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IN THE  
APPELLATE COURT OF ILLINOIS  
SECOND DISTRICT

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<i>In re</i> ALCYONE W., ALEXANDER W., Minors	)	Appeal from the Circuit Court of Lee County.
	)	
	)	Nos. 18JA19, 18JA18
	)	
(The People of the State of Illinois, Petitioner-Appellee, v. Marie W., Respondent-Appellant.)	)	Honorable Daniel A. Fish, Judge, Presiding.

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JUSTICE McLAREN delivered the judgment of the court.  
Justices Jorgensen and Hudson concurred in the judgment.

**ORDER**

¶ 1 *Held:* The trial court’s order adjudicating the minors neglected was not against the manifest weight of the evidence, and the order requiring respondent to comply with mental health and substance abuse assessments was not an abuse of the trial court’s discretion. Affirmed.

¶ 2 Respondent, Marie W., appeals from orders of the circuit court determining that her children, Alcyone and Alexander W., are neglected minors and requiring respondent to comply with mental health and substance abuse assessments. According to respondent, the evidence was insufficient to prove neglect by a preponderance of the evidence, and the assessments were contrary to the trial court’s factual findings. For the reasons that follow, we affirm.

¶ 3

I. BACKGROUND

¶ 4 On July 20, 2018, the State filed a petition for adjudication of wardship of respondent's minor children. As to both Alexander W., four years old at the time, and Alcyone W., who was two years old, counts I of the petition alleged (unnecessary capitalization removed):

“The minor is neglected, pursuant to 705 ILCS 405/2-3(1)(b)[,] by reason of the following facts: The minor's environment is injurious to his welfare. The minor's mother does not maintain the minor's home in Dixon, LeeCounty, Illinois[,] in a cleanly manner. On or about July 1, 2018, the minor's mother maintained the home such that there was food all over the floor, roaches, random wet spots from unknown sources, and clothes and toys scattered about the residence in the living areas. Similar conditions were observed on July 13, 2018. Moreover, there was no fan or cooling source to cool the home at a time when outside temperatures were over 90 degrees Fahrenheit. The minor's mother allowed the minor and the minor's sibling to sleep on the dirty floor instead of in a proper bed.”

¶ 5 As to Alexander W., count II of the petition alleged:

“The minor is neglected, pursuant to 705 ILCS 405/2-3(1)(a)[,] by reason of the following facts: The minor does not receive the care necessary for his wellbeing. The minor, who turned four years old on September 23, 2017, is not properly cared for by the mother in Dixon, Lee County, Illinois[,] because the mother fails to regularly bathe the minor. The mother does not give the minor appropriate shoes to wear.”

¶ 6 As to Alcyone W., count II of the petition alleged:

“The minor is neglected, pursuant to 705 ILCS 405/2-3(1)(a)[,] by reason of the following facts: The minor does not receive the care necessary for her wellbeing. The minor, who turned two years old on March 11, 2018, is not properly cared for by the

mother in Dixon, Lee County, Illinois[,] because the mother does not provide the minor with proper clothing appropriate to the minor's level of development. On or about July 13, 2018, the minor's mother clothed the minor in only a dress, without underwear or a diaper; this failure by the mother to properly clothe the minor led to the minor urinating on carpet in the home and in the car. Further, the mother fails to regularly bathe the minor. The mother does not give the minor appropriate shoes to wear.”

¶ 7

A. Adjudication Hearing

¶ 8 The adjudication hearing took place on July 23, 2018, and September 26, 2018. Respondent did not appear on September 26, 2018. DCFS investigator Jill Blair testified that in July 2018 two calls were placed to the DCFS hotline regarding the conditions in respondent's home. After the first call, Blair went to respondent's residence on an almost daily basis, or about nine times, leaving her card and contact information each time, but was unable to make contact with respondent or the minors. After the second hotline call, which was received by DCFS on July 13, 2018, Blair went again to respondent's residence. She was accompanied by a Dixon police officer, which was customary due to the allegations of methamphetamine use in the hotline call reports.

¶ 9 Blair testified that when she arrived at the residence, Alcyone W., wearing only a diaper, was hanging her head out of a screenless open window. Blair asked her to get respondent, who told Blair to come to the back door, because the front door could not be opened. When Blair and the officer entered the house, Alexander W. was on the floor sleeping. He was wearing no shoes, and his feet were dirty. Although there was a fan on the floor, there was little air circulation; it was extremely hot, and everyone was sweating profusely.

