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IN THE  
APPELLATE COURT OF ILLINOIS  
SECOND DISTRICT

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<i>In re</i> J.C., a Minor,	)	Appeal from the Circuit Court
	)	of Boone County.
(The People of the State of Illinois,	)	
Petitioner-Appellee v. Juan C.,	)	
Respondent-Appellant).	)	
	)	
<i>In re</i> S.C., a Minor,	)	Nos. 18-JA-7, 18-JA-8, 18-JA-9
	)	
(The People of the State of Illinois,	)	
Petitioner-Appellee v. Juan C.,	)	
Respondent-Appellant).	)	
	)	
<i>In re</i> G.C., a Minor,	)	
	)	
(The People of the State of Illinois,	)	Honorable
Petitioner-Appellee v. Juan C.,	)	Janet R. Holmgren,
Respondent-Appellant).	)	Judge, Presiding.

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JUSTICE BURKE delivered the judgment of the court.  
Justices Jorgensen and Spence concurred in the judgment.

**ORDER**

¶ 1 *Held:* The trial court's order does not dictate the Department of Children and Family Services (DCFS) to make a specific placement or appoint a specific provider for the minors and therefore, the court did not strip DCFS of its placement discretion or preclude placement with the minors' relatives, contrary to statutory authority. Affirmed.

¶ 2 In this appeal, the minors, J.C., S.C., and G.C., were adjudicated neglected, and following a dispositional hearing, the trial court determined that “[g]uardianship and custody [of the minors] is transferred to the Department of Children and Family Services (DCFS) with discretion to place in foster care only.” Respondent, Juan C., contends on appeal that the trial court’s order amounted to ordering a specific placement for which the trial court lacked the statutory authority. We affirm.

¶ 3 I. BACKGROUND

¶ 4 On July 13, 2018, the State Central Registry received a call concerning the safety and well-being of the minors, who were found in the home after a physical altercation between the minors’ parents which resulted in the death of their mother, K.A. The minors were taken into custody following the arrest of respondent.

¶ 5 The State filed neglect petitions on July 17, 2018. At the shelter care hearing, respondent, who was in custody of the Boone County Sheriff, stipulated that the court could find probable cause to believe the minors were neglected. The trial court granted DCFS temporary guardianship and custody. On August 2, 2018, the court modified its earlier orders to reflect that DCFS was authorized to place the children in relative care or in traditional foster care.

¶ 6 On October 11, 2018, the matter came before the court for adjudication on the neglect petitions. The court found that the State had met its burden of proving by a preponderance of the evidence that a serious incident of domestic violence had occurred in the home that resulted in the death of K.A. The court further found that the minors were clearly present at the time of the incident which placed them at a risk of harm. Accordingly, the court found the minors neglected.

¶ 7 At the dispositional hearing held on December 6, 2018, the State stipulated to the reports issued by the Children’s Home & Aid Society and the court-appointed special advocate (CASA), which were submitted to the court for disposition. The State recommended that the court adjudicate the minors as neglected and find respondent unfit or unable to care for them. The State requested guardianship and custody be authorized to DCFS and standard orders of cooperation be entered. The State also requested that the court order that there should be no visitation between respondent and the minors.

¶ 8 Respondent testified that he wished for his family to care for the minors. He specifically named his sisters, Anna Castenada and Ramona Salazar, and another individual, Alvero Cerda, but only Anna and Alvero’s names had been provided to the caseworker.

¶ 9 The caseworker, Mercedes Sanchez, testified that the agency was looking into Anna and was waiting for background checks and would conduct an interview. Sanchez stated that, as far as Alvero was concerned, while the minors were living with him, it was someone else who was fostering the minors and the agency would have to run a background check and interview him.

