

2018 IL App (2d) 180532-U
No. 2-18-0532
Order filed November 8, 2018

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).

IN THE
APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

| | | |
|---|---|-------------------------------|
| <i>In re</i> N.L., a Minor |) | Appeal from the Circuit Court |
| |) | of Winnebago County. |
| |) | |
| |) | No. 17-JA-148 |
| |) | |
| |) | Honorable |
| (The People of the State of Illinois, Petitioner- |) | Francis Martinez, |
| Appellee v. Gina L., Respondent-Appellant). |) | Judge, Presiding. |

PRESIDING JUSTICE HUDSON delivered the judgment of the court.
Justices McLaren and Hutchinson concurred in the judgment.

ORDER

¶ 1 *Held:* (1) Respondent forfeited review of the trial court’s order adjudicating the minor neglected because she failed to develop the argument on appeal and she stipulated to the ground of neglect; (2) respondent forfeited review of the dispositional order by failing to cite any relevant authority in support of her position; (3) but even absent forfeiture, the trial court’s dispositional findings that respondent was unfit or unable, for reasons other than financial circumstances alone, to care for, protect, train, educate, supervise, or discipline the minor were not against the manifest weight of the evidence and its subsequent disposition declaring the minor a ward of the court and placing custody and guardianship of the minor with the Illinois Department of Children and Family Services was not an abuse of discretion.

¶ 2 Respondent, Gina L., appeals from the judgment of the circuit court of Winnebago County adjudicating her daughter, N.L., a neglected minor pursuant to section 2-3(1)(b) of the

Juvenile Court Act of 1987 (Act) (705 ILCS 405/2-3(1)(b) (West 2018)), finding her unfit or unable to care for the minor, declaring the minor a ward of the court, and placing custody and guardianship of the minor with the Illinois Department of Children and Family Services (Department).¹ On appeal, respondent challenges the court's adjudication and dispositional orders. We affirm.

¶ 3

I. BACKGROUND

¶ 4 The following factual recitation is taken from the evidence presented at the hearings before the trial court and the record on appeal. Respondent and Eric W. lived together for 10 or 11 years but were never married. Two children were born of their relationship, N.L. in December 2003 and B.L. in January 2010.² In May 2012, respondent and Eric separated. In June 2015, respondent and Eric entered into a Joint Parenting Agreement (Parenting Agreement) whereby they agreed to share joint custody of the children, with respondent having residential custody. The Parenting Agreement also established Eric's visitation rights and required him to pay child support in the amount of \$150 per week.

¶ 5 In the fall of 2016, N.L. was in seventh grade. At that time, respondent, the children, and Jeffrey L. (respondent's brother) were living in a home in Rockford. In January 2017, the Regional Office of Education of Boone and Winnebago Counties (Regional Office) requested that an educational neglect and truancy petition be filed for N.L. due to excessive absences from school. N.L.'s certified school attendance record for the 2015-16 academic year reflected that

¹ On the court's own motion, we will use initials to refer to the minors.

² Eric participated in the adjudication and dispositional hearings, but is not a party to this appeal. Further, the status of B.L. was not at issue in the trial court and is not at issue in this appeal.

out of 177 attendance days, she had 16 excused absences, 22 unexcused absences, and 7 tardies. Additionally, N.L.'s certified school attendance record for the 2016-17 academic year reflected that through December 20, 2016, she had accumulated 11 excused absences, 12 unexcused absences, and 2 tardies out of 89 attendance days. N.L. was "unenrolled" from school in February 2017 due to poor attendance.

¶ 6 On April 20, 2017, Deputy Crystal Smoot and Senior Deputy Scott Carlson of the Winnebago County Sheriff's Office went to the Rockford residence to oversee the eviction of respondent, Jeffrey, and the children. Smoot gave Jeffrey a copy of an eviction order and instructed him and respondent to retrieve their personal items from the residence. During the eviction process, a dead cat was recovered from a box inside a freezer in the home. Also during the eviction process, Jeffrey and respondent became combative. Jeffrey swore and yelled at Robert McCarty, the property manager. Jeffrey then shoved McCarty with both hands. As the deputies were arresting Jeffrey, he resisted. Respondent yelled at the deputies for arresting Jeffrey and subsequently shoved Smoot using her body and arms. Respondent was arrested for her conduct. During a search of respondent's person, a glass pipe was located in her front pants pocket. The pipe tested positive for the presence of cannabis. Following the arrests, the deputies transported respondent and Jeffrey to jail and contacted the Department. N.L. was present during the eviction process. Respondent was subsequently charged in case No. 17 CF 976 with aggravated battery toward a peace officer (720 ILCS 5/12-3.05(d)(4) (West 2016)), resisting a peace officer (720 ILCS 5/31-1(a) (West 2016)), and possession of drug paraphernalia (720 ILCS 600/3.5(a) (West 2016)).

