FILED
November 20, 2019
Carla Bender
4th District Appellate
Court, IL

2019 IL App (4th) 190421-U

NO. 4-19-0421

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re JA. B., AN. T., and AA. T., Minors	)	Appeal from the
	)	Circuit Court of
(The People of the State of Illinois,	)	Champaign County
Petitioner-Appellee,	)	No. 18JA81
v.	)	
Ta-Tanisha B.,	)	Honorable
Respondent-Appellant).	)	John R. Kennedy,
	)	Judge Presiding.

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

ORDER

¶ 1 *Held*: The appellate court affirmed, concluding the trial court's findings of neglect were not against the manifest weight of the evidence.

¶ 2 Respondent mother, Ta-Tanisha B., appeals from the trial court's order adjudicating her three children, Ja. B. (born March 18, 2011), An. T. (born January 2, 2018), and Aa. T. (born March 12, 2019), wards of the court and placing guardianship and custody with the Department of Children and Family Services (DCFS). On appeal, respondent argues the trial court's findings of neglect were against the manifest weight of the evidence. We disagree and affirm.

¶ 3 I. BACKGROUND

¶ 4 A. Petition for Adjudication of Wardship

¶ 5 In October 2018, the State filed a petition for adjudication of wardship, which it later amended. Count I of the amended petition alleged Ja. B., An. T., and Aa. T. were neglected minors as defined by section 2-3(1)(b) of the Juvenile Court Act of 1987 (Act) (705 ILCS 405/2-3(1)(b) (West 2016)) because they were under 18 years of age and subject to an injurious environment when they resided with respondent and Marcus T., the putative father of An. T. and Aa. T., in that said environment exposed the minors to domestic violence. Count II of the amended petition alleged Ja. B. was a neglected minor as defined by section 2-3(1)(a) of the Act (*id.* § 2-3(1)(a)) because respondent and Julius F., the putative father of Ja. B., did not provide Ja. B. with the proper education as required by law. Count III of the amended petition alleged Ja. B. was a neglected minor as defined by section 2-3(1)(b) of the Act (*id.* § 2-3(1)(b)) because he was subject to an injurious environment when he resided with respondent in that said environment failed to provide him with adequate exercise with a school provided speech device.

¶ 6 B. Adjudicatory Hearing

¶ 7 In May 2019, the trial court held an adjudicatory hearing.

¶ 8 1. *Officer Paige Bennett*

¶ 9 Urbana police officer Paige Bennett testified, on March 3, 2018, at approximately 9 a.m., she reported to an address for a "domestic issue." Upon arriving, Officer Bennett encountered respondent. The State asked if anyone else was present "in the home" upon Officer Bennett's arrival, to which Officer Bennett testified, "I can't remember if grandma was there yet or not. I know she was going to take care of their infant child." The State then asked if "the child" was present, and Officer Bennett testified, "Yes."

¶ 10 Officer Bennett testified respondent explained "her and her baby's father, [Marcus T.], had gotten into an argument over—she was looking at his phone while he was sleeping, saw that he was talking to some other females, got upset, woke him up out of his sleep. They got into a physical altercation. And then he went to a nearby neighbor's house before [the police] arrived." Respondent explained to Officer Bennett the physical altercation involved Marcus T. pushing her, which caused her to fall and sustain a small scratch on her arm. Officer Bennett observed respondent's arm to have a "fresh scratch" that was "a little red and starting to swell."

¶ 11 Officer Bennett located Marcus T. at a neighbor's house and then spoke to him about the incident. Officer Bennett testified, "At first, he didn't want to tell me, kind of, what happened. Once he learned that he was being arrested, he told me that the scratch on his nose and on his arm were from an altercation where [respondent] had woken him up by pushing him, and then they kind of got into it, arguing, physical altercation. Then he left before we arrived." Marcus T. explained to Officer Bennett the scratches on him were caused by respondent. Officer Bennett arrested Marcus T. for domestic battery.

