

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).

2017 IL App (3d) 170179-U

Order filed November 16, 2017

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

2017

<i>In re</i> Ch.B., N.B., & Ca.B.,	)	Appeal from the Circuit Court
	)	of the 10th Judicial Circuit,
Minors	)	Peoria County, Illinois.
)	
(The People of the State of Illinois,	)	Appeal Nos. 3-17-0179
	)	3-17-0180
Petitioner-Appellee,	)	3-17-0181
	)	Circuit Nos. 16-JA-177
v.	)	16-JA-178
	)	16-JA-179
C.B.,)	
	)	Honorable Kirk D. Schoebein,
Respondent-Appellant).	)	Honorable Mark E. Gilles,
	)	Judges, Presiding.

JUSTICE SCHMIDT delivered the judgment of the court.
Justices McDade and O'Brien concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court's finding that respondent was dispositionally unfit was not against the manifest weight of the evidence.

¶ 2 Respondent, C.B., appeals from the trial court's dispositional order finding him to be an unfit parent. We affirm.

¶ 3 **FACTS**

¶ 4 On July 27, 2016, the State filed neglect petitions, alleging that Ch.B. (born April 18, 2012), Ca.B. (born August 5, 2015), and N.B. (born January 10, 2014) were neglected minors. The petitions alleged that the minors' environment was injurious to their welfare in that their mother and respondent father had been involved in domestic violence and that the mother was not willing to separate from respondent or follow the Department of Children and Family Services' (DCFS) directions. Following a shelter-care hearing later that day, the minors were placed in the temporary custody of DCFS.

¶ 5 On September 29, 2016, the State filed amended neglect petitions. The amended petitions alleged, in relevant part, that the minors' environment was injurious to their welfare for the following reasons. (1) On May 21, 2016, respondent hit the mother while Ch.B. was present; respondent stepped on Ch.B.'s foot and pushed him down; and Ch.B. witnessed respondent make his mother's mouth bleed. (2) On July 8, 2016, a DCFS caseworker was in the parties' home when a man walked in and got some clothing; the mother refused to identify the man, but the caseworker subsequently identified him as respondent. (3) On July 14, 2016, the mother signed a safety plan agreeing that respondent would not enter the parties' home or have unsupervised contact with the minors, but on July 15, 2016, respondent, the mother, and two of the minors were together in a car when the respondent and the mother argued and respondent bit her on the arm. (4) On July 24, 2016, the mother contacted the police and reported that respondent punched her in the shoulder and that N.B. witnessed it. (5) On January 23, 2015, respondent punched the mother on the face "a few times" causing injury. (6) On February 28, 2013, respondent punched the mother on the arm; pushed her down and kicked her in the privates; threw her cell phone which struck Ch.B.; and when police arrested respondent, the mother turned over a .22-caliber handgun and reported that respondent had threatened her with the gun several weeks before. (7)

On July 15, 2016, N.B. was left unsupervised at the parties' house for 15 to 20 minutes. (8) Respondent's criminal history included juvenile adjudications for domestic battery in 2005 and residential burglary in 2006; disorderly conduct in 2010; possession of a firearm with an expired firearm owners identification (FOID) card in 2013; and possession of a firearm with an obliterated serial number in 2013.

¶ 6 The trial court conducted an adjudicatory hearing over the course of two days, one in November 2016 and the other in February 2017. Testimony documenting a history of domestic abuse as alleged in the amended neglect petitions, some of which was witnessed by the minors, was elicited during the hearing. At the conclusion of the hearing, the trial court found the minors were neglected in that their environment was injurious to their welfare. Specifically, the court found that the State proved the allegations as alleged in the amended petitions with the exception of finding the State did not prove respondent punched the mother on the shoulder on July 24, 2016, or that one of the minors was left alone for a period of time on July 15, 2016. Thereafter, the court admonished the parents that they must cooperate with DCFS, comply with the terms of their service plans, and correct the conditions which caused the minors to be in care or risk termination of their parental rights. Although the mother was involved in the proceedings below, she is not a party to this appeal.

