

**NOTICE**

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2017 IL App (4th) 160652-U

NO. 4-16-0652

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

**FILED**

February 2, 2017  
Carla Bender  
4<sup>th</sup> District Appellate  
Court, IL

In re: I.D., a Minor,	)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,	)	Circuit Court of
Petitioner-Appellee,	)	Champaign County
v.	)	No. 16JA6
OLUFEMI DAVIS,	)	
Respondent-Appellant.	)	Honorable
	)	Brett N. Olmstead,
	)	Judge Presiding.

JUSTICE STEIGMANN delivered the judgment of the court.  
Justices Harris and Appleton concurred in the judgment.

**ORDER**

¶ 1 *Held:* The appellate court affirmed the judgment of the trial court, which, after a permanency review hearing, ordered guardianship of the minor child returned to the minor’s father.

¶ 2 In February 2016, the State filed a petition for adjudication of wardship, alleging that the four children of respondent mother, Olufemi Davis—K.D., I.D., Su. D., and Si. D.—were neglected pursuant to section 2-3(1)(b) of the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/2-3(1)(b) (West Supp. 2015)). At a shelter-care hearing that same month, the trial court found probable cause to believe that all four minors were neglected because they had been exposed to domestic violence and the risk of physical harm. Nonetheless, the court returned the children to respondent’s custody. After respondent moved with the children to Georgia—and subsequently failed to appear at the scheduled adjudicatory hearing—the court conducted another shelter-care hearing and placed the children in the temporary custody of the Illi-

nois Department of Children and Family Services (DCFS).

¶ 3 After a May 2016 adjudicatory hearing, the trial court found all four children neglected and placed them in the guardianship of DCFS. After a dispositional hearing held that same day, the court placed I.D. in the custody of his father, Qwonzay Stoner.

¶ 4 After an August 2016 permanency review hearing, the trial court vacated DCFS' wardship of I.D. and returned guardianship of I.D. to Stoner.

¶ 5 On appeal, respondent argues that the trial court erred by vacating the court's wardship of I.D. We disagree and affirm.

¶ 6 I. BACKGROUND

¶ 7 We provide a brief synopsis of the factual background in this case. A more complete recitation of the underlying facts can be found in our recent decision, *In re K.D.*, 2016 IL App (4th) 160425-U.

¶ 8 A. The Events Preceding the August 2016 Permanency Review Hearing

¶ 9 In February 2016, I.D. (born October 14, 2006) was living with respondent in Urbana, Illinois, along with three other children of respondent—K.D. (born February 19, 2005), Su. D. (born August 22, 2013), and Si. D. (born August 13, 2015). That month, the State filed a petition for adjudication of wardship, alleging that K.D., I.D., Su. D., and Si. D. were neglected pursuant to section 2-3(1)(b) of the Juvenile Court Act (705 ILCS 405/2-3(1)(b) (West Supp. 2015)) because their living environment exposed them to domestic violence and the risk of physical harm. The State's filing of the petition for adjudication of wardship was prompted by an incident of domestic violence that occurred between respondent and Alexander Johnson, the putative father of Su. D. and Si. D.

¶ 10 After a shelter-care hearing that same month, the trial court found probable cause

to believe that all four minors were neglected. Nonetheless, the court found further that it was consistent with the health, safety, and best interests of the minors that they be released from DCFS' temporary custody and returned to respondent's custody.

¶ 11 In April 2016, respondent and the minors failed to appear at the adjudicatory hearing. The trial court continued the adjudicatory hearing and ordered another shelter-care hearing to be held later that month. After that shelter-care hearing—at which respondent appeared—the court ordered that the minors be placed in the temporary custody of DCFS. The court ordered further that I.D.'s father, Qwonzay Stoner, was to have reasonable visitation, to be supervised or unsupervised at the discretion of DCFS.

¶ 12 In May 2016, the trial court conducted the continued adjudicatory hearing, at which respondent and the minors appeared. Respondent testified that in January 2016, after the domestic violence incident with Johnson, respondent moved with her four children to Georgia, where respondent had family. After the hearing, the trial court found the four children neglected.

¶ 13 After a dispositional hearing conducted that same day, the trial court determined that respondent was unfit and unable to parent. As to Stoner, the court found the following:

“Stoner is fit, able, and willing to exercise custody of the minor, [I.D.], and such placement or continuation of custody of the minor in said parent will not endanger the minor's health or safety and is in the best interest of the respondent minor.”

The court ordered all four children placed in the guardianship of DCFS. As to I.D., the court ordered that custody should remain with Stoner.

