

NOTICE

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2017 IL App (4th) 160902-U

NO. 4-16-0902

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

April 28, 2017

Carla Bender

4th District Appellate Court, IL

In re: L.B., M.B., O.B., C.B., J.P., and L.P., Minors,)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,)	Circuit Court of
Petitioner-Appellee,)	Champaign County
v.)	No. 16JA26
HAROLD SKAGGS,)	
Respondent-Appellant.)	Honorable
)	Brett N. Olmstead,
)	Judge Presiding.

JUSTICE HOLDER WHITE delivered the judgment of the court.
Justices Appleton and Knecht concurred in the judgment.

ORDER

- ¶ 1 *Held:* The appellate court affirmed, concluding the trial court's dispositional order was not against the manifest weight of the evidence.
- ¶ 2 In July 2016, the State filed a petition for adjudication of neglect, alleging L.B. (born August 14, 2002), M.B. (born September 17, 2004), O.B. and C.B. (twins, born July 25, 2008), J.P. (born July 27, 2014), and L.P. (born August 22, 2015) were neglected in that their environment was injurious to their welfare. 705 ILCS 405/2-3(1)(b) (West 2014). Respondent, Harold Skaggs, is the father of O.B. and C.B. Amanda Beyers (the mother of the children), Steven Beyers (the presumed and legal father of L.B. and M.B. and the presumed father of J.P. and L.P.), and Stephen Parratt (the putative father of J.P. and L.P.) are not parties to this appeal.
- ¶ 3 In October 2016, the trial court entered an adjudicatory order finding the children were abused or neglected in that their environment was injurious to their welfare. The following

month, the court entered a dispositional order making the children wards of the court and granting custody and guardianship to the Department of Children and Family Services (DCFS).

¶ 4 Respondent appeals, asserting the trial court's dispositional finding was against the manifest weight of the evidence. For the following reasons, we affirm.

¶ 5 I. BACKGROUND

¶ 6 A. Initial Proceedings

¶ 7 In July 2016, the State filed a petition for adjudication of neglect, alleging the children were subjected to an injurious environment pursuant to section 2-3(1)(b) of the Juvenile Court Act of 1987 (Juvenile Act) (705 ILCS 405/2-3(1)(b) (West 2014)) in that the children were exposed to domestic violence while residing with Amanda and Stephen Parratt. The July 2016 petition identified Steven Beyers as the presumed legal and putative father of L.B., M.B., O.B., and C.B. and as the presumed legal father of J.P. and L.P. The petition identified Stephen Parratt as the putative father of J.P. and L.P. In August 2016, the State filed an amended petition identifying respondent as the biological and legal father of O.B. and C.B.

¶ 8 B. Adjudicatory Order

¶ 9 In October 2016, following an adjudicatory hearing, the trial court found the State had met its burden to prove the children were neglected due to ongoing domestic violence between Amanda and Stephen Parratt, marking boxes showing this proved by a preponderance of the evidence and clear and convincing evidence. Accordingly, the court entered an adjudicatory order finding the children neglected.

¶ 10 C. Dispositional Hearing

¶ 11 In November 2016, the trial court held a dispositional hearing. We summarize only those facts necessary to resolve this appeal. DCFS submitted a dispositional hearing report,

which indicated respondent exercised consistent visitation with O.B. and C.B. and would like to be their custodial parent. Respondent had recently obtained part-time employment as a cashier and had stable housing that was clean and appropriate. According to the report, respondent was unaware of any trouble in Amanda's home prior to the DCFS case opening.

¶ 12 *1. Amanda*

¶ 13 Amanda testified she had no relationship with respondent and became pregnant with O.B. and C.B. as a result of respondent raping her. Amanda never reported the rape to police. According to Amanda, she could not recall whether she contacted respondent while pregnant or after giving birth to inform him of the twins' existence. Amanda acknowledged respondent brought a case in McLean County seeking visitation. Amanda also testified the children would be distraught if they were separated, as they are used to being together and were worried they might be separated.