¶ 7 On May 2, 2017, the State filed a three-count petition alleging that N.L. was neglected based on an injurious environment, thereby placing her at risk of harm. See 705 ILCS 405/2-

3(1)(b) (West 2016). Count I alleged that N.L.'s environment is injurious to her welfare in that her parents have a substance abuse problem which prevents them from properly parenting. Count II alleged that N.L.'s environment is injurious to her welfare in that respondent struck a police officer in the presence of N.L. Count III alleged that N.L.'s environment is injurious to her welfare in that respondent is not treating N.L.'s medical needs appropriately. At a hearing on May 10, 2017, the trial court dismissed the truancy case at the State's request but ordered respondent to enroll N.L. in a home-schooling program or in public school.

¶ 8 An adjudicatory hearing was held on August 7, 2017. At that time, respondent factually stipulated to count II of the neglect petition. The factual basis for the stipulation was the information in case No. 17 CF 976 and respondent's plea of guilty to aggravated battery to a peace officer in that matter. The State dismissed the remaining two counts of the neglect petition. The court ordered guardianship and custody of N.L. to remain with respondent. The court was also informed that respondent had enrolled N.L. in public school. The matter was continued for a dispositional hearing. During the course of the proceedings, various reports were filed by representatives of the Regional Office and Lutheran Social Services of Illinois (LSSI), the social services agency assigned to the case.

¶ 9 The dispositional hearing was held over the course of several dates between November 9, 2017, and May 24, 2018. On the first date of the hearing, the court took judicial notice of various documents, including: (1) the August 7, 2017, adjudication order; (2) a November 7, 2017, report submitted by Morgan Peterson, the truancy interventionist; and (3) an October 6, 2017, report submitted by caseworker Jessica Cass. In addition, the court admitted three exhibits submitted by the State: (1) a January 26, 2017, report from the Regional Office; (2) a Winnebago County Sheriff's Department arrest report dated April 20, 2017; and (3) a health assessment for

N.L. prepared by Rosecrance dated May 31, 2017. The State then called Cass and Peterson to testify on its behalf.

¶ 10 Cass testified that she is a caseworker with LSSI. Cass was assigned to N.L.'s case late in August 2017. When Cass initially received the case, N.L.'s family was living in a tent in Rock Cut State Park. With the assistance of the Department, the family found an apartment. Cass has visited the apartment and testified that it is clean, has "all the standard safety things," and is appropriate for the children. Jeffrey also resides in the apartment. Cass has spoken with Jeffrey and opined that it is appropriate for him to have contact with N.L. and B.L.

¶ 11 Aside from housing, Cass identified two other major issues impacting N.L.—her mental health and her education. Cass testified that the two issues are tied together in that the status of N.L.'s mental health prevents her from participating in school. Cass testified that N.L. has been diagnosed with generalized anxiety disorder and major depressive disorder. N.L. treats these conditions with medication and counseling at Rosecrance. The staff at Rosecrance reported that N.L. has been compliant with her mental-health services, taking her medication as prescribed and having missed only one counseling session. Cass testified that she has not had an opportunity to address N.L.'s educational issues with school officials outside of court, but noted that N.L. is trying to catch up with her schoolwork under the auspices of the Regional Office.

¶ 12 Cass testified that neither she nor anyone from LSSI has ever spoken with Eric because he was "never involved in the intact case when it was assigned." Cass also recounted that Eric has never contacted her to express that he wants custody of N.L. Nevertheless, Cass spoke with N.L. about being placed with Eric. N.L. expressed concern that Eric's job is such that he would not be around and she would be left in the care of a stranger. N.L. also told Cass that she was scared of being placed with Eric because of prior domestic-violence incidents, including one

during which Eric pointed an empty gun at her and another during which Eric tried to run N.L. and respondent off the road with a vehicle.

¶ 13 Cass recommended that guardianship of N.L. be granted to respondent rather than to Eric or the Department. Cass explained that she has observed respondent interact with her children and believes that she has been appropriate with them. Cass further noted that N.L. has always resided with respondent and has expressed a preference to live with her.

¶ 14 Peterson, a truancy worker with Youth Services Network, was assigned to N.L.'s case in August 2016. Peterson testified that although attendance had always been an issue with N.L., she started missing school more frequently after her cat passed away. N.L. has not received an education since being dropped from school in February 2017. According to Peterson, N.L. was earning mostly As and Bs prior to leaving school. The court ordered respondent to enroll N.L. in school for the fall of 2017. N.L. showed up for the first week of school, but did not attend classes. Instead, she would talk to a counselor and leave. In August 2017, respondent withdrew N.L. from school because of social anxiety. Peterson prepared a referral to court concerning N.L. because of her truancy.