¶ 10 Blair testified that the inside of respondent's home was cluttered with toys, cracker crumbs, dirty clothing, and kitchen items. The bathroom door was broken "off of the hinge." There was a sheet less mattress on the floor in the minors' bedroom, and the mattress and the rest of the room were cluttered with dirty clothing and toys. Blair asked to look in the refrigerator and saw ketchup, barbeque sauce, mayonnaise, and "slimy" fresh jello, which she later put on the table where Alcyone tried to eat it." She did not see any staple foods "such as eggs, milk, [or] rice," and there was no frozen food in the freezer.

¶ 11 In Blair's opinion, respondent's home was not habitable for the minors. Although she did not see any drugs or drug paraphernalia in the house, the officer advised her that he located a bong in respondent's bedroom.

¶ 12 According to Blair, respondent agreed to a safety plan, which was admitted into evidence. The plan required the minors to be placed with respondent's sister and respondent to clean the residence and to comply with urine screens to insure that she was free of illicit substances. Blair stated that when she took respondent for the scheduled urine test on July 16, 2018, respondent became impatient and left after waiting approximately 10 to 15 minutes. Respondent said she would return on July 18, 2018, for a urine screen, but did not show up for that screen either.

¶ 13 Additionally, Blair testified that she received a phone call from a Dixon police officer on July 19, 2018. The office informed her that respondent was at the safety plan monitor's residence attempting to retrieve the minors. After the officer talked with her, respondent left without the minors, but the next morning Blair's supervisor directed her to take protective custody of the minors due to respondent's lack of cooperation with the safety plan's requirements.

¶ 14 Another DCFS investigator, April Queckboerner, also testified at the adjudication hearing. On July 18, 2018, she met with respondent at the safety plan monitor's house to review and sign the safety plan. She testified that the minors looked clean and appropriately dressed. She reminded respondent to complete the urine screen scheduled for that day, though she learned from Blair that respondent did not go to the urine screen. Queckboerner also visited respondent's residence later that day. She testified that the surfaces in the residence had been cleaned and there was food in the refrigerator. The clutter was not excessive, although the basement still had a lot of garbage in it. The mattress in the minors' room was leaning against a wall, and clothes and toys were piled in the closet area.

¶ 15 Respondent's niece, Haley W., also testified. Haley frequently provided childcare for the minors; in the months prior to July 2018, when the minors were taken into DCFS care, respondent asked her to take the minors at least weekly. When Haley arrived for the minors, respondent did not stop what she was doing to talk with Haley or provide her any information about the minors. Most of the time Alcyone W. would be wearing only a diaper. The minors' feet were often "pitch black," and their faces were encrusted with bodily fluids and food.

¶ 16 According to Haley, respondent's residence was "pretty disgusting." The front door was locked, so she would have to use the back door. In the kitchen there were dirty dishes stacked to the bottom of the cabinets. Pans of oil were on the stove, with dead bugs in them. Old cans of food, newspapers, dishes, clothes, garbage, toys, and food were scattered everywhere. There was no bed in the minors' room, and the mattress in the living room, where Haley assumed the minors slept, had no sheets. Respondent put crackers on the floor, occasionally throwing them, for the minors to eat. Haley testified that Alcyone W. seemed "delayed" for a two year old and never talked but only cried.

¶ 17 Finally, the minors' father testified at the adjudication hearing. He and respondent are separated, and he lives in Maine. He would like to have the children come to Maine and live with him and his girlfriend. He testified that when he spoke with Jill Blair, she advised him to show up at court and be cooperative.

¶ 18 **B. Dispositional Hearing**

¶ 19 The dispositional hearing was held on November 5, 2018. A single witness testified, Jeff Sondgeroth, a foster care caseworker for Youth Service Bureau. Sondgeroth testified that respondent was homeless at the time of the dispositional hearing. He explained that because respondent had not cooperated with an integrated assessment, he recommended following the recommendations of DCFS at the time the minors came into care: complete substance abuse and mental health evaluations and compliance with all recommendations; participate in parenting classes; obtain suitable housing for her and her family; obtain and maintain employment; and cooperate with her caseworker. He recommended that the minors remain in the custody and guardianship of DCFS because, at this point in time, they are unable to return to respondent and cannot be placed with their father until a requested home study has been completed.

¶ 20 Sondgeroth stressed the importance of substance abuse and mental health assessments because substance abuse or mental health problems would raise safety issues for the minors.

