

NOTICE

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2018 IL App (4th) 180410-U

NO. 4-18-0410

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

October 2, 2018

Carla Bender
4th District Appellate
Court, IL

<i>In re</i> G.G., a Minor)	Appeal from the
)	Circuit Court of
(The People of the State of Illinois,)	Champaign County
Petitioner-Appellee,)	No. 18JA02
v.)	
Jared G.,)	Honorable
Respondent-Appellant).)	Brett N. Olmstead,
)	Judge Presiding.

JUSTICE DeARMOND delivered the judgment of the court.
Presiding Justice Harris and Justice Knecht concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court affirmed, finding the trial court did not err in adjudicating the minor neglected and making him a ward of the court.

¶ 2 In January 2018, the State filed an amended petition for adjudication of neglect with respect to G.G., the minor child of respondent, Jared G. In June 2018, the trial court adjudicated the minor neglected, made him a ward of the court, and placed custody and guardianship with the Department of Children and Family Services (DCFS).

¶ 3 On appeal, respondent argues the trial court erred in finding the minor neglected. We affirm.

¶ 4 I. BACKGROUND

¶ 5 In January 2018, the State filed an amended petition for adjudication of neglect with respect to G.G., born in January 2017, the minor child of Cynthia T. The State listed respondent as the putative father of G.G. The amended petition alleged G.G. and another minor

were 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)) because their environment was injurious to their welfare when they resided with Cynthia and respondent because the environment exposed the minors to domestic violence. The trial court entered a temporary custody order, finding probable cause to believe the minors were neglected because the evidence showed respondent and Cynthia had established a repeating pattern of conflict in their relationship escalating into violence and dangerous situations. The court placed temporary custody with DCFS.

¶ 6 In April 2018, the trial court conducted the adjudicatory hearing. Respondent elected to discharge his appointed attorney and proceeded *pro se*. Urbana police officer Darrin McCartney testified he responded to a call on March 9, 2017, at Carle Foundation Hospital for an alleged battery in the neonatal intensive care unit and met with Cynthia. She stated she had let respondent visit G.G., who was a patient following his premature birth. McCartney stated Cynthia was “visibly upset and crying” and “very emotional.” Cynthia told him respondent had asked to stay at her apartment for the night. She did not want respondent to stay, and an argument ensued. While she sat in a chair holding her newborn, respondent approached, attempted to punch her with a closed fist but missed, and instead hit the infant. McCartney stated he has had multiple dealings with respondent, who had been “very uncooperative.”

¶ 7 Urbana police officer Paige Bennett testified she responded to a domestic dispute on December 28, 2017. Upon her approach to an apartment, Bennett could hear arguing inside between a male and a female. Bennett knocked, and Cynthia answered. Cynthia and respondent continued to argue, and Bennett asked respondent to step outside. Bennett observed four children inside the apartment with Cynthia. Bennett stated respondent had called the police, and Cynthia stated he was trying to throw her out of the apartment and she did not want to leave

because she had nowhere to go. At the same time, respondent was yelling obscenities in the stairwell and wanted the police to remove Cynthia from the apartment. When speaking with respondent, Bennett stated he displayed an “aggressive tone.” When respondent was allowed back into his apartment, Bennett moved Cynthia and the children into the kitchen because respondent’s behaviors “were very unsafe and unpredictable.” Respondent paced the floor, walked in circles, and flailed his arms in an “erratic” way. When respondent continued to yell and walked toward the children, Bennett advised Cynthia to take the children to the bedroom and shut the door. Respondent then asked to speak with a supervisor, but when the supervisor arrived, he did not want to speak with him because of prior contacts. Instead, he got “into his face” and argued with him. When the supervisor went to speak with Cynthia, respondent “continued yelling” and flailed his arms. He also yelled obscenities at Cynthia. He was eventually arrested for obstructing police officers.

¶ 8 Urbana police officer Jonathan Yeagle responded to a domestic dispute on March 11, 2018. Upon approaching, Yeagle heard “a little bit of shouting.” Yeagle knocked on the door and heard somebody yell “ ‘put the baby down, put the baby down.’ ” Another officer reported respondent was attempting to exit through the window. Someone opened the door, and respondent stepped outside. Yeagle spoke with Cynthia, who stated she and respondent were having a dispute over the key to the apartment. Sometime earlier, respondent took the key, showed up at the apartment, and let himself inside. They argued about their relationship, and Cynthia called the police. This incident occurred in G.G.’s presence.

