

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).

FILED

July 6, 2018
Carla Bender
4th District Appellate
Court, IL

2018 IL App (4th) 180181-U

NOS. 4-18-0181, 4-18-0182, 4-18-0245 cons.

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

<i>In re</i> J.B., a Minor)	Appeal from the
)	Circuit Court of
(The People of the State of Illinois,)	Champaign County
Petitioner-Appellee,)	No. 17JA65
v. (No. 4-18-0181))	
Jonathan Brock,)	
Respondent-Appellant).)	
_____)	
<i>In re</i> J.B., D.R., and S.G., Minors)	
)	
(The People of the State of Illinois,)	
Petitioner-Appellee,)	
v. (No. 4-18-0182))	
Debra Taylor-Smith,)	
Respondent-Appellant).)	
_____)	
<i>In re</i> S.G., a Minor)	
)	
(The People of the State of Illinois,)	
Petitioner-Appellee,)	
v. (No. 4-18-0245))	Honorable
James Guy,)	John R. Kennedy,
Respondent-Appellant).)	Judge Presiding.
_____)	

JUSTICE KNECHT delivered the judgment of the court.
Presiding Justice Harris and Justice DeArmond concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court affirmed, concluding the trial court’s finding respondent-mother was unfit and unable to care for the minors was not against the manifest weight of the evidence.

¶ 2 Debra Taylor-Smith is the mother of J.B. (born July 6, 2008), D.R. (born May 23, 2010), and S.G. (born January 8, 2013). Jonathon Brock is the father of J.B., Anthony Robinson is the father of D.R., and James Guy is the father of S.G. Taylor-Smith, Brock, and Guy appeal from the trial court's dispositional order, which adjudged the minors wards of the court and placed guardianship and custody of J.B. and S.G. with the Department of Children and Family Services (DCFS) and guardianship and custody of D.R. with Robinson. Robinson is not a party to this appeal. The sole issue raised on appeal is whether the trial court's finding Taylor-Smith was unfit and unable to care for the minors is against the manifest weight of the evidence. We affirm.

¶ 3 I. BACKGROUND

¶ 4 A. Petition for Adjudication of Neglect and Shelter Care Hearing

¶ 5 On November 27, 2017, the State filed a two-count petition for adjudication of neglect, alleging J.B., D.R., and S.G. were neglected minors as defined by sections 2-3(1)(b) of the Juvenile Court Act of 1987 (Act) (705 ILCS 405/2-3(1)(b) (West 2016)). Count I alleged the minors were subject to an injurious environment while residing with Taylor-Smith due to their exposure to illegal substances. Count II alleged the minors were subject to an injurious environment while residing with Taylor-Smith due to their exposure to illegal activity.

¶ 6 That same day, the trial court held a shelter care hearing. Prior to commencing the hearing, the State noted Robinson had not received notice, which required a later renewal hearing. Over no objection, the court considered a shelter-care report. According to that report, Guy was imprisoned in Ohio for kidnapping and drug trafficking, and Brock was imprisoned in

Illinois for possession of narcotics. The report did not provide Robinson's location. The report indicated Taylor-Smith was the sole caretaker of the minors and also served as a foster parent for her two nephews. On November 14, 2017, officers of the Champaign Street Crimes Task Force executed a search warrant at Taylor-Smith's home. The search yielded two loaded 9-millimeter handguns, 16 rounds of 9-millimeter ammunition, scales with cocaine residue, 23.5 ounces of cannabis, and \$5742 in cash. Included in the cash was a marked \$20 bill from a previous controlled drug buy from Taylor-Smith at her home. Taylor-Smith admitted to officers having a loaded handgun in her sock drawer. She was arrested and charged with felony possession of a weapon by a felon and felony possession of narcotics. Taylor-Smith's 17-year-old son was also arrested on gun and weapon charges. Based on the shelter-care report, the court found probable cause to believe the minors were neglected and an immediate and urgent necessity existed to remove the minors from Taylor-Smith's care. The court placed temporary custody with DCFS.

