2018 IL App (4th) 180330-U

NO. 4-18-0330

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
September 7, 2018
Carla Bender
4th District Appellate
Court, IL

In re Z.G., a Minor	)	Appeal from the
	)	Circuit Court of
(The People of the State of Illinois,	)	Champaign County
Petitioner-Appellee,	)	No. 18JA4
v.	)	
Jessica J.,	)	Honorable
Respondent-Appellant).	)	Brett N. Olmstead,
	)	Judge Presiding.

JUSTICE TURNER delivered the judgment of the court.
Justices Steigmann and DeArmond concurred in the judgment.

ORDER

¶ 1 *Held*: The circuit court did not err by granting the guardian *ad litem*'s motion for continuance, and respondent failed to establish the court erred in denying her motion for a directed verdict.

¶ 2 In January 2018, the State filed a petition for adjudication of wardship as to Z.G. (born in August 2016), the minor child of respondent, Jessica J., asserting Z.G. was neglected on four counts. After a three-day adjudicatory hearing, the Champaign County circuit court found Z.G. was neglected based on two counts alleged in the petition. At the May 2018 dispositional hearing, the court (1) found respondent unfit and unable to care for Z.G.; (2) made Z.G. a ward of the court; and (3) placed Z.G.'s custody and guardianship with the Department of Children and Family Services (DCFS).

¶ 3 Respondent appeals, contending the circuit court erred by (1) granting the guardian *ad litem*'s motion for a continuance during the adjudicatory hearing and (2) denying

respondent's motion for a directed finding at the close of the State's evidence. We affirm.

¶ 4 I. BACKGROUND

¶ 5 Z.G.'s father is Anthony G., who is not a party to this appeal. The State's January 2018 petition alleged Z.G. was neglected pursuant to section 2-3(1)(b) of the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/2-3(1)(b) (West 2016)), in that his environment was injurious to his welfare (1) when he lived with respondent and Anthony because said environment exposed him to domestic violence, (2) when he lived with respondent and Anthony because said environment exposed him to substance abuse, (3) when he lived with Anthony because said environment exposed him to inappropriate caregivers, and (4) when he lived with respondent because of respondent's history of and continued mental illness.

¶ 6 On March 12, 2018, the circuit court commenced the adjudicatory hearing. The State presented the testimony of (1) Chad Turner, DCFS child protection specialist; and (2) Michelle Brunner, intact case worker at Children's Home and Aid.

¶ 7 Turner testified he was assigned to the case in January 2018. In his investigation, he discovered respondent had the following prior indicated reports: (1) 2009 report for failure to thrive for another son, D.J.; (2) 2010 report for environmental neglect and inadequate supervision for her daughter, J.J.; (3) 2012 report for risk of harm and inadequate supervision for D.J. and J.J.; and (4) 2017 report for risk of harm as to Z.G. In 2017, respondent had left Z.G., who was almost one year old at that time, in a local park by himself wearing nothing but a diaper. Turner further testified both respondent and Anthony had children other than Z.G. removed from their care.

¶ 8 Brunner testified she became involved in this case from November 2017 to the middle of January 2018. She received the case from DCFS, which had implemented a safety

plan several weeks before she received the case. The plan provided respondent could not have any contact with Z.G. until she started complying with directives from DCFS and later the Children's Home and Aid. Moreover, respondent's mother, Tina J., could not be left alone with Z.G. unsupervised. For the safety plan to be terminated, both respondent and Anthony needed to complete a mental-health assessment, a substance-abuse assessment, parenting classes, and a domestic-violence assessment. Brunner had a difficult time making contact with respondent but was able to schedule a parent/child visit. However, respondent was 90 minutes late. During the few brief conversations she had with respondent, Brunner was unable to identify any mental-health issues with respondent. Brunner did meet with Anthony weekly at his residence. Anthony had custody of Z.G., and Tina also lived with them. Tina was present for at least four of the home visits. During the initial visit when the case was transferred from DCFS, Tina was present and became hysterical when Anthony signed the safety plan. On December 8, 2017, Brunner conducted an unannounced visit and found Z.G. alone with Tina. While Brunner attempted to locate Anthony, Tina was getting hostile towards Brunner and yelling at her. Brunner got the police involved. Anthony explained he thought he was only going to be gone for a couple of minutes but ended up in a traffic jam. The police confirmed there was a traffic jam where respondent said he encountered one. Brunner testified Anthony and respondent never completed any of the required assessments.