¶ 9 Urbana police officer Bryan Fink testified he responded to a domestic dispute on March 11, 2018. Upon arrival, Fink observed respondent “inside the apartment holding a child.” Through the window screen, Fink told him to set down the child and come outside to talk.

Respondent complied. Respondent stated he and Cynthia had engaged in a verbal argument on the way to the apartment. Once there, respondent got into an altercation with Cynthia's brother, who pushed respondent against the wall and held him by the throat. Respondent stated he was able to get away from the man, picked up the child, and attempted to leave through the window. Fink stated respondent was allowed back into the apartment to gather his belongings before he left.

¶ 10 Obeckyo Quinn, a child-abuse investigator with DCFS, testified she became involved with G.G.'s case in January 2018 after a report of an injurious environment due to domestic violence between respondent and Cynthia. Cynthia stated she and the children had moved into respondent's residence because she had nowhere else to stay. An argument ensued after respondent conditioned her staying on having sex with him. Cynthia refused, and respondent called the police to have Cynthia and the children removed. Quinn stated respondent and Cynthia had a history of DCFS involvement due to domestic disputes. Services were put in place to address mental health, substance abuse, parenting, and domestic violence. When she spoke with respondent on the phone, he yelled and screamed at her, used "a lot of profanities," and hung up on her after telling her he was going to sue her. Quinn stated her investigation resulted in an indicated finding.

¶ 11 Michelle Brunner, a case manager with Children's Home and Aid, testified she began working on G.G.'s case in February 2018. She called respondent and left messages at least once a week for an unspecified period of time. Brunner could not make referrals because she had been unable to obtain respondent's consent to engage in services.

¶ 12 Jerald Feingold, an investigator with DCFS, testified DCFS received a hotline report of a domestic dispute at Cynthia's apartment on March 11, 2018. Cynthia told him

respondent had arrived at the apartment and an argument ensued about the child. In a phone conversation with Feingold, respondent stated his name was on the lease and he had a key. Respondent also stated he was moving to Georgia and he arrived to gather the rest of his belongings. Feingold testified respondent had two prior indicated reports with DCFS, including the incidents in March and December 2017.

¶ 13 After the State rested its case, Cynthia testified she and respondent both called the police during the March 2018 incident. She stated there have been confrontations between them but nothing of a physical nature.

¶ 14 Respondent testified on his own behalf. He stated he asked Cynthia to see the safety plan requiring him to stay away from G.G., but Cynthia said no safety plan existed. Respondent stated he then “immediately disregarded anything anyone told” him because his “son is [his] son.” He claimed he requested the plan from DCFS, as well as referrals for services, but no one would tell him anything.

¶ 15 Drake Bart, respondent’s friend, testified regarding the December 2017 incident. Bart and respondent were trying to get Cynthia to leave the apartment, and a verbal altercation occurred. The police were called, and Bart testified the police acted like respondent had been verbally or physically aggressive.

¶ 16 Following arguments, the trial court found the State proved the petition for adjudication of neglect by a preponderance of the evidence. The court stated respondent and Cynthia have a “very dysfunctional relationship” that is “characterized by issues of power and control.”

“The dysfunctional power domination relationship between these two people was on full display today in this courtroom. When

[Cynthia] was on the witness stand and [respondent] was asking her questions, [Cynthia], pursuant to my instructions, started out trying to project her voice and speak loudly. As [respondent's] questions came to her in his loud, forceful manner, she backed down and backed down and backed down and her voice got softer and softer and softer until at the end you could barely hear her. That is a person in an abusive relationship reacting to the person who's abusing her, and it was on full display in this courtroom.”

The court also noted the “escalating conflict” between respondent and Cynthia “has an effect on the children whether they’re in the room or not, whether they’re on the receiving end of a strike or not. That kind of domestic violence relationship is harmful to the children.” Based on the three incidents, the court found G.G. neglected based on an injurious environment.

¶ 17 In its June 2018 dispositional order, the trial court found respondent unfit and unable, for reasons other than financial circumstances alone, to care for, protect, train, or discipline the minor and the health, safety, and best interests of the minor would be jeopardized if the minor remains in his parents’ custody. The court noted respondent “has developed an unhealthy relationship of dependence, dominance, and verbal and physical abuse with [Cynthia]. He has not accepted responsibility for it and he has no understanding of its nature or the danger it poses to [G.G.]” The court adjudicated the minor neglected, made him a ward of the court, and placed custody and guardianship with DCFS. This appeal followed.