¶ 14 We affirmed the trial court's judgment on appeal. *K.D.*, 2016 IL App (4th) 160425-U.

¶ 15 B. Events Surrounding the August 2016 Permanency Review Hearing

¶ 16 1. *The August 2016 DCFS Permanency Hearing Report*

¶ 17 In August 2016, DCFS filed a permanency hearing report. The report stated that respondent was living in a three-bedroom rental home in Fairview, Georgia. She was behind on her rent but expected to be caught up within two months. A home study had not yet been completed. Since May 2016, respondent had worked two different jobs but was unemployed at the time of the report. Respondent claimed that she was scheduled to start a new job at a call center at the end of August 2016.

¶ 18 Respondent reported that she was not attending counseling or domestic violence classes because she was unable to pay for them. She was unsuccessfully discharged from a domestic violence class because of two unexcused absences.

¶ 19 The permanency hearing report also detailed the living situation of Stoner, who lived in Champaign, Illinois, with I.D.; K.D. (who was not his biological son); his five-year-old son, J.S.; his girlfriend of eight years; and an adult roommate. The three adults shared rent, and Stoner had been approved for Section 8 housing benefits, which he intended to use to acquire a larger home. Stoner was employed in the deli at County Market, where he had worked since October 2015. Stoner completed a substance-abuse assessment, which stated that he was no longer in need of services in that area. Stoner participated in school meetings and counseling sessions for I.D. and his other son. The report stated that Stoner “provides well for the children.”

¶ 20 2. *The August 2016 Court-Appointed Special Advocates Permanency Hearing Report*

¶ 21 In August 2016, guardian *ad litem* Haley Hanson filed a permanency hearing report. Hanson explained that I.D. and K.D. were currently living with Stoner. The home was “neat

and appropriate” with “an abundance” of food. Hanson described I.D. as “content and happy.” He slept well and attended elementary school year-round. He was up-to-date on his vaccines, along with his medical and dental appointments. He participated in individual counseling and took medication for attention deficit/hyperactivity disorder. Otherwise, he had no psychological issues. I.D. enjoyed video-chats with respondent and visiting his siblings.

¶ 22 Hanson reported further that respondent continued to live in Georgia but had not attempted to engage in services there. As a result, Hanson opined that it was not in the children’s best interests to be placed with respondent. Hanson was also concerned that placing the children in Georgia would be complicated and would disrupt the stable placements they currently enjoyed in Illinois. Hanson recommended that all the children, including I.D., remain in their current placements.

¶ 23 *3. The August 2016 Permanency Review Hearing*

¶ 24 In August 2016, the trial court conducted a permanency review hearing. DCFS caseworker Christina Poe testified that I.D. was doing “very well” living with Stoner. Stoner was involved in I.D.’s schooling, and the two had a strong bond. Stoner was caring properly for I.D., and Poe had no concerns about Stoner’s ability to continue to provide proper care.

¶ 25 Poe explained that DCFS would not provide services for respondent while she continued to live in Georgia. In addition, the State of Georgia would not provide respondent services because her case was from Illinois. As a result, it was up to respondent to find cost-effective services for herself, which respondent had not yet done. Poe supported returning guardianship of I.D. to Stoner and closing the DCFS case as to I.D.

¶ 26 After the close of evidence, the trial court found that Stoner had “made efforts and progress” and had completed everything DCFS asked of him. The court noted that Stoner had

consistently tested negative for controlled substances. The court noted its concerns about I.D.'s mental health issues but explained, "I don't think it's appropriate to keep a wardship open just to have those services available to a fit parent." The court found further that DCFS had made "reasonable efforts," noting, "I understand the Department can't blanket provide services for parents living in whatever state they may live in." The court explained:

"Here the case goes on whether or not guardianship is returned to Mr. Stoner, and so the work is going to continue to restore [respondent] to fitness and I have no doubt that that can be accomplished. The other concerns that I've raised I don't think are sufficient for me to keep the wardship open for [I.D.]. I don't think that's the right thing. I think it's in the best interest of [I.D.] and the public that guardianship be returned to Mr. Stoner and that the case be closed as to [I.D.]."

The court then stated, "I am returning guardianship to Mr. Stoner, closing the case as to [I.D.], terminating the wardship as to [I.D.] only." As to respondent, the court found that she had not made reasonable progress or efforts that would justify returning the minors to her home.