¶ 14 *2. Steven Beyers*

¶ 15 Steven Beyers testified he could not recall when he learned the twins were not his biological children. However, Steven Beyers eventually realized respondent was the twins' biological father and figured out Amanda's and respondent's physical relationship "had gone on for awhile." According to Steven Beyers, Amanda never told him respondent raped her. Steven Beyers testified respondent played no role whatsoever for the first three years of the twins' lives. Sometime in 2011, respondent began exercising visitation. Steven Beyers was not a party to the custody case between respondent and Amanda, and he never received notice or appeared in court.

¶ 16 *3. Respondent*

¶ 17 Respondent testified he met Amanda in the summer of 2007 and the two were in a dating relationship for about six months. According to respondent, Amanda told him she was separated from her husband. In February 2008, Amanda told respondent over the phone she was pregnant. Respondent testified he was in contact with Amanda until she was eight months pregnant with the twin girls. In the last month of her pregnancy, Amanda's phone was disconnected, and respondent had no way to contact her. According to respondent, Amanda called him a week after the twins were born and they met in Champaign. Respondent testified he took the first opportunity he had to meet the twins.

¶ 18 Respondent constantly asked Amanda for more visits with the twins, but Amanda let respondent see the twins just two or three times in the first year. According to respondent, that prompted him to take legal action in McLean County. As a result of that case, respondent was found to be the twins' biological father, and a visitation order was entered in December 2011 (McLean County case No. 09-F-240). At first, Amanda and respondent met halfway to exchange the twins. However, Amanda insisted that respondent bring socks, underwear, clothes, and coats and made the twins completely change their clothes in a family bathroom. While the twins would change their clothes, Amanda would yell at respondent and call him names. Respondent took further legal action, seeking to have the exchanges take place at a family visitation center. This helped eliminate the problems with exchanges.

¶ 19 Respondent testified the twins have their own room at his apartment, with two beds, toys, games, and plenty of clothes. When the twins are with respondent, they enjoy going to his aunt's house to swim, the children's museum, and parks. According to respondent, he prepares meals for the twins and facilitates play dates with friends. Respondent testified his

father passed away when he was 14 years old, and his aunt played a parental role in his life since then. He is close with his aunt and spends time at her house with the twins.

¶ 20 Respondent testified he contacted the school the twins would attend if he received custody and looked into an aftercare program should it be needed. However, respondent recently obtained part-time employment with Toys R Us, and his employer would accommodate his schedule with the twins. Respondent testified he also looked into a children's counseling program at the Center for Human Services. According to respondent, when the twins are with Amanda, the older children pick on them and they have to help with feeding and changing diapers for the younger children. While respondent acknowledged the twins have a relationship with their siblings, they get tired of being picked on and changing diapers. If the twins were to stay with respondent full time, he would facilitate visitation with their siblings, Amanda, and their other family members. Respondent expressed his desire to have the twins full-time.

¶ 21 Respondent testified he received disability benefits due to a 1999 diagnosis of anxiety and depression. Respondent stated he was not currently under any type of treatment or taking medication. According to respondent, he had not taken medication or seen a mental-health professional in approximately 10 years and did not believe it was necessary. Respondent testified he was doing better, as evidenced by his completion of college and becoming employed. However, respondent further testified that he reapplied for benefits approximately two or three years before and completed an assessment, wherein he stated his depression and anxiety were significantly affecting his ability to care for himself. He still qualified for disability benefits.

¶ 22 D. The Trial Court's Findings

¶ 23 Following arguments, the trial court went through the best-interest factors and determined the children were doing well living with Amanda, were bonded to each other, and

had attachments and community ties. However, because the court found Amanda unfit, it placed custody of all six children with DCFS and gave DCFS full discretion to place the children with Amanda and the ability to step in immediately if problems arose.