¶ 7 B. Renewal Hearing on Shelter Care

¶ 8 On December 21, 2017, the trial court held a renewal hearing on shelter care. Robinson appeared before the court and objected to DCFS having temporary custody of D.R. Robinson testified he was awarded "legal custody" of D.R. in a prior Champaign County case. Over no objection, the trial court took judicial notice of the orders filed in Champaign County Case No. 10-F-557. Robinson testified he had custody of D.R. for a period in excess of one year. After he began having marital problems, he voluntarily gave Taylor-Smith custody of D.R. Robinson continued to have a relationship with D.R. after voluntarily relinquishing custody. Robinson further testified to his relationship with D.R., employment history, criminal history, and living situation. Based on the evidence presented, the court found Robinson was present and

able to care for his son and placement with Robinson was in D.R.'s best interests. The court vacated the portion of its prior order awarding DCFS temporary custody of D.R.

¶ 9 C. Adjudicatory Hearing

¶ 10 On January 18, 2018, the trial court commenced an adjudicatory hearing. Taylor-Smith admitted count II of the petition. In exchange, the State agreed to dismiss count I of the petition and not use her admission in her ongoing criminal case. The court found Taylor-Smith's admission to be made knowingly and voluntarily. As a factual basis for the admission, the State provided the shelter-care report and a November 14, 2017, police report. Based on the information provided in those reports, the court found a sufficient factual basis existed to support the admission. Following Taylor-Smith's admission, both Robinson and Brock waived their rights to an adjudicatory hearing. Because Guy was not present, the court declined to issue any findings on the State's petition as it related to him. On February 15, 2018, the court entered an adjudicatory order finding the minors to be neglected as it related to Taylor-Smith, Robinson, and Brock.

¶ 11 D. Continued Adjudicatory Hearing and Dispositional Hearing Concerning J.B. and D.R.

¶ 12 On February 28, 2018, the trial court held further proceedings on the State's petition for adjudication of neglect as it related to Guy. Guy appeared before the trial court by telephone. Over no objection, the court took judicial notice of its prior adjudicatory findings. Guy did not present any additional evidence. The court found the State proved S.G. was neglected. The court scheduled a dispositional hearing concerning S.G. at a later date.

¶ 13 That same day, the trial court conducted a dispositional hearing concerning J.B.

and D.R. Over no objection, the court received a dispositional report prepared on February 20, 2018, and two letters from friends of Taylor-Smith. The court heard testimony from Robinson and, over no objection, took judicial notice of Champaign County case No. 10-F-557. The court also heard testimony from Taylor-Smith.

¶ 14 As it related to Taylor-Smith's fitness and ability to parent, the evidence showed the following. Taylor-Smith reported being the primary caregiver for the minors. Friends of Taylor-Smith described her as a "very good[,] caring mother." Taylor-Smith made arrangements for the minors' care while she worked. Taylor-Smith started a new job on December 28, 2017, and her hours were 10:30 a.m. to approximately 4 p.m. During the interview for the dispositional report, Taylor-Smith reported living alone in a hotel, but she declined to name the hotel. At the dispositional hearing, Taylor-Smith testified she had been renting a home with her cousin for approximately a month.

¶ 15 In 2013, Taylor-Smith permitted her brother, whom she knew to be a registered sex offender, to stay with her and the minors. In 2017, Taylor-Smith allowed drugs and guns in the home where the minors, as well as her foster children, resided. Taylor-Smith thereafter was arrested on drug and gun charges.

¶ 16 During the interview for the preparation of the dispositional report, Taylor-Smith declined to comment on her recent arrest or DCFS involvement. The author of the dispositional report expressed "substantial concerns about [Taylor-Smith's] ability to teach, model, and otherwise promote prosocial behaviors in her children" given her recent arrest also implicated her 17-year-old son. The author of the dispositional report noted Taylor-Smith "appears to lack knowledge of, or at least compartmentalize, the impact of risk of harm [her criminal behavior

has] on her children” and her criminal behavior “lends further question regarding her ability to safely [and] effectively supervise her children.” The author of the dispositional report concluded Taylor-Smith “exhibits extremely poor judgment, an inability to recognize and regulate her emotions, difficulty establishing non-problematic relationships, lack of insight, and a lack of recognition of the impact of her actions on others, especial her children.”