¶ 15 After respondent withdrew N.L. from school, she planned to enroll the minor in a home-schooling program. However, issues with the assessment tests have prevented N.L. from resuming her education. Peterson noted that N.L. should be in eighth grade, but did not do very well on the seventh and eighth grade assessment test or the sixth and seventh grade assessment test. N.L. is taking the assessment test for fifth and sixth grade, but if she does not pass, she will have to take the assessment test for third and fourth grade. Respondent also told Peterson that cost is an impediment to enrolling N.L. in a home-schooling program. Peterson noted that respondent's contact with her has diminished over time. When Peterson first became involved in

the case, respondent would return her calls in a timely manner. More recently, however, respondent only contacts Peterson if there is an upcoming court date. Following Peterson's testimony, the State rested.

¶ 16 Eric called Mark Hurd. Hurd runs a property maintenance and repair business. One of Hurd's clients is Pioneer Property Management Company (Pioneer). Pioneer manages the Rockford residence where N.L.'s family resided prior to being evicted. Hurd's first contact with the family was in the spring of 2016, when a water main broke outside the home. At that time, the crew did not enter the home. On another occasion, Hurd's crew went to the residence to light the furnace. According to Hurd, his crew had difficulty accessing the furnace because the basement door was blocked and there were packages piled to the ceiling.

¶ 17 Hurd subsequently bid on some repair work for the interior of the residence. Hurd's crew returned to the home in October 2016 to begin the repairs. Hurd described the interior of the home as "a mess." The family had two dogs and two or three cats. There were also raccoons in the basement. Hurd was not sure if the raccoons were pets, but noted that they were "very friendly." Hurd testified that the home was infested with fleas and that the smell of animal urine was so strong that it was noticeable 12 feet from the front door. Hurd's crew had to leave the premises because of the fleas.

¶ 18 Hurd testified that following the family's eviction, his crew had to "bug bomb" the house twice to eradicate the fleas. They also had to relocate the raccoons from the basement, remove a dead cat from the refrigerator, clean debris from outside of the house, repair a toilet, and replace a door knob. Hurd further testified that the floors in the residence were "completely soaked with urine" and there was urine on the walls in the basement. As a result of the former condition, the floors had rotted and required bleaching, sealing, and partial replacement.

¶ 19 About one month after the eviction, Hurd again encountered respondent, Jeffrey, and N.L. when they stopped by the residence to check for mail. At that time, Jeffrey mentioned that the family had an encounter with Eric during which he almost ran them over. N.L. showed Hurd a cell phone video of an altercation with Eric. Hurd's description of the video was allowed over objection.

¶ 20 When the hearing resumed on November 29, 2017, Eric called McCarty. McCarty recounted that the Rockford residence was clean and in good order prior to respondent taking tenancy. Specifically, there were no animals present, no cat feces on the carpet, and no urine on the walls. McCarty testified that respondent was evicted from the Rockford residence principally because of maintenance issues. Significantly, McCarty was having difficulty getting contractors onto the property for repairs because respondent refused them access to the home. McCarty also recounted that the lease provided for one pet, but respondent had at least three pets living in the home. McCarty testified that the sheriff's department oversaw the eviction because respondent did not move out prior to the date of the possession order. The eviction occurred on April 20, 2017, a non-holiday weekday. N.L. and B.L. were present at the time of the eviction. McCarty noted that he had occasion to go to the home on other days during the school year and that the children were sometimes present. McCarty testified that he was willing to allow respondent to remain on the property, but she had to allow access to the contractors. In addition, McCarty did not want Jeffrey to stay at the home because of a prior threat of physical violence during which Jeffrey had to be removed from McCarty's office by the police.

¶ 21 Respondent testified over two dates on December 1, 2017, and April 27, 2018. Respondent recounted that she suffers from various maladies, including pseudotumor cerebri, a

slipped disc, arthritis, depression, and anxiety.³ Respondent further recounted that she has a collapsed stent in her brain and a metal plate in her neck. Respondent's sole sources of income are social security disability benefits of \$2200 per month plus the child support paid by Eric.