¶ 10 Sanchez testified that she could not give an exact time on how long it would take to get the background checks on these individuals and that they had been waiting for “like weeks, up to a month” and she could not give an exact time. Sanchez did not have enough information for Alvero in order to run a background check because he had not contacted her. When questioned by the court, Sanchez indicated that Anna had been ruled out as a placement because she had minimized the impact of the events on the minors. Anna did not believe that living so close to the crime scene would affect the minors and she was not supportive of the children’s need for counseling.

¶ 11 The court found respondent unfit, unwilling, or unable to care for the minors, and adjudicated the minors neglected. For dispositional orders, the court stated in court that “[g]uardianship and custody is transferred to [DCFS] with discretion to place in foster care only.”

¶ 12 Respondent timely appeals.

¶ 13 **II. ANALYSIS**

¶ 14 On appeal, respondent contends the court selected an inappropriate disposition that was not allowed by statute. He contends the trial court lacked authority to order a specific placement when it granted guardianship and custody of the minors to DCFS. Respondent maintains our review is *de novo*, as this is a matter of statutory construction. The State notes that the trial court’s judgment on a dispositional order is generally reviewed for an abuse of discretion. See *In re J.W.*, 386 Ill. App. 3d 847, 856 (2008) (the trial court’s determination will be reversed where the court committed an abuse of discretion by selecting an inappropriate dispositional order). However, the State submits that, under either standard, the trial court’s disposition was not inappropriate as it did not order a specific placement contrary to statutory authority.

¶ 15 Pursuant to the Juvenile Court Act of 1987 (Act), once the trial court determines that a minor is neglected, it must set the matter for a dispositional hearing. 705 ILCS 405/2-21(2) (West 2018). At the dispositional hearing, the court must “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.” 705 ILCS 405/2-22(1) (West 2018). Section 2-23(1)(a)(2) of the Act (705 ILCS 405/2-23(1)(a)(2) (West 2018)) provides that, when the trial court determines the minor should not be returned to his home, one of the dispositions can be a

placement “in accordance with Section 2-27.” Section 2-27(1) authorizes the court the following list of alternative placements:

“(a) place the minor in the custody of a suitable relative or other person as legal custodian or guardian;

\* \* \*

(b) place the minor under the guardianship of a probation officer;

(c) commit the minor to an agency for care or placement, except an institution under the authority of the Department of Corrections or [DCFS];

(d) \*\*\* commit the minor to [DCFS] for care and service.” 705 ILCS 405/2-27(1) (West 2018).

¶ 16 Section 2-23(3) of the Act provides: “Unless otherwise specifically authorized by law, the court is not empowered under this subsection (3) to order specific placements, specific services, or specific service providers to be included in the plan.” 705 ILCS 405/2-23(3) (West 2018).

¶ 17 In the present case, the trial court determined that the minors were neglected. At the dispositional hearing, after a finding that the minors should not be returned home, the trial court determined that guardianship and custody of the minors should be placed with DCFS “with discretion to place in foster care only.” Respondent argues that the trial court’s “order was for placement of the children in traditional foster care only and the order served to exclude an entire class of relative/family caregivers from being considered for placement of his children.” Respondent maintains that the court’s order amounted to ordering a specific placement for which the trial court lacked the statutory authority. In support of his argument, respondent relies on *In re Chiara C.*, 279 Ill. App. 3d 761 (1996), and *In re T.L.C.*, 285 Ill. App. 3d 922 (1966).

¶ 18 In *In re Chiara C.*, an emergency motion to change placement was filed on behalf of Chiara, who was in the guardianship of DCFS and placed in the custody of an aunt. The motion sought a court order directing DCFS to place the ward in Girls Hope, a licensed residential facility for college-bound students. The trial court overruled DCFS's objection to the request and entered an order requiring the placement. DCFS appealed, contending that the trial court lacked subject matter jurisdiction to order it to place Chiara in Girls Hope because that placement was a specific service, which the Act did not authorize. *In re Chiara C.*, 279 Ill. App. 3d at 763-64.