¶ 7 The trial court held a dispositional hearing on February 14, 2017. The court admitted a "Dispositional Hearing/Social History Court Report" (dispositional report) prepared by a case worker for FamilyCore. The dispositional report stated that respondent was not currently engaged in any services and "does not intend to begin any services until he is court ordered to do so." Further, it indicated it was "difficult to have contact with [respondent]" because he did not return phone calls. The dispositional report further noted that respondent's visits with the minors

had been sporadic in January. In particular, respondent missed a visit on January 13, 2017, without providing any notification to FamilyCore. He also arrived late and left early for a visit on January 20, 2017. Based on respondent's refusal to engage in services, sporadic attendance at scheduled visits, and failure to return phone calls, the caseworker opined that he was "[un]able to recommend fitness for him." Therefore, the caseworker recommended that respondent be found unfit. He also recommended that respondent engage in and complete domestic violence classes, individual counseling, and parenting classes.

¶ 8 At the dispositional hearing, respondent testified that he had been participating in the "Elite Program" since December 2016 and expected to graduate from the program in April 2017. The program involved "do[ing] things with little kids, life skills, a bunch of everything for the community." This program was not recommended by FamilyCore and he did not tell his caseworker about his voluntary participation in this program until the Friday before the dispositional hearing. Respondent also stated that his caseworker had not offered him any services. Respondent admitted that he missed a scheduled visit with the minors on January 13, 2017, but he stated he "called and told them that I had car trouble and I wouldn't be able to make my visit." Regarding the January 20, 2017, visit, respondent stated that the minors were late to the visit and he had to leave the visit 10 minutes earlier than normal so he could make it to work on time. Respondent testified that he had completed domestic violence classes, individual counseling and a parenting class while he was on "federal probation" in 2015. However, on cross-examination, he admitted his participation in individual counseling occurred "at least seven" years ago. Further, respondent admitted he had not provided FamilyCore with any documentation regarding his participation in these classes.

¶ 9 Paula Graves, a caseworker supervisor for FamilyCore, testified for the court. She was covering the hearing because the caseworker was ill. Graves did not know if respondent had been asked to do an integrated assessment because she was “not directly involved in the case.” However, Graves stated if he was asked to do an integrated assessment and refused, it would likely be documented in the case notes.

¶ 10 Following argument, the trial court announced it had considered the evidence presented at both the adjudicatory and dispositional hearings. Based on that evidence, the court found it in the minors’ best interests to be made wards of the court and found both parents “to be presently unfit based upon domestic violence, conflict in their relationships that included the events in the presence of the children.” The court ordered the parents to engage in services including domestic violence classes, individual counseling, and parenting courses. Respondent appeals.

¶ 11 ANALYSIS

¶ 12 On appeal, respondent’s sole argument is that the trial court erred in finding him dispositionally unfit to care for the minors.

¶ 13 At the dispositional hearing, the trial court considers whether “it is consistent with the health, safety, and best interest of the minor and the public that [the minor] be made a ward of the court.” *In re N.B.*, 191 Ill. 2d 338, 343 (2000) (quoting 705 ILCS 405/2-21(2) (West 1998)). At this stage, the court also determines whether the parents are fit to care for the minors. 705 ILCS 405/22-27(1) (West 2016). The State must prove a parent’s dispositional unfitness by a preponderance of the evidence. *In re K.B.*, 2012 IL App (3d) 110655, ¶ 22. We will not disturb a trial court’s dispositional unfitness finding unless it is against the manifest weight of the evidence. *In re C.N.*, 196 Ill. 2d 181, 208 (2001). A finding is against the manifest weight of the evidence only if the record clearly demonstrates that the opposite result is warranted. *Id.*

¶ 14 Here, the record reveals a long history of domestic violence between respondent and the minors' mother, at least some of which occurred in the presence of the minors. Further, the dispositional report indicates that respondent would not return FamilyCore's phone calls and had not engaged in services nor did he intend to engage in services until he was ordered to do so by the court. Although respondent testified that he was participating in the "Elite Program," this program was not recommended by FamilyCore and respondent did not inform FamilyCore he was participating in the program until shortly before the dispositional hearing. Moreover, respondent acknowledged that he had not taken any classes related specifically to domestic violence while participating in the Elite Program. Finally, respondent's scheduled January 2016 visits with the minors were sporadic. Based on the evidence, we find the trial court's determination that respondent was unfit following the dispositional hearing was not against the manifest weight of the evidence.

¶ 15 **CONCLUSION**

¶ 16 For the foregoing reasons, we affirm the judgment of the circuit court of Peoria County.

¶ 17 Affirmed.