ 3 BACKGROUND

¶ 4 R.T. was born on October 15, 2011, to 14-year-old Tamera T<sup>1</sup>. Tamera's adoptive mother, Lawanda T., became R.T.'s legal guardian when R.T. was 14-months-old. Lawanda, her 13-year old son Christian, Tamera and R.T. all reside together.

¶ 5 The State filed a petition for adjudication of wardship on October 30, 2015, alleging that R.T. was neglected because her environment was injurious to her welfare and abused because she was at a substantial risk of physical injury because:

“On or about July 22, 2015[,] legal guardian's son [Christian] was observed to be naked with this minor. Legal Guardian's son admitted to behaving in an inappropriate sexual manner with this minor. Legal [g]uardian minimizes the incident that occurred between her child and this minor. On or about September 24, 2015, an intact case was opened. Mother has been assessed to need mental health therapy and parenting. Services are outstanding for mother. Mother's attempts to vacate guardianship have been unsuccessful. Mother states that she is currently overwhelmed and suffering from anxiety. Legal guardian refuses to cooperate with intact.”

Separate attorneys were appointed to represent Tamera, Lawanda and R.T. R.T. was placed under temporary custody of the Department of Children and Family Services (DCFS).

¶ 6 Prior to trial on the State's petition for adjudication of wardship, the State filed a motion *in limine* seeking to admit Christian's statements into evidence at trial. The State alleged that

---

<sup>1</sup> Tamera T. was a named respondent and is not a party to this appeal.

Christian made several statements to a detective regarding the incident with R.T. and admitted masturbating while touching R.T.'s exposed buttocks in Lawanda's home. The State asked to admit Christian's statements pursuant to section 2-18(4)(c) of the Juvenile Court Act (705 ILCS 405/2-18(4)(c) (West 2016)), which allows the admission of statements made by a minor relating to allegations of abuse or neglect. Lawanda responded to the motion and asked the juvenile court to bar Christian's statements. After a hearing on the motions, the juvenile court ruled that Christian's statements were admissible.

¶ 7 At the adjudication hearing, DCFS child protection investigator Heather Parker testified that she was assigned to R.T.'s case on July 23, 2015, and spoke with Tamera and Lawanda at Lawanda's home. Parker testified that Tamera stated that she was watching three-year-old R.T. at Lawanda's house when Christian came into Tamera's bedroom and asked R.T. if she wanted to go watch television with him. About 15 minutes later, Tamera went to Christian's bedroom to check on R.T. She stated that the door was "hard to open" but when she got the door open she saw R.T. was fully naked from the waist down and Christian was standing next to her with an erect penis. Christian began to apologize to Tamera and stated that he "needed a release because he did not get his porn that day." Christian told Tamera that he did not penetrate R.T. "because she was too small." Tamera told Parker that she became hysterical and called the police.

¶ 8 Parker next spoke with Christian. Lawanda was present for this interview. When asked about the incident with R.T., Christian told Parker that he was sorry and that "he needed help and that he didn't want to do that again." Parker explained to Lawanda that R.T. would not be allowed to stay in the home if Christian lived there. Lawanda told her that Christian would not be leaving the home.

¶ 9 Bellwood police Detective David Martin testified that he was the youth officer who was assigned to investigate the report of a sexual assault involving R.T. On the day of the incident, Martin spoke with Tamera in the emergency room. Tamera told Martin that she was in her bedroom watching R.T. when her adoptive brother, Christian, entered the room and asked R.T. if she wanted to watch television. R.T. left with Christian. After a few minutes, Tamera decided to check on R.T. because it was very quiet. When she opened the door to Christian's room, she saw R.T. slightly bent over Christian's bed with her pants and panties pulled down. Christian had his pants down and was masturbating. Tamera grabbed R.T. and took her out of Christian's bedroom and called the police.

¶ 10 After speaking with Tamera, Detective Martin went to the police station to speak with Lawanda. He explained the allegations against Christian to her and she allowed Martin to speak with Christian. Martin spoke with Christian with Lawanda present. Christian told Martin that he looks at pornographic images on his cell phone. One day, he saw a flash message on his cell phone that said "FBI warning" while looking at pornographic images and believed that the FBI was monitoring him. He stopped using his cell phone to watch pornography and instead started watching mainstream movies that had female characters that sexually aroused him.

¶ 11 Christian told Martin that the movies started to bore him and he wanted human contact for sexual arousal. Christian got his niece R.T. and brought her to his bedroom. He pulled down R.T.'s pants and panties, exposing her buttocks. Christian pulled down his pants and began to masturbate with his hand on one of R.T.'s butt cheeks. Christian told Martin that he did not penetrate R.T. because "it was too small." Christian said that his sister Tamera barged into his room and caught him masturbating. Tamera "hit him upside the head." Christian admitted that

he had “done it” twice before and explained that his “hormones were raging.”