¶ 12 2. *Helen Edwards*

¶ 13 Helen Edwards, a kindergarten through second grade cross categorical teacher, testified Ja. B. was a student in her second-grade, self-contained classroom. Edwards had worked with Ja. B. since he was in kindergarten. Ja. B. had an individualized education plan. He was working on pre-academic skills, such as identifying basic letters and numbers. Ja. B. was primarily nonverbal and communicated by gestures or by pointing. He also had an augmentative communication device, which he had used each day at school since the first grade. Edwards

testified the device did not go home with Ja. B. because respondent was worried something might happen to it during the transit on the school bus. Edwards testified she explained to respondent that Ja. B. needed the device and she should not be concerned with it getting broken.

¶ 14 Edwards testified about Ja. B.'s attendance at school that year and the impact it had on his progress. He missed 46 full days and had also been tardy 46 days. Edward spoke with respondent a few times about his attendance. Respondent reported Ja. B. was sick. Edwards recalled instances where Ja. B. was sick, but she did not believe it was to the point he needed to leave school. Edwards stated Ja. B.'s tardiness impacted his education as most core instruction occurred during the morning hours when the students were alert. Edwards testified Ja. B.'s academic progress was "very inconsistent, very slow."

¶ 15 3. *Carla Jones*

¶ 16 Carla Jones, a DCFS child protection investigator, testified Ja. B. and An. T. came to the attention of DCFS after a reported incident of "domestic violence." Upon receiving the case in June 2018, Jones went to respondent's home and spoke with respondent. Both Ja. B. and An. T. were present during the visit. Respondent denied any incident of domestic violence. Jones received Marcus. T.'s phone number from respondent. Jones contacted Marcus T., who also denied any incident of domestic violence. In the months that followed, respondent would not return Jones's calls. In December 2018, respondent contacted Jones, and Jones referred respondent for intact services. At some point, respondent reported she and Marcus T. were no longer in a relationship and no longer living together. Jones later learned respondent was using Marcus T.'s mailing address.

¶ 17 4. *Jonathan Willenborg*

¶ 18 Jonathan Willenborg, a DCFS intact services caseworker, testified he was assigned to the case in December 2018. After being assigned, Willenborg contacted respondent. Willenborg attempted to refer respondent for domestic-violence treatment but respondent refused to sign the necessary consent forms. Willenborg testified respondent indicated she would not sign the consent forms because she and Marcus T. had not been involved in any incident of domestic violence. Willenborg referred respondent to complete a mental-health assessment. Respondent did not complete the assessment. At the time of the adjudicatory hearing, respondent had not completed recommended services.

¶ 19 Willenborg testified he visited respondent at multiple addresses. One of those addresses was where Marcus T. resided. Respondent would have the minors with her during the visits.

¶ 20 6. *Domestic Battery Conviction*

¶ 21 The trial court took judicial notice of an information and sentencing order in Champaign County case No. 18-CM-186, which indicated Marcus T. was convicted of domestic battery for a June 17, 2017, incident involving another woman.

¶ 22 7. *Trial Court's Findings*

¶ 23 After considering the evidence and arguments presented, the trial court found the minors to be neglected as alleged in counts I and II of the State's amended petition for adjudication of wardship. The court found against the State on count III. With respect to count I, the court ruled as follows:

"[C]learly, there has been at least an event of domestic violence between the respondent parents, and, then, with respect to [Marcus T.], the prior act of domestic violence. And, of course, that relates, and it relates because the issue is whether a parent, who [Marcus T.] is, of the child has shown some involvement in domestic violence, and then, of course, the two together in the one event that was described in the testimony that the police officer gave.