¶ 24 The trial court acknowledged respondent was a positive person in the twins' lives and he maintained consistent, positive visitation with them. In the written dispositional order, the court noted it found Amanda's testimony that respondent raped her incredible, given (1) its disclosure only recently, (2) Amanda's failure to mention the allegation during the course of the McLean County custody case, and (3) her demeanor while testifying. However, the court expressed its concerns regarding respondent's diagnosis of anxiety and depression from his teenage years, which had persisted, as shown by respondent continuously renewing his disability benefits with the Social Security Administration. Because respondent took no medication and was not under a doctor's care for these problems, the court found respondent unfit. However, the court further determined DCFS should have full discretion to allow respondent unsupervised visitation with the twins, given the positive nature of his visitation up to that point.

¶ 25 This appeal followed.

¶ 26 II. ANALYSIS

¶ 27 On appeal, respondent argues the trial court's dispositional findings were against the manifest weight of the evidence. Specifically, respondent argues there is no evidence his diagnosis of anxiety and depression renders him unfit or unable to parent the twins. Respondent points to his testimony that his condition is improved, as evidenced by his completion of an associate's degree and becoming employed. He argues the manifest weight of the evidence shows he is fit and able to parent the twins. The State argues the trial court's ruling based on

respondent's untreated mental-health problems was not against the manifest weight of the evidence.

¶ 28 The Juvenile Act provides a two-step process for determining whether a child should be removed from parental custody and made a ward of the court. *In re A.P.*, 2012 IL 113875, ¶ 18, 981 N.E.2d 336. As an initial matter, the trial court must conduct an adjudicatory hearing to determine whether the child is abused, neglected, or dependent. *Id.* ¶ 19. A neglected minor includes "any minor under 18 years of age whose environment is injurious to his or her welfare." 705 ILCS 405/2-3(1)(b) (West 2014). Here, the court adjudicated the children neglected based on the domestic violence between Amanda and Stephen Parratt. We note respondent does not challenge the court's neglect adjudication.

¶ 29 After a child is found neglected, the matter proceeds to a dispositional hearing. *A.P.*, 2012 IL 113875, ¶ 21, 981 N.E.2d 336. The trial court must then determine, by a preponderance of the evidence, whether it is in the health, safety, and best interest of the minor to remain with the parent, or if alternative custody and guardianship placement, *i.e.*, with DCFS, is more appropriate. 705 ILCS 405/2-22 (West 2014). The court's central concern in fashioning a dispositional order is the best interest of the child. *In re M.P.*, 408 Ill. App. 3d 1070, 1073, 945 N.E.2d 1197, 1200 (2011). In making its decision, the court "should consider all reports, whether or not the author testifies, which would assist the court in determining the proper disposition for the minor." *In re L.M.*, 189 Ill. App. 3d 392, 400, 545 N.E.2d 319, 325 (1989). We will not overturn the court's decision unless it is against the manifest weight of the evidence. *In re J.W.*, 386 Ill. App. 3d 847, 856, 898 N.E.2d 803, 811 (2008).

¶ 30 In this case, the trial court determined it was in the best interest of the children to place custody and guardianship with DCFS and to give DCFS complete discretion to allow

respondent unsupervised visitation with the twins. Respondent argues his mental-health problems do not render him unfit or unable to parent and the court's contrary finding was against the manifest weight of the evidence. To show his mental-health problems would not affect his ability to parent, respondent points to his testimony that his condition has improved, he has completed college, obtained employment, and maintained a clean and safe environment for the twins. However, respondent also testified he received disability benefits for his anxiety and depression and, as recently as two years before the hearing, had reapplied for the benefits. During the reapplication process, respondent completed an assessment wherein he stated his depression and anxiety were significantly affecting his ability to care for himself. Moreover, respondent testified he had not sought care from a mental-health professional in 10 years, nor had he taken medication in that time. Although respondent testified his condition was improved, he is not a mental-health professional, and the court is not required to accept this self-serving testimony.

¶ 31 Respondent's diagnosis—which is serious enough to qualify him for disability benefits—and lack of treatment is sufficient evidence to support the trial court's finding that respondent was unfit and unable to care for the children and, thus, placing the children with DCFS was in their best interest. Accordingly, we conclude the court's dispositional order was not against the manifest weight of the evidence.

¶ 32 III. CONCLUSION

¶ 33 For the foregoing reasons, we affirm the trial court's judgment.

¶ 34 Affirmed.