¶ 22 Respondent acknowledged that N.L. has serious mental-health issues and has been diagnosed with a variety of conditions, including generalized anxiety disorder and major depressive disorder. As a result of N.L.'s anxiety, she cannot be in a group of people or in public spaces without her body shaking or going into convulsions. N.L. has also engaged in self-harming, specifically cutting, as a result of her mental-health issues. Respondent has sought treatment for N.L.'s mental-health issues. To this end, N.L. began receiving therapy and medication at Rosecrance in January 2016. Respondent stopped sending N.L. to counseling because N.L. did not feel that the therapy was helping to address her anxiety issues. Respondent re-engaged N.L. at Rosecrance in 2017, and N.L. was assigned a different counselor and prescribed medication. N.L. indicated that the medication was "getting in the way of her trying to deal with things" and made her feel worse. As a result, N.L. stopped taking the medications. In March 2018, N.L. began weekly sessions with "Teresa," a counselor who is not affiliated with Rosecrance. Respondent attended N.L.'s first session with Teresa. Teresa has diagnosed N.L. with posttraumatic stress disorder, attention-deficit disorder, obsessive-compulsive disorder, and anxiety. Teresa is trying to deal with the traumatic basis of N.L.'s behavior problems. N.L. has told respondent that she finds this method of counseling productive and helpful. Teresa has

³ Pseudotumor cerebri occurs when the pressure inside the skull increases for no obvious reason. Symptoms of the condition mimic those of a brain tumor, although no tumor is present. See <https://www.mayoclinic.com/diseases-conditions/pseudotumor-cerebri/symptoms-causes/syc-20354031> (last visited October 25, 2018).

suggested that respondent become involved in counseling with N.L. Respondent believes this would be beneficial.

¶ 23 Respondent acknowledged issues with N.L.'s school attendance. Respondent admitted that N.L. missed 34 days of school in second grade, 34 days of school in third grade, 41 days of school in fourth grade, and 29 days of school in fifth grade. Respondent testified that N.L.'s anxiety became worse in sixth or seventh grade and she did not want to go to school. Respondent discussed the matter with school personnel, and Peterson became involved. Peterson offered to transport N.L. to school but never followed through. Respondent refused to "hurt" N.L. by forcing her to go to school. N.L. was dropped from school in February 2017. N.L. returned to school in the fall of 2017. Respondent drove N.L. to school the first three days. Upon arriving, N.L. would have a panic attack and refuse to leave the car. N.L. would eventually calm down and enter the school. After entering the school, N.L. would panic again, so she and respondent would talk with the school counselor. Respondent eventually withdrew N.L. from school because of her anxiety issues and pursued home schooling.

¶ 24 Respondent testified that her plan to educate N.L. involves enrolling the minor in Calvert Education or joining a "cohort" program of homeschooling parents. Respondent testified that although N.L. should be in eighth grade, she tested at the fourth or fifth grade in some subjects. Respondent acknowledged that as of April 2018, she had yet to enroll N.L. in home schooling because N.L. was not "mentally stable" for it and because of the cost. Respondent testified that the cost to enroll in Calvert Education is \$500. Eric has agreed to pay half the cost but has yet to tender any money to respondent.

¶ 25 Respondent testified that the Rockford residence was in "deplorable" condition when the family moved in. According to respondent, the house was covered in rat feces, the refrigerator

contained moldy food, there were railroad ties protruding from the front walkway, and the basement fireplace was wrapped in a black garbage bag. After moving in, Jeffrey discovered that raccoons had made a nest inside the fireplace. Despite these problems, respondent stayed in the home because it was in a nice neighborhood and she needed a place to live. Respondent denied preventing Hurd's crew from accessing the residence for repairs. She did recall one instance when she asked the workers to leave early, but explained it was because she had a doctor's appointment.

¶ 26 Respondent also testified to the circumstances leading to the death of N.L.'s cat. She explained that N.L. had the cat since she was two years old. In the summer of 2016, a neighbor's dog got into the house. The dog caught the cat and broke her neck. Eric promised N.L. that he would pay to have the cat cremated. Respondent stored the dead cat in the freezer until Eric could come up with the money. At the time of the eviction, the cat had been in the freezer for about six months.

¶ 27 Respondent testified that following the eviction from the Rockford residence, the family was homeless for six months. During that time, they camped a lot. Since September 2017, respondent, the children, and Jeffrey have resided in an apartment in Roscoe. Respondent testified that the family is happy with their current living arrangement and that the stability of living in the same place for a length of time has made the family "better."

¶ 28 Respondent also testified regarding two incidents involving her, Jeffrey, and Eric. The first incident occurred a couple of days after the eviction. The children were staying with Eric. Respondent needed a key that was in N.L.'s possession. Eric and the minors met respondent and Jeffrey to transfer the key. During the exchange, respondent and Eric began arguing. N.L. told Jeffrey about the argument. Jeffrey exited the car, grabbed B.L., and told N.L. to get into his car.

