

FIRST DIVISION

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
FIRST JUDICIAL DISTRICT

IN THE INTEREST OF A.H.,)	Appeal from the
)	Court Circuit of
Minor-Respondent-Appellee,)	Cook County.
)	
(THE PEOPLE OF THE STATE OF ILLINOIS,)	
)	16 JA 633
Petitioner-Appellee,)	
)	
v.)	The Honorable
)	Andrea Buford,
OCTAVIA B.,)	Judge Presiding.
)	
Mother-Respondent-Appellant,)	
)	
TERRANCE H.,)	
Father-Respondent-Appellee).)	

JUSTICE WALKER delivered the judgment of the court.
Justice Pierce and Justice Griffin concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court may close a wardship case when the evidence supports a finding that a parent has provided a safe and appropriate home for the minor, and the health and best interests of the minor and the public no longer require court supervision of the minor. A litigant waives objection to proceeding on an unwritten motion when the movant notes the lack of a written motion, and no party objects to proceeding on the motion.

¶ 2 The trial court granted the State's petition to make Anthony H. a ward of the court. The court placed Anthony in the custody of his father, Terrance H., and later closed the case.

Anthony's mother, Octavia B., appeals from the order closing the case. She argues that the court erred by entering the order (1) without a written motion for closure; (2) without sufficient written findings of fact; and (3) without sufficient evidentiary support. We find that Octavia waived her objections to the sufficiency of the written findings and to proceeding without a written motion. We further find that the evidence sufficiently supports the decision to close the case. Accordingly, we affirm the trial court's judgment.

¶ 3

I. BACKGROUND

¶ 4

Octavia had five children. Terrance fathered the eldest, Anthony, born in 2002. Daniel B. fathered Danyell B., Isis B., and Jasmine B. Tevin A. fathered the youngest, Tamera A., born on July 7, 2016.

¶ 5

Octavia placed Tamera in Tevin's care for the weekend of July 15 through July 17, 2016. When Tevin returned Tamera to Octavia on July 18, 2016, Tamera's eyes had swollen. Octavia called 911. A doctor at a children's hospital examined Tamera on the same date and found that Tamera had suffered trauma "due to *** most likely inflicted injuries."

¶ 6

The Department of Children and Family Services (DCFS) took all five of Octavia's children into custody and placed them in foster care. In the petitions for wardship, the State alleged:

"Per medical personnel this minor's sibling suffered moderately severe head trauma that is highly suspicious for inflicted injury. Mother was previously diagnosed with bipolar disorder and depression. Mother is noncompliant with mental health treatment, including medication. Mother has made statements

about wanting to die. Mother has expressed that she sometimes feels like hurting her children when she is angry."

¶ 7 Octavia stipulated to the facts alleged in the petition. Terrance admitted that he had not seen Anthony for nine years.

¶ 8 Both Octavia and Terrance participated in DCFS services. In a report filed in March 2017, a psychologist said:

"Octavia *** struggles in her ability to address many of the daily tasks expected of her as an adult. She tends to be easily overwhelmed, fearful and decompensates. *** Intellectually, she has some idea about what she should be doing with regard to ensuring [her children's] safety and care, however, she has far less skill for doing what is necessary.

Octavia has clearly been traumatized and seems to have mental health issues as do many of her family members. She becomes overwhelmed, unhinged and depressed which results in her inability to cogently care for herself and/or her children. Octavia thus, decompensates, withdraws, acts out or somaticizes in order to defend against stressors."

¶ 9 The psychologist recommended psychiatric treatment, cognitive therapy, and coaching for parental skills.

¶ 10 Emily Tuuk, a social worker, completed an Integrated Assessment of Octavia and her children in September 2017. Tuuk noted that a psychiatrist had prescribed psychotropic

medication, and Octavia fully complied with treatment. Octavia consistently participated in therapy and training for parental skills.