And then, probably at least as important or more important, is [respondent's] failure to recognize that there is any need for anything to address. There is an attempt—because it's clear to the Court that there was an event of, for lack of a better description, mutual combat occurring in the event that Officer Bennet[t] responds to. The parents are talked to. Each *** describes not an excessively violent act but nonetheless a physical altercation between them at a time at home. And then after that, really in spite of some consistent efforts of [DCFS] representatives to say, '[Respondent], this is something that requires attention. This is something that requires at least some referrals for counseling.' More specifically, when we get to [Willenborg], identification of the need for referral to *** address issues of domestic violence, and, at that point, an outright refusal of [respondent] just to engage by signing

> consents so that the process could go forward. He had also identified a need for another type of referral for services that was again declined.
>
> So in light of the fact of, one, we have the prior conviction, albeit with another person; nonetheless, that is [Marcus T.], the parent of two of the children, we have a conviction for an event of domestic violence. Subsequent to that, this event of some mutual combat between the parents of the children. And then, on [respondent's] part, declining to even consider that there was domestic violence or that anything needed to be done to address it. That is the evidence that shows the creation of an environment that exposes minors to domestic violence as pled in the first count."

¶ 24 C. Dispositional Hearing

¶ 25 Following a June 2019 dispositional hearing, the trial court made the minors wards of the court and placed guardianship and custody with DCFS.

¶ 26 This appeal followed.

¶ 27 II. ANALYSIS

¶ 28 The Act (705 ILCS 405/1-1 to 7-1 (West 2016)) provides a two-step process for determining whether a minor should be made a ward of the court. *In re A.P.*, 2012 IL 113875, ¶ 18, 981 N.E.2d 336. The first step requires the trial court to conduct an adjudicatory hearing to determine whether a minor is abused, neglected, or dependent. *Id.* ¶ 19. If a trial court determines

a minor is abused, neglected, or dependent, the court must then conduct a dispositional hearing to determine whether it is consistent with the health, safety and best interests of the minor and the public that the minor be made a ward of the court. *Id.* ¶ 21.

¶ 29 In this case, respondent takes issue only with the trial court's findings of neglect. Before the trial court, the State had the burden of providing the allegations of neglect by a preponderance of the evidence. *In re Arthur H.*, 212 Ill. 2d 441, 463-64, 819 N.E.2d 734, 747 (2004). On review, a trial court's findings of neglect will not be reversed unless they are against the manifest weight of the evidence. *A.P.*, 2012 IL 113875, ¶ 17. A court's finding "is against the manifest weight of the evidence only if the opposite conclusion is clearly evident." *Arthur H.*, 212 Ill. 2d at 464.

¶ 30 Respondent asserts the trial court's findings of neglect under count I of the State's amended petition for adjudication of wardship were against the manifest weight of the evidence due to the absence of any evidence of an incident of "domestic violence" and/or resulting exposure to the minors. The State disagrees.

¶ 31 Respondent contends Officer Bennett's testimony about the incident that was relayed to her does not amount to an incident of "domestic violence" as defined by the Illinois Domestic Violence Act of 1986 (750 ILCS 60/103(1), (3), and (14) (West 2016)). We disagree. Officer Bennett testified (1) respondent reported Marcus T. pushed her, causing her to fall and sustain an injury and (2) Marcus T. reported respondent caused scratches to his nose and arm. Officer Bennett's testimony about the incident that was relayed to her meets the definition of "domestic violence" cited by respondent on appeal—the "knowing or reckless use of physical

force." See *id.*

¶ 32 Respondent alternatively contends, even if the evidence was sufficient to conclude an incident of domestic violence occurred, the evidence failed to show the minors' environment exposed them to domestic violence. We disagree. The evidence showed (1) at least one of the minors was present in the home during the incident of domestic violence between respondent and Marcus T., (2) respondent refused to participate in services to address the incident of domestic violence, (3) respondent and Marcus T. may have continued to reside together at times, and (4) Marcus T. had a history of domestic battery. Based on this evidence, we cannot say the trial court's determination the minors' environment exposed them to domestic violence was against the manifest weight of the evidence

¶ 33 We find the trial court's findings of neglect under count I of the State's amended petition for adjudication of wardship were not against the manifest weight of the evidence. Because only a single ground for neglect need be proven, we need not address the court's additional finding of neglect as it related to J.B. under count II of the State's amended petition. *In re Faith B.*, 216 Ill. 2d 1, 14, 832 N.E.2d 152, 159 (2005).

¶ 34 III. CONCLUSION

¶ 35 We affirm the trial court's judgment.

¶ 36 Affirmed.