Eric jumped in front of Jeffrey's car, so Jeffrey sounded the horn. Eric accused Jeffrey of running him over and respondent of kidnapping the children. The police were contacted. According to respondent, the police felt it was in the children's best interest to remain with her. The second incident happened in June or July 2017. At that time, Eric began chasing the car in which respondent, Jeffrey, and the children were traveling. During the chase, Eric drove on the wrong side of the road and against the flow of traffic.

¶ 29 Respondent testified that she is the primary caretaker of her children and wants N.L. to remain with her. Respondent testified that N.L. has no interest in seeing Eric because he was an alcoholic when she was younger and he put her through a lot of trauma. Respondent noted that Eric has not had visitation since around the time of the eviction because of "a couple of stunts" that traumatized the children. Respondent was asked if she was willing to allow N.L. to live with someone else if that would allow N.L. to "move forward." Respondent answered in the negative, stating that she had not done anything to hold back N.L.

¶ 30 Eric testified that he is employed as a truck driver and works overnight once or twice a week. Eric has been a recovering alcoholic for 5½ years and regularly attends Alcoholics Anonymous. Eric lives in Antioch, Illinois, where he rents the lower level of a raised ranch. Eric's living quarters consist of two bedrooms, one bath, and a kitchen. If Eric is granted custody, he intends to reside with the children at his current location and send them to Antioch schools. Eric's employer will allow him to work days. Eric would have a friend watch the children outside of school hours when he is at work.

¶ 31 Eric acknowledged that when he lived with respondent there were domestic-violence incidents in the home. Nevertheless, Eric testified that he loves his children and does not know why N.L. does not want to see him. The last time Eric had visitation with N.L. was in April

2017, around the time respondent was evicted from the Rockford residence. Prior to that, Eric had visitation with the children every other weekend. Eric spoke to N.L. by telephone a few weeks after their last visit, but since that time N.L. has not accepted his calls or otherwise reached out to him. Eric realizes that N.L. has severe psychological issues that need to be addressed. According to Eric, N.L. had a mild case of anxiety prior to April 2017, but the anxiety increased following the eviction. Eric testified that he knew there were issues with N.L.'s school attendance for a couple of years, but he was unaware of the extent of the problem until the court proceedings began. Eric is willing to pay for half of N.L.'s school tuition.

¶ 32 At the conclusion of the testimony, the court interviewed N.L. *in camera* outside the presence of the parties and their attorneys. The parties then presented closing arguments.

¶ 33 On June 8, 2018, the trial court announced its decision. The court determined that the crux of the case involved the mental health of the parties, which was creating an unhealthy environment for N.L. The court concluded that while both respondent and Eric are willing to parent the minor, they are unfit or unable, for reasons other than financial circumstances alone, to care for, protect, train, educate, supervise, or discipline the minor and that it is in the best interest of the minor to take her from the custody of her parents. In support of its conclusion, the court observed that Eric, by his own admission, is a recovering alcoholic. While Eric is in remission, the evidence established that Eric's conduct prior to his sobriety was responsible for his estrangement from N.L. The court determined that the level of estrangement between Eric and N.L. made it impossible to vest guardianship of the minor in Eric.

¶ 34 With respect to respondent, the court commented:

“[W]hile in [respondent's] custody the minor has not been properly educated. I think that's been well documented. The minor is substantially behind in her academic

achievement or standard. This minor has diagnosed mental health issues involving anxiety and depression which have not been—at least during the course of the dispositional hearing and up to the adjudication, have not been properly addressed. There’s been violence in her home with the minor’s uncle. And, as a side note, I found it curious that with all this secondhand information on both sides that was presented ***, the uncle was not brought forth to court to either testify or clarify what that relation is. I can only assume that he is a—he is himself a risk factor.

The court will note that the minor has been diagnosed *** with major depressive disorder and generalized anxiety disorder. And [respondent] *** was going to home school her as a result of her anxiety disorders preventing her from educating herself. And little, if anything, has progressed throughout the dispositional hearing since November. The minor needs a substantial amount of assistance but is unlikely to get it in the custody of [respondent] until [respondent] herself addresses what the court believes are her mental health issues as well.”

Accordingly, the court found that it is not in the best interests of the minor for guardianship to be placed with respondent.

¶ 35 The court placed custody and guardianship of N.L. with the Department with discretion to place the minor with a responsible relative or in foster care. The court set the goal as return home. The court allowed respondent to visit the minor at the Department’s discretion. However, the court opined that visitation with Eric would not be appropriate until both he and N.L. underwent a substantial amount of counseling. This appeal followed.