¶ 21 **II. ANALYSIS**

¶ 22 Respondent first argues that the State failed to meet its burden of proving neglect by a preponderance of the evidence. "Preponderance of the evidence is that amount of evidence that leads a trier of fact to find that the fact at issue is more probable than not." (Internal quotation marks omitted.) *In re S.S.*, 313 Ill. App. 3d 121, 126–27 (2000). A trial court's determination of neglect will not be reversed on appeal unless its findings of fact are against the manifest weight

of the evidence; this is so because the trial court is in the better position to observe witnesses, assess credibility, and weigh evidence. *Id.* at 127. A finding is against the manifest weight of the evidence “if a review of the record clearly demonstrates that the opposite result would be the proper one.” *Id.*

¶ 23 Rather than mount an argument in support of her position that neglect was not proven by a preponderance of the evidence, respondent simply recounts the testimony presented at the adjudicatory hearing, as recited above in this disposition, and then concludes that the State failed to prove its allegations. Accordingly, she has forfeited any argument on this point. See *People ex rel. Illinois Department of Labor v. E.R.H. Enterprises*, 2013 IL 115106, ¶ 56 (“Both argument and citation to relevant authority are required [under Rule 341(h)(7) (Ill. S.Ct. R. 341(h)(7) (eff. May 25, 2018))]. Failure to comply with the rule’s requirements results in forfeiture.”).

¶ 24 Forfeiture aside, the only testimony arguably favorable to respondent was that of Queckboerner, who stated that when she visited the residence it was substantially cleaned up. At best, this evidence indicates initial cooperation with one requirement of the safety plan. Respondent failed, however, to complete any urine screens and, further, attempted to retrieve the minors from the safety plan monitor’s home. After the minors were taken into DCFS’s care, respondent continued her failure to comply with substance abuse evaluations, and further did not complete any recommended services, including an integrated assessment or mental health assessment. Accordingly, the record does not clearly demonstrate that the opposite result from the court’s finding that the minors were neglected would be the proper one.

¶ 25 Second, respondent argues that the trial court abused its discretion in ordering substance abuse and mental health assessments because the assessments are contrary to the trial court’s

factual findings. A trial court's dispositional determination in a child neglect case will be reversed "only if the court abused its discretion by selecting an inappropriate dispositional order. A trial court abuses its discretion when no reasonable person would agree with its decision." *In re D.S.*, 2018 IL App (3d) 170319, ¶ 17.

¶ 26 Section 2-22(1) of the Juvenile Court Act (750 ILCS 405/2-22(1) (West 2018)) provides:

"At the dispositional hearing, the court shall determine whether it is in the best interests of the minor and the public that he be made a ward of the court, and, if he is to be made a ward of the court, the court shall determine the proper disposition best serving the health, safety and interests of the minor and the public. The court also shall consider the permanency goal set for the minor, the nature of the service plan for the minor and the services delivered and to be delivered under the plan. All evidence helpful in determining those questions, including oral and written reports, may be admitted and may be relied upon the extent of its probative value, even though not competent for the purposes of the adjudicatory hearing." 750 ILCS 405/2-22(1) (West 2018).

A service plan must be "reasonably related to remedying a condition or conditions that gave rise or which *could give rise* to any finding of child abuse or neglect." (Emphasis added.) 325 ILCS 5/8.2 (West 2018).

¶ 27 Here, Sondgeroth testified that due to respondent's failure to cooperate with an integrated assessment, a service plan could not be created; thus, his recommendations at the dispositional hearing mirrored those of DCFS when the minors came into agency care, including that respondent participate in substance abuse and mental health assessments. These recommendations were based on oral and written reports arising from DCFS's investigation. According to Sondgeroth, the reports contained "information that the home that she was residing



in was a -- a possible drug house,” and “DCFS had indicated to [him] that the reason they recommended the mental health [assessment] was they felt that she was not stable and that she was not being honest with what was going on in her life. Sondgeroth specifically testified that substance abuse and mental health issues constituted safety risks to the minors.

¶ 28 In arguing that the trial court heard no evidence that the substance abuse and mental health assessments were necessary to protect the minors, respondent ignores Sondgeroth’s testimony, as well as the fact that the standards for admissibility of evidence at dispositional hearings and adjudicatory hearings are different. See 750 ILCS 405/2-22(1) (West 2018). We further note that although the trial court found no direct evidence of drug *ingestion* at the adjudicatory hearing, it went on to determine that the “finding of the bong” in respondent’s residence “apparently \*\*\* led to the request for drug drops” and that, due to the finding of the bong, respondent’s “lack of cooperation was noteworthy.”

¶ 29 We cannot say that no reasonable person would agree with the trial court’s dispositional orders. *In re D.S.*, 2018 IL App (3d) 170319, ¶ 17.

¶ 30 III. CONCLUSION

¶ 31 For the reasons stated, we affirm the judgment of the circuit court of Lee County.

¶ 32 Affirmed.