¶ 12 Martin testified that he observed a lump and swelling on Christian’s forehead. Detective Martin requested medical treatment for Christian. Paramedics were called to the police station and gave him an ice pack after Lawanda refused to have Christian transported to the hospital. Martin spoke with Tamera later and she admitted that she struck Christian when she entered the bedroom and saw him with R.T., masturbating.

¶ 13 Lawanda was called as an adverse witness. She testified that no criminal charges were filed against Christian. Instead, he was referred for services and was engaged in therapy. The State then rested. No other party presented any evidence or called any witnesses.

¶ 14 In entering an adjudication order finding that R.T. was abused and neglected, the court stated that it stood on its prior ruling that Christian’s statements were admissible as an exception to hearsay under section 2-18(4)(c). The court noted that Christian’s statements alone were not sufficient to establish abuse and neglect, but that his statements were corroborated by Tamera’s statements and the physical injury to Christian’s head. The court continued the matter for a dispositional hearing.

¶ 15 At the dispositional hearing, Maria Aldana, R.T.’s DCFS caseworker testified that DCFS assessed Tamera and determined that she needs to complete a psychological assessment, mental health counseling and parenting coaching before DCFS could recommend that R.T. be returned to her custody. Tamera was referred for these services but refused to complete them.

¶ 16 Aldana also testified that she referred Lawanda for individual therapy and Lawanda attended and completed therapy. Lawanda refused to provide Aldana with information regarding the services that Christian was engaged in and therefore Aldana was unable to assess Christian’s

progress. She stated that she would be concerned for R.T.'s safety if R.T. was returned to Lawanda's care if Christian remained in the home.

¶ 17 Lawanda testified that she had been R.T.'s legal guardian since she was 14-months-old. She wanted R.T. returned to her care and would be willing to attend additional services to achieve that. Christian still resided in her home.

¶ 18 Tamera also testified that it has always been her intention to have R.T. returned to her care. She stated that she participated in a mental health evaluation but believed that she did not need any other services.

¶ 19 The State entered service-related documents into evidence. One of these exhibits showed that Tamera failed to maintain consistent contact with R.T. while R.T. was in DCFS custody, going months without even calling her daughter. Another exhibit showed that Christian was receiving ongoing mental health services.

¶ 20 After hearing closing arguments, the juvenile court entered a dispositional order finding Lawanda and Tamera were unable to parent R.T. and consequently made R.T. a ward of the court. The court vacated Lawanda's legal guardianship. Based on the same evidence, the juvenile court entered a permanency goal of return home within twelve months, finding that Tamera had not made substantial progress toward reunification with R.T.. Lawanda timely filed this appeal.

¶ 21 ANALYSIS

¶ 22 Respondent argues that the trial court's findings of abuse and neglect are against the manifest weight of the evidence because those findings are based on inadmissible hearsay statements made by Christian and Tamera and, as a result the State failed to prove that R.T. was

abused and neglected by preponderance of the evidence.

¶ 23 The Juvenile Court Act of 1987 (Act) “sets forth the procedures and criteria to be used in deciding whether a minor should be removed from his parents' custody and made a ward of the court.” *In re A. W.*, 231 Ill. 2d 241, 254 (2008) (citing 705 ILCS 405/1-1 *et seq.* (West 2008)). At an adjudicatory hearing, the circuit court must determine whether the minor is abused, neglected, or dependent before conducting a dispositional hearing on wardship. 705 ILCS 405/2-21 (West 2014); 705 ILCS 405/2-18(1) (West 2016) (“At the adjudicatory hearing, the court shall first consider only the question whether the minor is abused, neglected, or dependent.”); *In re Arthur H.*, 212 Ill. 2d 441, 462 (2004). The court must consider the status of the minor at the time the adjudication petition was filed and not their status at the time of the hearing. *In re C.W.*, 199 Ill. 2d 198, 217 (2002); *In re Kenneth D.*, 364 Ill. App. 3d 797, 804 (2006).

¶ 24 It is the burden of the State to prove allegations of abuse and neglect by a preponderance of the evidence. *In re Arthur H.*, 212 Ill. 2d at 463. The trial court has broad discretion when determining the existence of neglect or abuse as it has the best opportunity to observe the demeanor and conduct of the parties and witnesses and is therefore in the best position to determine the credibility and weight to be given to the witnesses' testimony. *In re Stephen K.*, 373 Ill. App. 3d 7, 20 (2007). We review a trial court's finding of abuse and neglect under the manifest weight of the evidence standard. *In re Alexis H.*, 401 Ill. App. 3d 543, 551 (2010). “A finding is against the manifest weight of the evidence only if the opposite result is clearly evident.” *In re A. W.*, 231 Ill. 2d at 254.