¶ 19 The First District Appellate Court reversed, stating:

‘Section 2-28(2) of the Act provides in relevant part:

‘If, after receiving evidence, the court determines that the [permanency] plan or the services contained in the plan are not reasonably calculated to facilitate achievement of the permanency goal, the court shall put in writing the factual basis supporting the determination and enter specific findings based on the evidence as to the reason or reasons why the services are not reasonably calculated to facilitate achievement of the permanency goal. The court also shall enter an order remanding the matter to [DCFS] for further consideration of the nature of the services to be provided in light of the court's findings. Unless otherwise specifically authorized by law, the court is not empowered under this subsection (2) or under subsection (3) to order specific services or service providers to be included in the plan.’ 705 ILCS 2-28(2) (West 1994).

Thus, the statute delineates the specific power of the circuit court: if the court is dissatisfied with the permanency plan or its goal, it is required to make specific findings and to remand the matter to DCFS for its further consideration. The statute specifically disempowers the circuit court to order specific services or service providers.” *In re Chiara*, 279 Ill. App. 3d at 766.

¶ 20 The First District Appellate Court further stated: “The purpose of a permanency review hearing is to determine, *inter alia*, ‘the appropriateness of the services delivered and to be delivered to effectuate the [permanency] plan and goal.’ (Citations omitted.) Although the proceeding here was not labelled a permanency review hearing, its purpose—to determine the appropriateness of Chiara’s residence and educational services—was the equivalent of such a hearing.” *Id.* The court noted that the circuit court was likewise specifically disempowered from ordering specific services following a dispositional hearing. *Id.* “Thus, a reading of the Act as a whole shows that at hearings on the appropriateness of juvenile services, the legislature intended that the circuit court not be empowered to order specific services.” *Id.*

¶ 21 In *In re T.L.C.*, the trial court found *T.L.C.* was neglected and dependent and appointed DCFS as guardian with the power to place. The trial court additionally committed the minor to DCFS for residential placement at the Mill, a private institution. *In re T.L.C.*, 285 Ill. App. 3d at 924. DCFS objected and appealed, contending, in relevant part, that the court lacked jurisdiction to order the specific placement at the Mill. *Id.* Relying on the reasoning in *Chiara*, the Fourth District Appellate Court determined that the trial court erred in directing that DCFS place the minor with the Mill after it made DCFS *T.L.C.*’s guardian. *Id.* at 924-25.

¶ 22 The Fourth District Appellate Court noted that “both sections 2-23(3) and 2-28(2) of the Act were more favorable to DCFS than they were at the time of *Chiara* because both had been

amended to include among the actions which the circuit court could not take ‘[u]less otherwise specifically authorized by law’ (citations omitted) the ordering of ‘specific placements’ to be included in ‘the plan’ (citations omitted).” *Id.* at 929. The Fourth District Appellate Court noted that in *Chiara* “[t]he thrust of the holding there was the same as that here. The statutory format provides for the institution guardian such as DCFS, operating under a plan, to make placement decisions with the safeguard being that the placements are subject to disapproval and required reconsideration by the circuit court.” *Id.*

¶ 23 Unlike in *Chiara* or *T.L.C.*, the trial court here did not order a specific placement or provider. It stated that “[g]uardianship and custody [of the minors] is transferred to [DCFS] with discretion to place in foster care only.” Although the trial court stated “foster care,” this language is not specific as the court did not explicitly identify a particular foster family. See *In re A.L.*, 294 Ill. App. 3d 441, 447 (1998) (distinguishing an order for removal for unspecified alternate placement from an order for specific placement). Here the court did not strip DCFS of its placement discretion or preclude it from placing the minors in relative foster care contrary to statutory authority. See 705 ILCS 405/2-27(1) (West 2018).

¶ 24

### III. CONCLUSION

¶ 25 Based on the preceding, we affirm the judgment of the Circuit Court of Boone County.

¶ 26 Affirmed.