

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 (4th) 170130-U

NO. 4-17-0130

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

July 12, 2017
Carla Bender
4th District Appellate
Court, IL

In re: K.J., T.J., M.J., D.M., and M.M., Minors)	Appeal from
)	Circuit Court of
(The People of the State of Illinois,)	Champaign County
Petitioner-Appellee,)	No. 16JA49
v.)	
Cassarious Meeks,)	Honorable
Respondent-Appellant).)	John R. Kennedy,
)	Judge Presiding.

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

ORDER

¶ 1 *Held:* The appellate court affirmed, concluding the trial court's dispositional finding was not against the manifest weight of the evidence.

¶ 2 In October 2016, the State filed a petition for the adjudication of neglect, alleging, in part, minors D.M. (born January 19, 2013) and M.M. (born May 16, 2014) were in an injurious environment where respondent mother, Ashley Jones, subjected them to domestic violence. The incidents of domestic violence occurred between Jones and respondent, Cassarious Meeks, the biological father of D.M. and M.M. The trial court found the children neglected and, in February 2017, entered a dispositional order (1) finding both parents unfit, (2) making the children wards of the court, and (3) granting custody and guardianship to the Department of Children and Family Services (DCFS).

¶ 3 Meeks appeals the trial court's dispositional finding as to D.M. and M.M.; the remaining children are not subject to this appeal. Meeks argues the trial court's dispositional finding as to Jones's wardship and custody over D.M. and M.M. was against the manifest weight of the evidence. Notably, Jones did not appeal on her own behalf. For the following reasons, we affirm.

¶ 4 I. BACKGROUND

¶ 5 In October 2016, the State filed a petition for the adjudication of neglect, alleging K.J. (born March 23, 2005), T.J. (born February 23, 2008), M.J. (born January 7, 2009), D.M., and M.M. were subjected to an injurious environment where Jones exposed them to domestic violence (count I) and substance abuse (count II) (705 ILCS 405/2-3(1)(b) (West 2016)). The petition further alleged D.M. and M.M. were subjected to an injurious environment because Meeks (1) failed to correct the conditions which led to a prior adjudication of unfitness regarding two siblings of D.M. and M.M. (counts III and IV) (*id.*); and (2) subjected them to domestic violence (count V) (*id.*). In January 2017, Jones admitted and stipulated to count I of the petition, and the remaining counts were dismissed as to her. Following an adjudicatory hearing regarding Meeks later that month, the trial court found D.M. and M.M. neglected as to counts III, IV, and V.

¶ 6 In February 2017, the case proceeded to a dispositional hearing as to both Meeks and Jones. Carolyn Johnson, a child-welfare specialist with DCFS and the family's caseworker, prepared a dispositional report for the trial court's consideration.

¶ 7 The report stated DCFS became involved with the family in September 2016, following numerous incidents of domestic violence between Jones and Meeks, which posed a risk to the children. Specifically, police reports document a series of altercations at a Labor Day

party. Meeks appeared at a party Jones was attending with the children, where he reportedly battered her when she refused to leave. When police arrived on the scene, Meeks was no longer present. Jones, however, was engaged in a physical altercation with her sister in the street, while Jones's oldest children—K.J., T.J., and M.J.—watched nearby from Jones's car. The police reports further indicated Jones was intoxicated. Jones's mother also reported, prior to the police arriving, Jones had battered her for attempting to take the children home. Upon her arrest, Jones refused to enter into a care plan for the children, despite numerous family members available on site to watch the children. The charges against Jones were later dismissed.

¶ 8 After the September 2016 incident, Jones ended her six-year relationship with Meeks. Meeks was arrested for the September 2016 battery and remained incarcerated throughout the pendency of the case. Jones moved out of her home and into her mother's home to sever ties with Meeks. DCFS found the three-bedroom house stable and safe for the children. Jones, who had stable employment, contributed to the living expenses.