¶ 36

II. ANALYSIS

¶ 37 On appeal, respondent purports to challenge the trial court's adjudicatory and dispositional orders. We find that respondent has forfeited any argument concerning the adjudicatory order for two reasons. First, although respondent asserts that the trial court's order of adjudication is against the manifest weight of the evidence, she makes no developed argument related to the propriety of the adjudicatory order. The entirety of respondent's argument section is devoted to challenging the trial court's dispositional order. Thus, respondent has forfeited any claim that the trial court erred when it adjudicated N.L. neglected. See Ill. S. Ct. R. 341(h)(7) (eff. May 25, 2018) (providing that points not argued are forfeited and shall not be raised for the first time in the reply brief, in oral argument, or on petition for rehearing); *Vancura v. Katris*, 238 Ill. 2d 352, 370 (2010) (holding that an issue that is "merely listed or included in a vague allegation of error is not 'argued' and will not satisfy the requirements of [Rule 341(h)(7)]"); *Ramos v. Kewanee Hospital*, 2013 IL App (3d) 120001, ¶ 37 (noting that an appellate court "is not a repository into which an appellant may foist the burden of argument and research."). Second, respondent forfeited a challenge to the finding of neglect by factually stipulating to one of the counts of the neglect petition at the adjudication hearing. See *Kapsouris v. Rivera*, 319 Ill. App. 3d 844, 853 (2001) (holding that a party waives an argument when he or she stipulates to the facts at issue); see also *In re April C.*, 326 Ill. App. 3d 225, 241-42 (2001) (finding that the respondent waived the finding of abuse where she did not object to stipulation until appeal).

¶ 38 Although respondent does argue the propriety of the dispositional order, she fails to support her argument with citation to any relevant authority. In this regard, respondent does not cite to any statutory authority in her brief. Further, the only two cases respondent cites are for the proposition that a parent's right to raise his or her biological child is a fundamental liberty interest and the involuntary termination of that right is a drastic measure. See *In re Haley D.*,

2011 IL 110886, ¶ 90; *In re D.R.*, 307 Ill. App. 3d 478, 482 (1999). However, as respondent recognizes, this case has not reached the stage of parental termination, so her reference to those two cases is irrelevant. Given that respondent's challenge to the dispositional order is not supported by any authority, we conclude that she has also forfeited any challenge to the propriety of that order. Ill. S. Ct. R. 341(h)(7) (eff. May 25, 2018) (providing that an appellant's brief shall include "[a]rgument, which shall contain the contentions of the appellant and the reasons therefore, with citation of the authorities and the pages of the record relied on"); *Deutsche Bank National Trust Co. v. Estate of Schoenberg*, 2018 IL App (1st) 160871, ¶ 26 (holding that party's failure to cite authority in support of its arguments violates Rule 341 and results in forfeiture of the contention on appeal); *Gakuba v. Kurtz*, 2015 IL App (2d) 140252, ¶ 19 (same).

¶ 39 Forfeiture aside, we opt to address the propriety of the dispositional order given that this case involves a minor and respondent develops somewhat of an argument regarding the dispositional findings. See *In re Davion R.*, 2017 IL App (1st) 170426, ¶ 21 (noting that the rules of waiver and forfeiture are limitations on the parties, not the courts). A dispositional order focuses on whether it is in the best interests of the minor and the public that the minor be made a ward of the court. 705 ILCS 405/2-22 (West 2018). Pursuant to section 2-27(1) of the Act (705 ILCS 405/2-27(1) (West 2018)), the trial court may declare a minor a ward of the court if it determines that a parent or parents are "unfit or *** unable, for some reason other than financial circumstances alone, to care for, protect, train or discipline the minor or are unwilling to do so, and that the health, safety, and best interest of the minor will be jeopardized if the minor remains in the custody of his or her parents." See *In re A.P.*, 2013 IL App (3d) 120672, ¶ 15. The State has the burden of proving by a preponderance of the evidence that a parent is unfit, unable, or

unwilling to care for the minor pursuant to section 2-27(1) of the Act. See *In re K.E.S.*, 2018 IL App (2d) 170907, ¶ 51.