¶ 11 Tuuk interviewed Anthony, who hoped to leave foster care soon. Tuuk said, "Anthony's wishes are to go home to his mother and if he can't go home to his mother, to go to his father."

¶ 12 The trial judge interviewed Anthony in July 2017, and in open court, summarized the interview. The judge said:

"[Anthony] basically said that he wanted to live with his mother. If not, if he couldn't live with his mother, he wanted to live with his father.

He was concerned that his father would not discuss with him why he was not in his life." The judge added that Anthony "thought [Terrance's] fiancée was nice."

¶ 13 In September 2017, the court entered adjudication orders making all five of Octavia's children wards of the court. The court noted that Octavia had progressed in services, "doing everything [DCFS] asked [her] to do," but found Octavia and Terrance unable to take care of Anthony as of September 2017.

¶ 14 In December 2017, Terrance filed a motion for unsupervised overnight visits with Anthony. Tuuk testified at a hearing in December 2017 that Anthony's visits with Terrance had gone well, and Anthony wanted to have unsupervised overnight visits with Terrance at Terrance's home in Gary, Indiana. The court approved the visits.

¶ 15 In May 2018, Tuuk testified that Anthony and Terrance had progressed well in therapy. Tuuk recommended the court permit Anthony to reside with Terrance. The guardian *ad litem*

agreed with Tuuk's recommendation. Octavia opposed the recommendation because she sought to have all of her children returned to her care when she completed services.

¶ 16 The court said:

"I do find that [Terrance] is fit willing and able to care for Anthony, that he has completed all of the necessary services, that Anthony is 15 years old. That he desires to be at home with his father, that the visits with the father have gone very smoothly without any issues.

So, he will be returned home to father. The date of the return home will be stayed until the end of the school year, which I believe is June 18th."

¶ 17 On November 20, 2018, Raymond Wilson, a caseworker for SOS Children's Villages, testified that the agency recommended the return of Octavia's four younger children to her custody. Wilson found her home safe and appropriate. Visits with her children had progressed well. She had completed services and Wilson found that she needed no further services. Wilson testified that the children all reacted positively to the prospect of returning to their mother's care, and he believed that returning them to Octavia would serve their best interests. The court granted the motion to return the children to Octavia's custody, expressly finding her fit, willing, and able to take care of her children.

¶ 18 Terrance's attorney asked Wilson whether the agency had an opinion on whether to close Anthony's case. The record shows the following:

"MR. WILSON: Yes, we wanted to move towards closing his case out. I had informed the last attorney who was in your position.

MR. SANDERS [Terrance's attorney]: *** I guess I need to file a motion to close --

MS. VARGO [Guardian ad litem]: Your Honor, I wouldn't object to not having a motion, but I would ask for further testimony regarding Anthony, how he's doing, et cetera.

MR. SANDERS: I can do that."

¶ 19 No one objected to proceeding on the issue of whether to close Anthony's case without a written motion.

¶ 20 Wilson testified that he made an unannounced visit to Terrance's home three days before the hearing. He found the home safe and appropriate, and Anthony told Wilson he wanted to remain in Terrance's custody. Wilson thought that would accord with Anthony's best interests. Wilson established a visitation plan for Anthony to remain in contact with Octavia and his siblings.

¶ 21 Octavia's attorney objected to closing the case, asserting that Anthony said he wanted to return to Octavia's custody. The guardian *ad litem* said,

"I don't think closing his case would bar him from whatever arrangement [Terrance] and Anthony and mom want to figure out in the future regarding where Anthony spends his time and how often he sees each parent."

¶ 22 The court granted the motion to close the case, but added that Anthony "needs to see his mother, as well as his siblings as often as he can." The court entered a written form order indicating that the court closed the case on the court's own motion, finding that the family "is

not in need of further monitoring by the court," and that closing the case would serve Anthony's best interests. Octavia now appeals.