¶ 9 Despite numerous domestic-violence incidents with Meeks, Jones admitted she had not engaged in domestic-violence treatment. Jones denied any substance-abuse issues, despite her impairment at the time of her arrest. In submitting the dispositional report, Johnson stated Jones was not in need of services but could benefit from speaking with someone about healthy relationships. Because Meeks was incarcerated, Johnson found no safety concerns for the children that would preclude the trial court from maintaining Jones's custody of the children.

¶ 10 The dispositional report noted D.M. was four years old and attended an early childhood education program. He was not in need of any services. Moreover, Johnson testified M.M. was a normal two-year-old and not in need of any services. Both children remained in the care of Jones, who received help from her mother.

¶ 11 In the dispositional report, Johnson recommended custody and guardianship remain with Jones and that the case be dismissed, "as there is no further risk to the named minor children."

¶ 12 The trial court disagreed with the dispositional report, finding Jones in need of domestic-violence counseling. Additionally, the court found Jones needed substance-abuse treatment in light of her intoxication in the presence of her children at the time of her September 2016 arrest. The court therefore found Jones unfit, made the children wards of the court, and granted DCFS custody and guardianship over the children.

¶ 13 This appeal followed.

¶ 14 II. ANALYSIS

¶ 15 On appeal, Meeks asserts the trial court's dispositional order was against the manifest weight of the evidence. Before reaching the merits, however, the unusual posture of this case requires us to first address the issue of standing.

¶ 16 A. Standing

¶ 17 Jones did not appeal the trial court's dispositional finding. The only appellant is Meeks, who argues the trial court should have granted custody and wardship to Jones. Relying on this court's recent opinion in *In re Al. S.*, 2017 IL App (4th) 160737, ¶ 37, 73 N.E.3d 1178, the State concedes Meeks has standing to bring this appeal because a biological father has a fundamental interest in the best interest of his children.

¶ 18 In *Al. S.*, a father appealed the trial court's decision granting custody of one of the children to the mother, arguing the court should have granted custody to DCFS. *Id.* ¶ 33. In other words, there, the mother would have no reason to appeal the court's finding, leaving the father as the only parent with a plausible claim on appeal. Conversely, here, Meeks is not the

only parent with a plausible claim on appeal; Jones's parental rights were also negatively impacted by the court's order. We are therefore faced with a situation in which Meeks is arguing in support of Jones's parental rights even though Jones chose not to appeal on her own behalf.

¶ 19 In deciding *Al. S.*, this court, relying on *Santosky v. Kramer*, 455 U.S. 745, 753 (1982), concluded the father had standing to appeal an order granting custody to the mother because, despite being unfit, he retained a fundamental interest in the best interest of his child. *Al. S.*, 2017 IL App (4th) 160737, ¶ 37, 73 N.E.3d 1178. However, *Santosky* was about the minimum burden of proof to which the State must be held when seeking to terminate parental rights, and it did not directly address the extent to which a parent has standing on appeal. *Santosky*, 455 U.S. at 753.

¶ 20 Thus, we are not prepared to accept the sweeping proposition that, in all cases, one parent may appeal when another parent, for whatever reason, has chosen to forgo an appeal. However, because the State concedes the issue here, we accept the State's concession and reach the merits.

¶ 21 B. Dispositional Order

¶ 22 Meeks asserts the trial court's dispositional order was against the manifest weight of the evidence.

¶ 23 Following an adjudication of neglect, the trial court must conduct a dispositional hearing to determine if the minor should be made a ward of the court. 705 ILCS 405/2-22 (West 2016). In considering the appropriateness of wardship, the court must decide if the parent is unfit, unable, or unwilling, for reasons other than financial reasons alone, to care for, protect, train, or discipline the child, and that the health, safety, and best interest of the child will be jeopardized if the child remains in the parent's custody. 705 ILCS 405/2-27(1) (West 2016).

"The court's decision will be reversed only if the findings of fact are against the manifest weight of the evidence or 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).

Because the parties dispute which of these two standards of review applies here, we next discuss the appropriate standard of review.