¶ 9 After the State rested, the guardian *ad litem* moved for a continuance to present the testimony of Obeckyo Quinn and Jamie Ketchum. The guardian *ad litem* explained she did not think it would get to her case on the first hearing date and, thus, she did not subpoena her witnesses. The State did not object to the continuance, but respondent and Anthony did. They asserted the guardian *ad litem* had not shown due diligence to justify a continuance. The court

granted the continuance over the objections, noting the way the court's schedule was "stacked up" for the afternoon of the hearing it was easy to understand how the guardian *ad litem* thought there would not be time to reach her witnesses. The court continued the hearing to March 26, 2018.

¶ 10 At the beginning of the hearing on March 26, 2018, respondent and Anthony moved for a directed finding, asserting the State's evidence was insufficient to prove any of the four counts of neglect alleged in the petition. The court took the motion under advisement and allowed the guardian *ad litem* to present her evidence. She presented the testimony of (1) Quinn, DCFS investigator; and (2) Ketchum, intact caseworker with Children's Home and Aid.

¶ 11 Quinn testified she investigated the August 2017 incident. Quinn went to Z.G.'s residence. At the time, Z.G. lived with respondent, Anthony, and Tina. Respondent told Quinn she had a history of schizophrenia and stopped taking her medicine after her recent release from prison. Respondent also admitted she used cannabis. Quinn asked her for a drug drop, and she "wasn't necessarily willing to do" one. According to Quinn, respondent was disagreeable during the interview and told her not to come back. Quinn spoke to Anthony on the telephone, and Anthony indicated he was Z.G.'s primary caregiver. Anthony did not believe Z.G. was at risk with respondent but did agree to come and get Z.G.

¶ 12 Quinn continued to visit Z.G.'s home once a week for a month. On November 8, 2017, she went to the home because she had been unable to reach anyone. When Quinn arrived, respondent and Tina were upset. Respondent admitted to Quinn she had attempted to overdose on Anthony's blood thinners. Emergency medical technicians were called to the home to assess respondent's mental stability. Respondent did not want to go with them. According to Quinn, respondent was acting in "a childlike manner" and was very sad and upset. Quinn had concerns

about respondent's mental stability. Anthony was upset respondent needed to leave the home due to her mental-health issues but would have her leave to avoid issues with Z.G. A "transitional meeting" was held shortly after the aforementioned incident, and respondent refused to participate. Additionally, Quinn testified about a verbal disagreement between respondent and Tina that Quinn observed. Tina was yelling at respondent to get mental-health services, so Z.G. would not be removed. During the argument, they had left Z.G. alone in the house on a bed. He was a little over one year old at the time.

¶ 13 Ketchum worked for Children's Home and Aid and conducted a January 4, 2018, visit for Brunner. She knocked on the door to Anthony's residence several times without response. Ketchum could hear a male voice, a female voice, and a child crying inside. After 10 minutes, Ketchum called Anthony and explained who she was and the purpose of the visit. It took Anthony several minutes to open the door and invite her into the home. Anthony was playing a video for Z.G. that contained vulgarities. When questioned about it, Anthony stated it was the only way for him to keep Z.G. quiet. During the visit, Anthony appeared nervous and shaky. He denied anyone else was in the home. However, Ketchum discovered a woman hiding behind the curtains. Anthony said the woman only stayed there sometimes. The woman kept herself covered with a blanket the entire time except for her eyes. Ketchum also testified that, when she entered Anthony's bedroom, she smelled alcohol.

¶ 14 After the guardian *ad litem* rested, Anthony testified on his own behalf. Respondent did not present any evidence. The parties again presented arguments about the motion for a directed finding, and the court continued the adjudicatory hearing and took the motion under advisement.

¶ 15 On April 3, 2018, the circuit court resumed the continued adjudicatory hearing.