¶ 40 The trial court's dispositional findings involve factual determinations. *In re L.O.*, 2016 IL App (3d) 150083, ¶ 17. In resolving questions of fact, we owe the trial court considerable deference. *In re Marriage of Quindry*, 223 Ill. App. 3d 735, 737 (1992). Assessing the credibility of witnesses, resolving conflicts in their testimony, and assigning weight to the evidence are primarily matters for the trial court. *Bernstein & Grazian, P.C. v. Grazian & Volpe, P.C.*, 402 Ill. App. 3d 961, 976 (2010). As such, we will not reverse a trial court's factual findings at the dispositional stage unless they are against the manifest weight of the evidence. *April C.*, 326 Ill. App. 3d 245, 257 (2001) (quoting *In re T.B.*, 215 Ill. App. 3d 1059, 1062 (1991)). A decision is against the manifest weight of the evidence only if an opposite conclusion is clearly apparent. *In re Faith B.*, 216 Ill. 2d 1, 13-14 (2005). However, we review the ultimate disposition for an abuse of discretion. *April C.*, 326 Ill. App. 3d at 257 (quoting *T.B.*, 215 Ill. App. 3d at 1062). An abuse of discretion occurs when the trial court's decision is arbitrary, fanciful, or unreasonable, or where no reasonable person would agree with the position adopted by the trial court. *In re D.M.*, 2016 IL App (1st) 152608, ¶ 15 (quoting *People v. Taylor*, 2011 IL 110067, ¶ 27).

¶ 41 Respondent argues that there was no factual basis for the trial court to find that she was unfit or unable to care for N.L. According to respondent, N.L. has made continuing progress under her parental supervision. Respondent relies principally on the testimony of caseworker Cass. Respondent observes that Cass described her current residential placement as clean and appropriate for the children. Cass further opined that contact between the minors and Jeffrey is appropriate, and she noted that N.L. had been mostly compliant with the mental-health services

administered by Rosecrance. Respondent acknowledges issues with N.L.'s school attendance, but argues that the truancy concerns result from N.L.'s mental-health issues, which respondent is addressing.

¶ 42 The trial court concluded that respondent, while willing to parent N.L., was unable or unfit to care for her. The trial court's dispositional determination was based upon multiple factors. The court noted that while in respondent's custody, N.L. was not properly educated, and as a result, had fallen substantially behind academically. The trial court discussed the fact that respondent represented she was going to provide home schooling for N.L. because the minor's anxiety was preventing her from going to public school, but there had been little progress toward that goal since November 2017. The court also determined that respondent's mental-health issues were not being properly addressed in respondent's home. Moreover, the trial court determined that N.L.'s needs could not be addressed while she continued to reside with respondent because respondent had mental-health issues of her own that needed to be addressed. In addition, the trial court cited Jeffrey's history of violent behavior and expressed concern that Jeffrey posed a risk to N.L. Accordingly, the trial court declared N.L. a ward of the court and placed custody and guardianship in the Department with discretion to place the minor with a responsible relative or in foster care. Based on the record before us, we cannot say that the trial court's dispositional findings were against the manifest weight of the evidence or that the court abused its discretion by selecting an inappropriate disposition.

¶ 43 First, the record clearly supports the trial court's finding that while in respondent's custody, N.L. was not properly educated. Between second and sixth grade, N.L. missed between 29 and 41 days of school each year. Respondent discussed the matter with school personnel, and a truancy interventionist was assigned to N.L.'s case but was unsuccessful in curbing N.L.'s

absences. N.L. began seventh grade in the fall of 2016. Her school attendance record for the 2016-17 academic year reflected that through December 20, 2016, she had accumulated 11 excused absences, 12 unexcused absences, and 2 tardies out of 89 attendance days. Respondent refused to force N.L. to go to school because she did not want to “hurt” the minor. In February 2017, N.L. was dropped from school due to excessive absences. In accordance with an order of the trial court, respondent enrolled N.L. in public school for the 2017-18 academic year. Although N.L. was present for the first week of school, she never attended classes, and respondent withdrew the minor shortly after the school year began.

¶ 44 Second, the record supports the trial court’s finding that while in respondent’s custody, there was little progress toward the goal of enrolling N.L. in a home-schooling program. After respondent withdrew N.L. from school in August 2017, she planned to enroll the minor in a home-schooling program. However, by November 2017, when the dispositional hearing commenced, respondent had yet to begin any educational program. More than five months later, during respondent’s testimony on April 27, 2018, she reported that N.L. still had not begun a home-schooling program. Respondent offered excuses for the delay, including N.L.’s mental state and the cost of the program. She also indicated that she expected N.L. to start school soon thereafter. Nevertheless, because of the lengthy delays, the trial court found it necessary to order respondent to enroll N.L. into a home-schooling program with respondent and to split the cost with Eric.