¶ 24

1. *Standard of Review*

¶ 25

Meeks frames his argument under the abuse-of-discretion standard, asserting the trial court selected an inappropriate dispositional order by placing the children with DCFS. However, the abuse-of-discretion standard applies where the court has chosen a statutorily inappropriate dispositional order in violation of section 2-27 of the Juvenile Court Act of 1987 (705 ILCS 405/2-27 (West 2016)). See, e.g., *In re Y.A.*, 383 Ill. App. 3d 311, 315, 890 N.E.2d 710, 714 (2008); *In re K.L.S.-P.*, 381 Ill. App. 3d 194, 196, 886 N.E.2d 516, 518 (2008); *In re Ta. A.*, 384 Ill. App. 3d 303, 307, 891 N.E.2d 1034, 1038 (2008). Rather, in this matter, Meeks challenges the court's findings of fact and the weight the court gave to the evidence, both of which are reviewed under the manifest-weight standard. *In re Abel C.*, 2013 IL App (2d) 130263, ¶ 19, 998 N.E.2d 175. Thus, we will affirm the court's finding unless it is against the manifest weight of the evidence.

¶ 26

2. *Wardship and Custody*

¶ 27

Meeks argues the trial court failed to properly consider the children's best interest when making the children wards of the court and granting custody to DCFS. In making a best-interest finding, the court must consider:

"(a) the physical safety and welfare of the child, including
food, shelter, health, and clothing;

(b) the development of the child's identity;

(c) the child's background and ties, including familial, cultural, and religious;

(d) the child's sense of attachments ***[;]

* * *

(e) the child's wishes and long-term goals;

(f) the child's community ties, including church, school, and friends;

(g) the child's need for permanence which includes the child's need for stability and continuity of relationships with parent figures and with siblings and other relatives;

(h) the uniqueness of every family and child;

(i) the risks attendant to entering and being in substitute care; and

(j) the preferences of the persons available to care for the child." 705 ILCS 405/1-3(4.05) (West 2016).

¶ 28 Meeks argues the trial court failed to consider Jones's (1) decision to move herself and the children to her mother's home to avoid further volatile contact with Meeks; (2) stable employment and ability to provide for her children, lack of criminal record, and lack of substance abuse; and (3) close bond with her children, who were developing normally and in need of no special services. This argument overlooks the conditions which brought the children into custody.

¶ 29 Although the trial court did not specify which best-interest factors it relied upon in finding Jones unfit, the court clearly focused on the physical safety and welfare of the children. 705 ILCS 405/1-3(4.05)(a) (West 2016). The court found the dispositional report downplayed the severity of the circumstances that led to DCFS's involvement in September 2016. See 705 ILCS 405/2-22(2) (West 2016) (in determining a child's best interest, the court should rely on written reports to the extent of their probative value). The court noted Jones was not just the victim of Meeks's domestic violence, but she was also an aggressor in committing an act of domestic violence against her sister and in front of her children. Moreover, though the dispositional report stated Jones was in no need of substance-abuse treatment, such a recommendation ignored that Jones was intoxicated when she committed the battery and while caring for her children.

¶ 30 Meeks argues Jones's actions could be excused because they occurred during a holiday celebration. Such an argument downplays the seriousness of the circumstances. A parent's responsibilities are not temporarily discharged on holidays. Jones's bad judgment—violent actions and impairment—subjected K.J., T.J., and M.J. to substance abuse and domestic violence, and the trial court properly found her questionable judgment created an overriding concern for the safety of all Jones's children, including D.M. and M.M. Although Jones has taken a step in the right direction by acknowledging and distancing herself from her volatile relationship with Meeks, she needs to address her own struggles with violence and learn to avoid volatile relationships in the future. Once she completes the domestic-violence counseling, parenting classes, and substance-abuse treatment ordered by the court, Jones will hopefully be in a better position to provide for the physical safety and welfare of her children such that they can be returned to her.

¶ 31 Accordingly, we conclude the trial court's decision to find Jones unfit, make the children wards of the court, and grant custody and guardianship to DCFS was not against the manifest weight of the evidence.

¶ 32 III. CONCLUSION

¶ 33 Based on the foregoing, we affirm the trial court's judgment.

¶ 34 Affirmed.