The court gave the parties an opportunity to present more arguments on the motion for a directed finding. The court denied the motion for a directed finding. It found that, with an adjudicatory hearing under the Juvenile Court Act (705 ILCS 405/art. 2 (West 2016)), the respondent parent cannot make a motion for a directed finding until after the guardian *ad litem* had been given an opportunity to present evidence. The court then allowed respondent and Anthony to make another motion for a directed finding that would be considered at the point when the guardian *ad litem* rested her case. Respondent did so, and the court denied that motion.

¶ 16 After hearing the parties' arguments regarding neglect, the circuit court found the State failed to prove count I but did prove counts II and III of the wardship petition. The court also declined to make a ruling on count IV. That same day, the court entered a written adjudicatory order reflecting its findings.

¶ 17 On May 2, 2018, the circuit court held the dispositional hearing. The dispositional report was the only evidence presented at the hearing. After hearing the parties' arguments, the circuit court found both respondent and Anthony were unfit and unable to care for Z.G. The court made Z.G. a ward of the court and placed his custody and guardianship with DCFS. That same day, the court entered a written order consistent with its aforementioned findings.

¶ 18 On May 10, 2018, respondent filed a timely notice of appeal in sufficient compliance with Illinois Supreme Court Rule 303 (eff. July 1, 2017). See Ill. S. Ct. R. 660(b) (eff. Oct. 1, 2001) (providing the rules governing civil cases govern appeals from final judgments in all proceedings under the Juvenile Court Act, except for delinquency cases). Thus, this court has jurisdiction of this appeal under Illinois Supreme Court Rule 304(b)(1) (eff. Mar. 8, 2016). See *In re Austin W.*, 214 Ill. 2d 31, 43-44, 823 N.E.2d 572, 580 (2005), *abrogated on*

other grounds by In re M.M., 2016 IL 119932, ¶ 31, 72 N.E.3d 260 (noting "dispositional orders are generally considered 'final' for the purposes of appeal").

¶ 19 II. ANALYSIS

¶ 20 After a petition for adjudication of wardship based on abuse, neglect, or dependency is filed under section 2-13 of the Juvenile Court Act (705 ILCS 405/2-13 (West 2016)), the act provides a two-step process the circuit court must utilize to decide whether the minor child should become a ward of the court. *In re A.P.*, 2012 IL 113875, ¶ 18, 981 N.E.2d 336. Step one of the process is the adjudicatory hearing, at which the court considers only whether the minor child is abused, neglected, or dependent. See 705 ILCS 405/2-18(1) (West 2016); *A.P.*, 2012 IL 113875, ¶ 19. If the circuit court determines the minor child is abused, neglected, or dependent at the adjudicatory hearing, then the court holds a dispositional hearing, where the court determines whether it is consistent with the health, safety, and best interests of the minor child and the public for the minor child to be made a ward of the court. *A.P.*, 2012 IL 113875, ¶ 21. Here, respondent challenges the circuit court's rulings related to the adjudicatory hearing.

¶ 21 Initially, the State asserts respondent forfeited all of her arguments on appeal because she failed to file a posttrial motion raising the errors. However, with civil cases that do not involve a jury, Illinois Supreme Court Rule 366(b)(3)(ii) (eff. Feb. 1, 1994) provides the failure to file a postjudgment motion does not limit the scope of review. Accordingly, we find respondent has not forfeited her issues for review based on her failure to raise the issues in a posttrial motion.

¶ 22 A. Motion for Continuance

Respondent first asserts the circuit court erred by granting the guardian *ad litem*'s

motion for continuance at the adjudicatory hearing. In support of her argument, she cites Illinois Supreme Court Rule 231 (eff. Jan. 1, 1970), which addresses civil trials. We review a circuit court's decision to grant a motion to continue under the abuse of discretion standard. See *In re M.R.*, 393 Ill. App. 3d 609, 619, 912 N.E.2d 337, 346 (2009). A circuit court "abuses its discretion when no reasonable person would agree with its decision." *In re M.P.*, 408 Ill. App. 3d 1070, 1073, 945 N.E.2d 1197, 1200 (2011).