¶ 25 The Act seeks to protect neglected and abused minors. 705 ILCS 405/2–3 (West 2014). In this case, the State alleged that R.T. was neglected based on an environment injurious to her

welfare and was abused based on a substantial risk of physical injury. 705 ILCS 405/2-3 (West 2016). The juvenile court agreed.

¶ 26 Based on the record before us, we find the evidence was sufficient to establish by a preponderance of the evidence that R.T. was both abused and neglected. The juvenile court heard evidence that 13-year-old Christian, who resided with R.T., her mother and R.T.'s legal guardian Lawanda, was caught alone in a bedroom with R.T., masturbating while touching R.T.'s bare buttocks. Tamera's statements, introduced through investigator Parker and Detective Martin, detailed Christian's offending conduct and included her statement that when she caught Christian with R.T., she struck him on the head. Detective Martin testified that he observed swelling and a lump on Christian's head following the incident and those paramedics provided Christian with an ice pack for his injury. The court found Tamera's statement to be consistent with Christian's own admissions regarding his being caught in sexually inappropriate and injurious conduct with R.T. as related to Parker and to Martin while in the presence of his mother, Lawanda. Furthermore, the court found that the evidence regarding Christian's head injury corroborated Christian's and Tamera's statements. The court's finding was not against the manifest weight of the evidence.

¶ 27 Lawanda argues that the juvenile court erred in admitting the statements of 13-year-old Christian. Lawanda argues that Christian's statements regarding his inappropriate sexual contact with R.T. were inadmissible because Christian was not a party to this case. The State responds that Christian's statements were admissible under section 218(4)(c) of the Act that provides for the admission of hearsay statements of abuse by a minor: "Previous statements made by the minor relating to any allegations of abuse or neglect shall be admissible in evidence. However,



no such statement, if uncorroborated and not subject to cross-examination, shall be sufficient in itself to support a finding of abuse or neglect.” 705 ILCS 405/2–18(4)(c) (West 2016).

¶ 28 In *In re D.M.*, 2016 IL App (1st) 152608, the respondent argued that the statements of a minor regarding the sexual abuse allegations contained in a petition for adjudication of wardship should not have been admitted at the adjudication hearing “because [the minor] was not ‘the minor’ involved in this case, i.e., [the minor] was not [the minor] named in the petition for adjudication.” *Id.* ¶ 21. According to the respondent, the minor’s statements could only be admissible under section 2-18(4)(c) if that particular minor was also a party to the proceeding. *Id.* We rejected this argument finding that the non-party minor’s statements regarding the sexual abuse were encompassed under section 2-18(4)(c) of the Act. We explained,

“[B]ecause the statute does not limit the use of ‘statements made by the minor’ to only those allegations of abuse or neglect directly implicating the minor making the statements or the minor named in the petition, it follows that a minor not named in the petition can offer statements relating to neglect or abuse or another minor, so long as those statements are either corroborated or subject to cross-examination.” *Id.*

We reached the same conclusion on the same issue in *In re J.L.*, 2016 IL App (1st) 152479.

¶ 29 Given the testimony adduced at the adjudication hearing, we find no compelling reason to depart from our holdings in *D.M.* or *J.L.* especially where the minor making the statement evidencing abuse or neglect was the main actor who made the statement in the presence of his mother and was observed by his sister who also corroborated the incident giving rise to the filing of petition for adjudication of wardship. As discussed later, Tamera’s observations of Christian with R.T., as testified to by investigator Parker and Detective Martin, was more than sufficient

corroboration of Christian's statement. We therefore find that the trial court did not err in admitting Christian's out of court statements pursuant to section 2-18(4)(c) of the Code on the basis that Christian was not party to the proceedings.

¶ 30 Lawanda next argues that the juvenile court erred in admitting Tamera's statements into evidence because they were hearsay. Lawanda argues that the juvenile court was incorrect in characterizing Tamera's statements as non-hearsay statements by a party-opponent and as an exception to hearsay as statements against interest pursuant to Ill. R. Evid. 804(b)(3) (eff. Oct. 15, 2015). The State agrees that Tamera's statements were not admissible as statements against her interest, but argues that the juvenile court properly admitted Tamera's statements as statements by a party-opponent pursuant to Ill. R. Evid. 801(d)(2)(A) (eff. Oct. 15, 2015).