¶ 45 Third, the record supports the trial court’s finding that while in respondent’s custody, N.L. had fallen substantially behind academically. Despite N.L.’s chronic absences from school, she earned mostly As and Bs in school. However, after N.L. stopped attending school in February 2017, her academic skills regressed significantly. In the fall of 2017, N.L. should have

been in eighth grade. N.L. took several assessment tests in preparation for the home-schooling program. She did not do well on the seventh and eighth grade assessment test or the sixth and seventh grade assessment test. Respondent testified that N.L. ultimately scored between the fourth and fifth grade level on some subjects, well below the level at which she should have been.

¶ 46 As the foregoing evidence establishes, not only was N.L. chronically truant while in respondent's custody, she did not attend school at all for a 15-month period between February 2017 and May 2018. During this time, N.L. went from being a student earning respectable marks to testing well below her grade level. Further, the trial court had to order respondent to enroll N.L. in the home-schooling program because she made little progress toward that goal during the six-month duration of the dispositional hearing. Given these circumstances, we cannot say that the trial court's findings that while in respondent's custody, N.L. was not properly educated, she had fallen substantially behind academically, and there was little progress toward the goal of enrolling the minor in a home-schooling program was against the manifest weight of the evidence.

¶ 47 We also find ample evidence in the record to support the trial court's findings that respondent's mental-health issues were not being properly addressed in respondent's home and that N.L.'s needs could not be addressed while she continued to reside with respondent because respondent needs to address her own mental-health issues. N.L. was diagnosed with various mental-health conditions, including general anxiety disorder and major depressive disorder. Although N.L. saw two different counselors at Rosecrance and was prescribed medications for her illnesses, N.L. expressed that the treatment was not addressing the underlying trauma. As a result, while in respondent's custody, N.L. discontinued the medications and her treatment at

Rosecrance. In March 2018, N.L. began weekly sessions with a counselor named Teresa. N.L. told respondent that her sessions with Teresa are productive and helpful. Teresa suggested that respondent become involved in counseling with N.L., and respondent agreed this would be beneficial. Yet, as of the time of her testimony, there was no evidence that respondent participated in N.L.'s counseling other than the initial session. Further, although respondent suffers from anxiety and depression, there is no indication in the record that respondent has addressed these issues.

¶ 48 Finally, there is evidence in the record to support the trial court's concern that Jeffrey posed a risk to N.L. There were domestic incidents in April 2017 involving Jeffrey and others during which N.L. was present. During the eviction on April 20, 2017, Jeffrey engaged in a verbal and physical altercation with McCarty and resisted arrest. A few days after the eviction, Jeffrey was involved in a confrontation with Eric in the minor's presence. In addition, McCarty described a prior threat of physical violence during which Jeffrey had to be removed from McCarty's office by the police.

¶ 49 In short, there is ample evidence in the record to support the trial court's finding that respondent was unfit or unable to care for N.L. and its decision to make the minor a ward of the court and appoint the Department as her legal guardian. Significantly, the record demonstrates that respondent neglected N.L.'s education, did not adequately address N.L.'s mental-health issues, and resided with an individual with a violent disposition. Accordingly, we conclude that the trial court's finding that respondent is unfit or unable to care for N.L. is not against the manifest weight of the evidence. Further, based on the trial court's findings, we cannot say that the court's dispositional order is arbitrary, fanciful, unreasonable, or that no reasonable person would agree with the position adopted by the trial court. Quite simply, the trial court could

reasonably conclude that placing N.L. with respondent was not a viable option given N.L.'s lack of progress in schooling and in addressing her mental-health issues while in respondent's custody as well as respondent's decision to reside with Jeffrey. Therefore, the disposition did not constitute an abuse of discretion.

¶ 50 Prior to concluding, we observe that respondent's reliance on Cass's testimony does not compel a different result. Although Cass described respondent's residential placement in Roscoe as clean and appropriate for the children, respondent had been living in the apartment for only about two months when Cass testified. We note the short period respondent resided in Roscoe at the time of Cass's testimony because, although disputed by respondent, McCarty testified that the Rockford residence was also clean and in good order prior to respondent taking tenancy. Yet, at the time of the eviction, the Rockford residence was in deplorable condition. Moreover, although Cass testified that she met Jeffrey and found it appropriate for him to have contact with the children, there was no evidence regarding the number or length of Cass's encounters with Jeffrey or whether she was aware of his prior episodes of violent behavior. Moreover, while Cass did testify that N.L. had been compliant with the mental-health services administered at Rosecrance, Cass testified in November 2017, which was prior to the time N.L.'s medications and treatment at the facility were discontinued. For these reasons, we conclude that Cass's testimony does not require reversal of the trial court's dispositional order.

¶ 51

III. CONCLUSION

¶ 52 For the reasons set forth above, we affirm the judgment of the circuit court of Winnebago County.

¶ 53 Affirmed.