

**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).

2019 IL App (4th) 190033-U  
NOS. 4-19-0033, 4-19-0034 cons.

**FILED**  
June 7, 2019  
Carla Bender  
4<sup>th</sup> District Appellate  
Court, IL

IN THE APPELLATE COURT  
OF ILLINOIS  
FOURTH DISTRICT

In re: O.J., a Minor,	)	Appeal from the
THE PEOPLE OF THE STATE OF ILLINOIS,	)	Circuit Court of
Petitioner-Appellee,	)	Sangamon County
v. (No. 4-19-0033)	)	No. 18JA210
ANGELA B.,	)	
Respondent-Appellant.	)	
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In re: J.J., a Minor,	)	No. 18JA211
THE PEOPLE OF THE STATE OF ILLINOIS,	)	
Petitioner-Appellee,	)	
v. (No. 4-19-0034)	)	Honorable
ANGELA B.,	)	Karen S. Tharp,
Respondent-Appellant.	)	Judge Presiding

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

**ORDER**

¶ 1 *Held:* Respondent did not prove the trial court committed reversible error when it failed to admonish her, before she admitted the State’s allegation of neglect, the children’s father could gain custody of the children at the subsequent dispositional hearing and it could close the case; this court need not consider whether such an admonition is required as respondent was so admonished.

¶ 2 Respondent, Angela B., appeals the dispositional order placing custody of the minors O.J. (born July 1, 2008) and J.J. (born September 22, 2010) with their father, Andrew J., and closing the case. Respondent argues, before she admitted the allegation of neglect, the trial court failed to admonish her of this potential outcome. We affirm.

¶ 3

## I. BACKGROUND

¶ 4 On September 25, 2018, the State filed petitions of wardship on behalf of O.J. and J.J. The State also filed a petition of wardship on behalf of O.M. (born October 23, 2003). O.M. is respondent's child and a half-sibling of O.J. and J.J. Her case was not consolidated on appeal with O.J. and J.J.'s case. On respondent's motion, the appeal involving O.M. was dismissed. According to the petitions involving O.J. and J.J., the children were neglected while living with respondent in that (1) the children's environment was injurious to their welfare as the home had unsanitary conditions and (2) the children were not receiving proper supervision.

¶ 5 Two days later, the trial court entered an order as to shelter care. The court, due to respondent's stipulation, found probable cause the children were neglected. The court placed temporary custody and guardianship with the Department of Children and Family Services (DCFS). The court also granted DCFS the right to place the children with their biological father, Andrew J.

¶ 6 On December 12, 2018, the parties were before the court for a pretrial hearing. The State reported respondent would stipulate the allegation the children's environment was injurious to their welfare as evidenced by the unsanitary conditions and an insect infestation in the home. The State reported the remaining paragraphs would be dismissed and the matter would be set for a dispositional hearing.

¶ 7 The trial court admonished respondent regarding the consequences of her admission, stating:

“Again, I would enter a finding on that allegation. All the other allegations in that petition would be dismissed and we would

set the matter for a dispositional hearing. It's at that next hearing that I would decide a few different things. But one of the main ones I would decide is whose custody and guardianship the children should be in. The range of possibilities in any case would include; [(sic)] mother, father, DCFS or it could be a third party like [] family or [a] close friend. Those are the range of options that I would have as far as custody and guardianship of the children.”

When asked if that made sense, respondent replied it did.

¶ 8 The court continued as follows:

“If the children are placed in the custody and guardianship of DCFS, as they are temporarily right now, there would be a continuing requirement—I would have gone over this before, it's the same thing that holds true today, it would hold true again at disposition if the children remain with DCFS—is that you would need to show that you're working on the tasks of the service plan, show you're making reasonable efforts to correct conditions, show that you're making reasonable progress to having the child either—or children placed with you and returned to you.”

The court explained termination proceedings could begin in nine months if respondent failed to comply. The court then questioned respondent to ascertain whether her admission was voluntary.

¶ 9 The State provided the factual basis for respondent's admission. The State

asserted DCFS investigators went to the home and found the home unsuitable for children due to the amount of trash and an insect infestation. A few days later, the investigators returned to the home and found the trash had been picked up. The infestation, however, remained.

¶ 10 Respondent admitted the allegation, and the trial court accepted the admission. The court found the children neglected.

¶ 11 In January 2019, the trial court held a dispositional hearing. At the hearing, the State recommended custody and guardianship of O.J. and J.J. be placed with their father, Andrew J. The State recommended O.J. and J.J. not be made wards of the court. The guardian *ad litem* did not object to the State's recommendations. Respondent did. The transcript of the hearing is not in the appellate record.

¶ 12 In the dispositional order, the trial court found respondent unfit and unable to have custody of the children at that time. In contrast, the court found Andrew J. fit and able to have custody of his two children. The court found it in O.J.'s and J.J.'s best interests to place custody and guardianship of them with Andrew J. The court further observed a family case had been filed by Andrew J. in September 2018 and concluded any issues the parents needed addressed, including parenting time and parental responsibilities, were best dealt with in family court. The court observed, while respondent was entitled to appointed counsel in the juvenile court, she was not entitled to such counsel in family court. The trial court found it not in the children's best interests that they be made wards of the court and closed the cases. The court noted respondent did not agree to closing the juvenile cases.

¶ 13 The consolidated appeals followed.

¶ 14 II. ANALYSIS

¶ 15 Respondent argues, before she admitted the allegation of neglect, she was not properly admonished by the trial court it could place the children with Andrew J. and close the children's cases, effectively terminating her custody of them. According to respondent, section 1-5(3) of the Juvenile Court Act of 1987 (705 ILCS 405/1-5(3) (West 2016)) requires the trial court to "explain the nature of the proceedings[.]" Respondent concedes she was provided "a perfunctory explanation at the adjudicatory hearing" but maintains the admonishment implied the custody decision would be temporary and subject to further jurisdiction of the juvenile court.

¶ 16 The State asserts the admonishment respondent asserted to be lacking is not required, emphasizing respondent has not proved section 1-5(3)'s admonishment requirement extends from the "first appearance before the court" to the adjudicatory hearing. The State concludes by arguing the admonishment was nevertheless given and the trial court did not imply its custody decision was temporary.

¶ 17 Without making a determination as to whether such admonishment is required, we find respondent received the admonishment she alleges she was entitled to receive. Before accepting respondent's admission, the trial court plainly explained it could award custody to the father at the dispositional hearing: "But one of the main ones I would decide is whose custody and guardianship the children should be in. The range of possibilities in any case would include; [(sic)] mother, father, DCFS or it could be a third party like [] family or [a] close friend." The language does not, as respondent contends, indicate the award would be temporary. The only reference to temporary custody is in regards to DCFS: "If the children are placed in the custody and guardianship of DCFS, as they are temporarily right now, there would be a continuing requirement \*\*\* [to] show that you're making reasonable progress to having the child either—or

children placed with you and returned to you.”

¶ 18 Respondent was informed the trial court could grant custody of the children to their father, and respondent was not advised such custody could be temporary. This latter fact distinguishes this case from *In Interest of Smith*, 77 Ill. App. 3d 1048, 397 N.E.2d 189 (1979), cited by respondent. In *Smith*, the Fifth District concluded the mother was not properly admonished she could, at the dispositional hearing, lose permanent custody of her children when during the adjudicatory hearing, a DCFS worker informed the mother “the deprivation of custody was only temporary” as DCFS would attempt to place her son with her “the following summer.” *Id.* at 1053-54.

¶ 19 III. CONCLUSION

¶ 20 We affirm the trial court’s judgment.

¶ 21 Affirmed.