¶ 31 We begin by noting that we can affirm the decision of a lower court on any basis found in the record. *People v. Tripp*, 306 Ill. App. 3d 941, 952 (1999). The party-admission doctrine is an exception to the hearsay rule. *People v. Ramsey*, 205 Ill. 2d 287, 294 (2002). A statement by a party-opponent is not hearsay if it "is offered against a party and is \* \* \* the party's own statement." Ill. R. Evid. 801(d)(2)(A) (eff. Oct. 15, 2015); see also *People v. Aguilar*, 265 Ill. App. 3d 105, 113(1994). Statements of a party opponent constitute substantive evidence subject to consideration by the trier of fact. *Security Savings and Loan Assn. v. Commissioner of Savings & Loan Assn.*, 77 Ill. App. 3d 606, 610 (1979).

¶ 32 Here, Tamera was named as a party respondent in R.T.'s abuse and neglect petition. Tamera's statements about what she observed when she went into Christian's room and her nearly identical statements to Investigator Parker and Detective Martin were properly admitted as a statement by a party-opponent pursuant to Ill. R. Evid. 801(d)(2)(A) and was not inadmissible

hearsay. We reject Lawanda's argument that Tamera's statements were offered against Christian because Christian was not on trial for sexually abusing R.T., nor was he named as a respondent in the petition for the adjudication of wardship. Tamera's statements were properly admitted as substantive evidence bearing on the issue of whether R.T. was abused or neglected and the adjudication of wardship.

¶ 33 We next address respondent's argument that the juvenile court erred when it found that it was in R.T.'s best interest to be adjudged a ward of the court and to vacate Lawanda's guardianship. Specifically, Lawanda argues that the juvenile court's ruling was against the manifest weight of the evidence because she had completed individual counseling, the only service that was required of her, before the dispositional hearing.

¶ 34 If the trial court finds a minor abused, neglected or dependent, the court is to hold a dispositional hearing to determine whether it is consistent with the health, safety and best interests of the minor and the public that he be made a ward of the court. 705 ILCS 405/2-21(2) (West 2016). The minor may be made a ward of the court, if the court determines that the parents or guardian:

“are unfit for some other reason 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, guardian or custodian.” 720 ILCS 405/2-27(1) (West 2016).

¶ 35 In a best interests hearing, the focus of the termination proceeding shifts to the child, and the parent's interest in maintaining the parent-child relationship must yield to the child's interest in having a stable and loving home life. *In re D. T.*, 212 Ill. 2d 347 (2004). The State must

prove by a preponderance of the evidence that termination is in the child's best interest. *In re D.T.*, 212 Ill. 2d 347, 366 (2004). The trial court's determination will not be reversed unless it is against the manifest weight of the evidence. *Id.* A decision is against the manifest weight of the evidence only when the opposite conclusion is clearly evident. *In re Z.L.*, 379 Ill. App. 3d 353, 376 (2008).

¶ 36 Cases involving an adjudication of neglect and wardship are *sui generis* and must be decided on the unique facts of the case. *In re Z.L.*, 379 Ill. App. 3d 353, 376 (2008). In this case, at the adjudication hearing, the juvenile court found that Christian, Lawanda's son, took R.T. into his bedroom, removed her pants and underwear and masturbated while touching R.T.'s bare buttocks. The court also heard evidence that this was the third time that Christian had engaged in inappropriate sexual conduct with R.T. in Lawanda's home.

¶ 37 At the dispositional hearing in October 2016, Lawanda stated that Christian continued to live in her home and was undergoing therapy. The juvenile court recognized that there was no doubt that Lawanda was a "loving grandparent." However, the juvenile court stated that it "cannot put [R.T.] in your home if Christian is still there and has these unresolved issues because that is essentially a recipe for disaster as far [as] I'm concerned."

¶ 38 The evidence presented at the best interest hearing was more than sufficient to support the juvenile court's determination that termination of Lawanda's guardianship was in R.T.'s best interest. The juvenile court was clearly considering R.T.'s best interest when it refused to return R.T. to Lawanda's home where Christian continued to live and where R.T. would be susceptible to further sexual abuse by Christian. It defies common sense to believe it is in R.T.'s best interest to return her to the same living environment where she was subjected to this vile conduct while

the perpetrator continued to reside there. Lawanda's completing the services required of her is encouraging but unfortunately completion of those services does nothing to negate the fact that Christian living with her remains as a threat to R.T.'s health and well being until otherwise determined by the juvenile court. Based on this record, we cannot say that the juvenile court's decision that termination of Lawanda's guardianship was in R.T.'s best interest was against the manifest weight of the evidence.

¶ 39

#### CONCLUSION

¶ 40 For the foregoing reasons, the judgment of the juvenile court is affirmed.

¶ 41 Affirmed.