¶ 23 In this case, the wardship petition was brought under article II of the Juvenile Court Act (705 ILCS 405/art. 2 (West 2016)). Illinois Supreme Court Rule 900(b)(2) (eff. Mar. 8, 2016) defines the scope of the 900 series of supreme court rules and provides rules 900 through 920, except as stated therein, apply to all child custody proceedings, including those initiated under article II of the Juvenile Court Act. Illinois Supreme Court Rule 901(c) (eff. Mar. 8, 2016) addresses continuances and provides the following:

> "Parties, witnesses and counsel shall be held accountable for attending hearings in child custody and allocation of parental responsibilities proceedings. Continuances shall not be granted in child custody and allocation of parental responsibilities proceedings except for good cause shown and may be granted if the continuance is consistent with the health, safety and best interests of the child. The party requesting the continuance and the reasons for the continuance shall be documented in the record."

Thus, we disagree with respondent Rule 231 applies in this case.

¶ 24 Here, the guardian *ad litem* moved for a continuance because she did not believe the adjudicatory hearing would get through the State's case on the first hearing date based on the circuit court's schedule for that afternoon. The guardian *ad litem* asserted it was in Z.G.'s best

interests for her to be allowed to present additional evidence from Quinn and Ketchum. In granting the motion, the circuit court indicated the guardian *ad litem*'s belief was reasonable based on its schedule. While we encourage the attorneys in proceedings under the Juvenile Court Act to be prepared to present their case, we do not find the circuit court abused its discretion under Rule 901(c) by granting the guardian *ad litem* a continuance in this case.

¶ 25 B. Motion for a Directed Finding

¶ 26 Respondent also argues that, if the circuit court should not have granted the guardian *ad litem*'s motion for a continuance, the guardian *ad litem* should not have been permitted to present evidence. Thus, respondent contends the circuit court should have granted respondent's motion for a directed verdict when it was made after the State's case because the court only denied the motion later based on the guardian *ad litem*'s evidence. In the alternative, respondent argues the evidence presented by the guardian *ad litem* was insufficient to prove neglect by a preponderance of the evidence. Since we found the circuit court did not abuse its discretion by granting the guardian *ad litem*'s motion for a continuance, we turn to respondent's alternative argument.

¶ 27 Respondent's alternative argument is one paragraph long and contains no citations to legal authority. Specifically, it lacks a citation to section 2-3(b)(1) of the Juvenile Court Act (705 ILCS 405/2-3(b)(1) (West 2016)), the provision under which the circuit court found Z.G. neglected, or any cases applying that statutory provision. It also does not mention the circuit court found Z.G. neglected on two grounds or address the alleged insufficiency of the evidence pertaining to each ground of neglect. The paragraph simply noted some of the testimony by the guardian *ad litem*'s witnesses and contended that evidence "did not compel a reasonable conclusion Z.G.'s environment had ever been injurious to him."

¶ 28 Illinois Supreme Court Rule 341(h)(7) (eff. May 25, 2018) requires citation to the legal authority relied upon. Moreover, "[a] reviewing court is entitled to have the issues on appeal clearly defined with pertinent authority cited and a cohesive legal argument presented." *Thrall Car Manufacturing Co. v. Lindquist*, 145 Ill. App. 3d 712, 719, 495 N.E.2d 1132, 1137 (1986). It "is not a depository in which the appellant may dump the burden of argument and research." *Thrall Car Manufacturing Co.*, 145 Ill. App. 3d at 719, 495 N.E.2d at 1137. Here, respondent's alternative ground for reversal violates Rule 341(h)(7) and lacks a cohesive legal argument. Accordingly, we find respondent has forfeited her alternative argument. See *Lewis v. Heartland Food Corp.*, 2014 IL App (1st) 123303, ¶ 6, 17 N.E.3d 219 (finding the appellant forfeited his argument by failing to provide a cohesive legal argument or a reasoned basis for his contentions).

¶ 29 III. CONCLUSION

¶ 30 For the reasons stated, we affirm the Champaign County circuit court's judgment.

¶ 31 Affirmed.