¶ 27 Later in August 2016, the trial court entered a written order incorporating the findings and judgment it made at the hearing. The court found that respondent had made neither (1) reasonable and substantial progress nor (2) reasonable efforts toward returning the minors home. As to Stoner, the court found that he had made both (1) reasonable and substantial progress and (2) reasonable efforts toward returning I.D. home. The court found further that DCFS made "reasonable efforts \*\*\* in providing services to facilitate achievement of the permanency goal." In addition, the court found that I.D. had "been placed in the guardianship of a suitable person and this is a stable, permanent placement. Further monitoring by the Court will not fur-

ther the health, safety or best interest of the minor.” The court ordered (1) guardianship of I.D. restored to Stoner, (2) the wardship of the court as to I.D. vacated, and (3) the guardianship of DCFS vacated.

¶ 28 This appeal followed.

¶ 29 II. ANALYSIS

¶ 30 Respondent argues that the trial court erred by vacating the court’s wardship of I.D. We disagree.

¶ 31 A. Statutory Language and the Standard of Review

¶ 32 Section 2-31(2) of the Juvenile Court Act provides the following:

“Whenever the court determines, and makes written factual findings, that health, safety, and the best interests of the minor and the public no longer require the wardship of the court, the court shall order the wardship terminated and all proceedings under this Act respecting that minor finally closed and discharged.”  
705 ILCS 405/2-31(2) (West 2014).

The purpose of the Juvenile Court Act is to serve the best interests of the children involved. 705 ILCS 405/1-2(1) (West 2014). “Whenever possible, everything must be done to return a child to the care and custody of a biological parent.” *In re V.M.*, 352 Ill. App. 3d 391, 397, 816 N.E.2d 776, 781 (2004). However, the child’s best interests are superior to all other factors, including the interests of either of the biological parents. *In re Alicia Z.*, 336 Ill. App. 3d 476, 498, 784 N.E.2d 240, 256 (2002).

¶ 33 In determining the best interests of a child, the trial court should consider the following factors: (1) the age of the child; (2) other available options for permanence; (3) the current placement of the child and the intent of the family regarding adoption; (4) the emotional,

physical, and mental status or condition of the child; (5) the types of services previously offered and whether or not the services were successful and, if not successful, the reasons the services failed; (6) the availability of services currently needed and whether the services exist; and (7) the status of siblings of the minor. 705 ILCS 405/2-28(2) (West 2014). “The circuit court has the discretion to \*\*\* render a final decision as to the placement of the child that is in his or her best interests, and the court’s decision will not be disturbed unless it is against the manifest weight of the evidence.” *V.M.*, 352 Ill. App. 3d at 397, 816 N.E.2d at 781.

¶ 34 B. This Case

¶ 35 In this case, the trial court found that it was in the best interests of I.D. to vacate his wardship with the court and return him to the guardianship of Stoner. We conclude that those findings were not against the manifest weight of the evidence.

¶ 36 In reaching its decision that vacating the wardship of I.D. was in I.D.’s best interests, the trial court considered the factors prescribed by section 2-28(2) of the Juvenile Court Act. The court considered that Stoner had “completed everything [DCFS] has asked him to do.” Although Stoner struggled with substance-abuse issues in the past, the court relied on reporting showing that Stoner consistently passed his recent drug tests. The court then considered the emotional and mental status of I.D., noting the court’s concerns about I.D.’s mental health issues before determining that Stoner was aware of those issues and was able to handle them without DCFS’ assistance.

¶ 37 Further, the trial court considered that I.D.’s stepbrother, K.D., was likewise residing with Stoner, which might result in a successful foster family situation for K.D. The court also relied on the permanency reports establishing that Stoner’s home was quite suitable for children and that I.D. was thriving in that environment. The court considered the negative impact of

splitting up I.D. and K.D. from Si. D. and Su. D. However, the court determined that, although not ideal, vacating I.D.'s wardship presented the best practical resolution to the situation. The court explained that keeping I.D.'s wardship open in the hopes that respondent would someday complete services and become fit to parent was not in I.D.'s best interests. We agree.

¶ 38 As to respondent, the court noted that, while living in Georgia, respondent had not been attending the services required by her DCFS plan. On appeal, respondent argues that the trial court erred by vacating the wardship while respondent was innocently toiling away in an environment where neither the State of Illinois nor the State of Georgia would fund her required services. However, we need not reach respondent's argument. The issue in this appeal is not whether respondent had sufficient access to services while living in Georgia. To the contrary, the issue is whether the trial court's decision to vacate I.D.'s wardship was in I.D.'s best interests.

¶ 39 We conclude that the trial court's decision to vacate the wardship of I.D. was not against the manifest weight of the evidence.

¶ 40 III. CONCLUSION

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

¶ 42 Affirmed.