¶ 17 Based on the evidence and recommendations presented, the trial court (1) made D.R. and J.B. wards of the court, (2) found Robinson fit, able, and willing to exercise custody and guardianship of D.R.; (3) found Taylor-Smith unfit and unable to care for D.R. and J.B.; (4) found Brock unfit and unable to care for J.B.; (5) found it was in D.R.’s best interest to place custody and guardianship with Robinson; and (6) found it was in J.B.’s best interest to place custody and guardianship with DCFS.

¶ 18 E. Dispositional Hearing Concerning S.G.

¶ 19 On March 28, 2018, the trial court held a dispositional hearing concerning S.G. Based on the evidence and recommendations presented, the court (1) made S.G. a ward of the court, (2) found Taylor-Smith unfit and unable to care for S.G., (3) found Guy unfit and unable to care for S.G., and (4) found it was in S.G.’s best interest to place custody and guardianship with DCFS.

¶ 20 This appeal followed.

¶ 21 II. ANALYSIS

¶ 22 On appeal, Taylor-Smith argues the trial court’s finding she was unfit and unable to care for the minors is against the manifest weight of the evidence. Brock “concedes he was unable to parent, as he was (and remains) [imprisoned]” but joins in Taylor-Smith’s argument.

Guy also “concedes he is unable to parent” and joins in Taylor-Smith’s argument. The State asserts the court’s finding of unfitness concerning Taylor-Smith is not against the manifest weight of the evidence.

¶ 23 After a minor is adjudged a ward of the court, the trial court is tasked with determining a disposition best serving the minor’s interests. 705 ILCS 405/2-22(1) (West 2016)); *In re Al. S.*, 2017 IL App (4th) 160737, ¶ 40, 73 N.E.3d 1178. Among the possible dispositions, the minor may be (1) continued in the care of the minor’s parent, guardian, or legal custodian; (2) restored to the custody of the minor’s parent, guardian, or legal custodian; or (3) “placed in accordance” with section 2-27 of the Act. 705 ILCS 405/2-23(1)(a) (West 2016); *In re M.M.*, 2016 IL 119932, ¶ 18, 72 N.E.3d 260. A court may not restore custody to a parent whose child has been adjudged neglected or abused based on the acts or omissions of that parent unless the court determines, after a hearing, the parent is fit to care for the minor. 705 ILCS 405/2-23(1)(a) (West 2016). Under section 2-27(1) of the Act (705 ILCS 405/2-27(1) (West 2016)), a court may commit a minor to the custody of DCFS if it determines “the parents *** of a minor adjudged a ward of the court are unfit or are 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.”

¶ 24 On appeal from a dispositional order, “a trial 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.’ ” *Al. S.*, 2017 IL App (4th) 160737, ¶ 41 (quoting *In re J.W.*, 386 Ill. App. 3d 847, 856, 898 N.E.2d 803, 811 (2008).

“A court’s factual finding is against the manifest weight of the evidence where the opposite conclusion is clearly evident or where its finding is unreasonable, arbitrary, or not based on the evidence presented.” *Al. S.*, 2017 IL App (4th) 160737, ¶ 41.

¶ 25 The record demonstrates a major concern was Taylor’s Smith’s “extremely poor judgment.” In the home where the minors resided, Taylor-Smith allowed (1) illegal substances to be present, (2) loaded handguns to be readily accessible, and (3) a known registered sex offender to stay. The home environment provided by Taylor-Smith evidenced her unfitness and inability to parent. Given this evidence, we find the trial court’s finding was not against the manifest weight of the evidence.

¶ 26 In reaching this decision, we note the State has suggested Brock and Guy may not join in Taylor-Smith’s argument concerning her fitness and ability to parent. Because neither Brock nor Guy has presented any argument in addition to that presented by Taylor-Smith, we need not address the State’s argument.

¶ 27 III. CONCLUSION

¶ 28 We affirm the trial court’s judgment.

¶ 29 Affirmed.