¶ 18 II. ANALYSIS

¶ 19 Respondent argues the trial court erred in finding the minor neglected. We disagree.

¶ 20 When deciding whether a minor should be made a ward of the court, the trial court must conduct an adjudicatory hearing to determine whether the minor is abused, neglected, or dependent. *In re A.P.*, 2012 IL 113875, ¶¶ 18-19, 981 N.E.2d 336 (citing 705 ILCS 405/2-18(1) (West 2010)). The Juvenile Court Act states, in part, that a minor is neglected when his environment is injurious to his welfare. 705 ILCS 405/2-3(b) (West 2016). Our supreme court has noted “neglect” has been generally defined as “the ‘ ‘failure to exercise the care that circumstances justly demand.’ ’ [Citations.]” *In re Arthur H.*, 212 Ill. 2d 441, 463, 819 N.E.2d 734, 746 (2004); see also *In re K.T.*, 361 Ill. App. 3d 187, 200, 836 N.E.2d 769, 779 (2005) (stating neglect “encompasses both willful and unintentional disregard of parental duty”). Moreover, the court has stated “the term ‘injurious environment’ has been interpreted to include ‘the breach of a parent’s duty to ensure a “safe and nurturing shelter” for his or her children.’ [Citations.]” *Arthur H.*, 212 Ill. 2d at 463, 819 N.E.2d at 747. “[C]ases involving allegations of neglect and adjudication of wardship are *sui generis*, and must be decided on the basis of their unique circumstances.” *Arthur H.*, 212 Ill. 2d at 463, 819 N.E.2d at 747.

¶ 21 The State has the burden of proving the allegations of neglect by a preponderance of the evidence. *Arthur H.*, 212 Ill. 2d at 463-64, 819 N.E.2d at 747. On appeal, this court will not reverse a trial court’s finding of neglect unless it is against the manifest weight of the evidence. *Arthur H.*, 212 Ill. 2d at 464, 819 N.E.2d at 747. “A finding is against the manifest weight of the evidence only if the opposite conclusion is clearly evident.” *Arthur H.*, 212 Ill. 2d at 464, 819 N.E.2d at 747.

¶ 22 In the case *sub judice*, the trial court heard evidence of three incidents of domestic violence between respondent and Cynthia. In March 2017, Officer McCartney found Cynthia “visibly upset and crying” and “very emotional” in the neonatal intensive care unit at the

hospital. Cynthia said she and respondent had been arguing and he attempted to punch her with a closed fist but missed and hit G.G.

¶ 23 In December 2017, Officer Bennett responded to a domestic dispute and heard arguing between a male and a female. Even after Cynthia answered the door, she and respondent continued to argue. Bennett observed four children inside the apartment. Bennett found respondent to be displaying an “aggressive tone,” flailing his arms, yelling, and shouting obscenities. He was eventually arrested for obstructing police officers.

¶ 24 In March 2018, Officer Yeagle responded to a domestic dispute and heard shouting and someone yelling “ ‘put the baby down, put the baby down.’ ” Another officer reported respondent was holding G.G. and attempting to exit through the window. Cynthia stated they had been arguing, and it occurred in G.G.’s presence. Respondent told Officer Fink he had a physical altercation with Cynthia’s brother.

¶ 25 Along with these three incidents of domestic violence, the trial court noted how the “dysfunctional power domination relationship between these two people was on full display today in this courtroom.” Acting *pro se* and questioning Cynthia, respondent questioned her in a “loud, forceful manner,” and she “backed down” in her responses. The court found her to be “a person in an abusive relationship reacting to the person who’s abusing her.” The court stated Cynthia’s claim that there had never been any physical violence between her and respondent was “flat not true.” Instead, the court found respondent and Cynthia failed to understand “the escalating conflict” has a harmful effect on G.G. and the other children.

¶ 26 Here, the trial court heard the testimony and observed the demeanor of the witnesses. It is readily apparent the court did not believe the version of the events articulated by respondent and Cynthia. The evidence indicated the relationship between respondent and

Cynthia has included repeated acts of physical violence and verbal confrontation, oftentimes in the presence of G.G. and other children and requiring police involvement. It cannot be said that respondent's verbal and physical actions toward Cynthia have helped to ensure a safe and nurturing shelter for G.G. Accordingly, we find the court's finding that the minor was neglected due to an injurious environment based on domestic violence between his parents was not against the manifest weight of the evidence.

¶ 27

III. CONCLUSION

¶ 28

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

¶ 29

Affirmed.