

**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) 170188-U

NO. 4-17-0188

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

**FILED**

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

<i>In re: K.W. and A.W., Minors,</i>	)	Appeal from
	)	Circuit Court of
(The People of the State of Illinois,	)	Champaign County
Petitioner-Appellee,	)	No. 16JA57
v.	)	
Laura Wilder,	)	Honorable
Respondent-Appellant.)	)	John R. Kennedy,
	)	Judge Presiding.

JUSTICE APPLETEON delivered the judgment of the court.  
Justices Harris and Holder White concurred in the judgment.

**ORDER**

- ¶ 1 *Held:* The trial court’s judgment entered after the dispositional hearing (1) making the minors wards of the court, (2) adjudicating them neglected, and (3) finding respondent unfit and unable to care for the minors for reasons other than financial reasons alone is affirmed.
  
- ¶ 2 Respondent mother, Laura Wilder, appeals the trial court’s dispositional order entered in the pending neglect proceedings. The State had alleged the minors were neglected due to an injurious environment in that respondent’s residence exposed them to domestic violence. Respondent stipulated to the allegations of neglect, but she appeals the court’s finding she was unfit and unable to parent the minors. She claims the court’s findings were against the manifest weight of the evidence. We affirm.

¶ 3

## I. BACKGROUND

¶ 4 On November 7, 2016, the State filed a petition for adjudication of wardship of respondent's minor children, K.W., born June 23, 2004, and A.W., born December 4, 2011, naming respondent and each minor's respective father as respondents. Neither father is a party to this appeal. The petition alleged the minors were neglected in that they resided in an injurious environment due to their exposure to domestic violence in respondent's home. The Illinois Department of Children and Family Services (DCFS) opened an intact case, leaving the minors in respondent's care.

¶ 5 On February 2, 2017, the trial court convened the parties for an evidentiary hearing. However, respondent indicated she wanted to stipulate to the allegations of neglect set forth in the petition. As factual support, the State introduced two police reports, dated May 10, 2016, and October 14, 2016, reflecting domestic disturbance calls to respondent's residence involving respondent and her boyfriend, Colby Strack. The court accepted the factual basis and respondent's stipulation as knowing and voluntary.

¶ 6 On March 1, 2017, the trial court conducted the dispositional hearing. Gwen Richardson, a caseworker at Children's Home and Aid, testified she was assigned to the case in January 2017. Richardson intended to recommend respondent participate in a domestic-violence assessment, parenting classes, and individual counseling. Richardson advised that if Strack would leave the home, the case could be classified as intact, with the minors remaining in the home with respondent. Respondent told Richardson that Strack was not leaving because he "didn't do anything wrong." Richardson said if Strack remains in the home, then she recommends the minors be removed.

¶ 7 On cross-examination, Richardson said she had learned from A.W.'s school that on February 28, 2017, A.W. had described to her teacher, who is also her aunt, a violent incident between respondent and Strack that had occurred the night before, on February 27, 2017. A.W. said, during the incident, Strack pushed respondent to the ground and K.W. tried to intervene, but Strack pushed him as well. Richardson said Strack was on probation for a domestic-violence conviction (Champaign County case No. 16-CF-646) against respondent. He has a history of domestic-violence convictions.

¶ 8 On February 27, 2017, Richardson filed a dispositional report and, a few days later, an amendment to the report. The original report indicated DCFS became involved on October 15, 2016, when the police were called to respondent's residence due to a violent altercation between respondent and Strack. K.W. reported he was "tired of his mom getting battered all of the time." Respondent had been hospitalized previously from injuries inflicted by Strack. The violent episodes have occurred in the presence of the minors. However, respondent had signed affidavits recanting her prior statements of abuse. According to the report, Richardson, her supervisor, and DCFS recommended the juvenile case remain an intact family case. In the amended report, Richardson indicated she received a call from A.W.'s father and respondent relaying the information about the abuse on February 27, 2017. Respondent denied the incident had occurred. Richardson indicated she would "implement a safety plan for Mr. Strack to leave the home."

¶ 9 After considering the evidence, the dispositional report, and recommendations of counsel, the trial court found "it's in the best interest of each of the minors that they be adjudged neglected and named wards of the court." The court found respondent unfit and unable, for reasons other than financial circumstances alone, to care for the minors. The court noted

respondent needed to resolve issues relating to the presence of Strack in the residence. The court further noted respondent continued a relationship with Strack, who was convicted of aggravated domestic battery against her after he strangled her, and there had been further violent incidents between them. The court removed custody and guardianship from respondent and placed each minor with his or her father.

¶ 10 This appeal followed.

¶ 11 II. ANALYSIS

¶ 12 Respondent claims the trial court's dispositional order making the minors wards of the court and finding her unable to parent them was against the manifest weight of the evidence. She claims she and Strack have reconciled, he successfully completed domestic-violence counseling, and the report from A.W. of a new violent incident is "un-investigated and hearsay-laden."

¶ 13 A trial court's determination that a parent is "unfit or \*\*\* unable, for some reason other than financial circumstances alone, to care for, protect, train or discipline the minor or [is] unwilling to do so" (705 ILCS 405/2-27(1) (West 2014)) "will be reversed if the findings of fact are against the manifest weight of the evidence or the trial court committed an abuse of discretion by selecting an inappropriate dispositional order." *In re Ta. A.*, 384 Ill. App. 3d 303, 307 (2008).

¶ 14 "A finding of the trial court is against the manifest weight of the evidence if a review of the record clearly demonstrates that the result opposite to the one reached by the trial court was the proper result. [Citation.] This standard of review recognizes that the trial court is in a much better position than is this court to observe the witnesses, assess credibility, and weigh

the evidence.” *In re T.B.*, 215 Ill. App. 3d 1059, 1062 (1991). “Where an injurious environment has been found to exist, the trial court need not wait until the child becomes a victim or is emotionally damaged permanently in order to remove the child from the household.” *T.B.*, 215 Ill. App. 3d at 1062-63.

¶ 15 In this case, respondent admitted the allegation in the neglect petition that the minors’ environment was injurious to their welfare when they resided with her due to their exposure to domestic violence. Given her admission to the violence and her admission that she and Strack continue to maintain a relationship, the trial court concluded the best interests of the minors required they be placed outside of respondent’s residence. We conclude this finding is not contrary to the manifest weight of the evidence or unsupported by the record.

¶ 16

### III. CONCLUSION

¶ 17

For the reasons stated, we affirm the trial court’s judgment.

¶ 18

Affirmed.