¶ 23

II. ANALYSIS

¶ 24

Octavia argues on appeal (1) the trial court erred by closing the case when no party filed a written motion to close; (2) the court failed to make the written findings required by section 2-31(2) of the Illinois Juvenile Court Act (Act) (705 ILCS 405/2-31(2) (West 2018)); and (3) the evidence does not justify closure of the case.

¶ 25

Before turning to the merits of this appeal, we must assess our own jurisdiction. The trial court's closing of the case, under section 2-31 of the Illinois Juvenile Court Act, was a final order that the appellate court has jurisdiction to review pursuant to Illinois Supreme Court Rule 301. *People v. Sylvia M. (In re M.M.)* 337 Ill. App. 3d 764, 771 (2003).

¶ 26

"Whenever the court determines, and makes written factual findings, that health, safety, and the best interests of the minor and the public no longer require the wardship of the court, the court shall order the wardship terminated and all proceedings under this Act respecting the minor finally closed and discharged." 705 ILCS 405/2-31(2) (West 2016). Hence the court may terminate wardship proceedings when it finds that closure will serve the health, safety and best interest of the minor and the public no longer require the wardship of the court." *In re Aaron R.*, 387 Ill. App. 3d 1130, 1138 (2009). We will not disturb the trial court's findings unless they are contrary to the manifest weight of the evidence. *In re M.G.*, 2018 IL App (3d) 170591, ¶ 20. A finding is against the manifest weight of the evidence where a review of the record clearly demonstrates that the opposite result should have been reached. *In re April C.*, 326 Ill. App. 3d 245, 257 (2001). The trial court's order to close the

case will not be disturbed unless the court has abused its discretion by selecting an inappropriate dispositional order. *Id.* An “abuse of discretion occurs when [a] ruling is arbitrary, fanciful, or unreasonable, or when no reasonable person would take the same view.” *McGill v. Garza*, 378 Ill. App. 3d 73, 76 (2007).

¶ 27 Caseworker Wilson recommended that the court close Anthony's case. Wilson testified that he made an unannounced visit to Terrance's home three days before the hearing of November 20, 2018. He stated that Anthony wanted to remain in Terrence's custody, and that he found the home safe and appropriate. Wilson further testified that remaining with Terrence was in Anthony's best interests.

¶ 28 Octavia emphasizes that Anthony told her he wanted to move back to her home. She argues that the court should have insisted on hearing Anthony's preference directly from Anthony. But the court may rely on hearsay evidence in dispositional hearings. *In re Charles W.*, 2014 IL App (1st) 131281, ¶ 57.

¶ 29 Octavia waived her objection to proceedings without a written motion by failing to object when Terrance brought to the attention of the litigants the lack of a written motion. Remaining silent when the court or the parties invite an objection waives the issue for appeal. Octavia also failed to object in the trial court to the insufficiency of the written findings, thereby forfeiting the issue. *In re K.S.*, 317 Ill. App. 3d 830, 833 (2000); *In re M.M.*, 337 Ill. App. 3d 764, 778 (2003).

¶ 30 The manifest weight of the evidence does not contradict the trial court's finding that the health, safety, and best interests of Anthony and the public no longer require court intervention in Anthony's care. Closing the case helps the court achieve the goal of placing

Anthony in a permanent living arrangement. Accordingly, the court did not select an inappropriate dispositional order. See 705 ILCS 405/1-2(1) (West 2018). Therefore, the trial court did not abuse its discretion when it granted the motion to close the case.

¶ 31

III. CONCLUSION

¶ 32

Octavia waived her objection to considering closure without a written motion to close the case. Octavia also forfeited the issue of the sufficiency of the written findings in support of the closure order. The trial court's finding that the health, safety, and best interests of Anthony and the public no longer require court intervention in Anthony's care was not against the manifest weight of the evidence, and its decision to close the case was not an abuse of discretion. Accordingly, we affirm the trial court's judgment.

¶ 33

Affirmed.