

**NOTICE**  
Decision filed 01/18/19. The text of this decision may be changed or corrected prior to the filing of a Petition for Rehearing or the disposition of the same.

2019 IL App (5th) 180409-U  
NOS. 5-18-0409 & 5-18-0410 (cons.)  
IN THE  
APPELLATE COURT OF ILLINOIS

**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).

FIFTH DISTRICT

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<i>In re</i> H.S. and I.S., Minors	)	Appeal from the
	)	Circuit Court of
(The People of the State of Illinois,	)	Marion County.
	)	
Petitioner-Appellee,	)	
	)	
v.	)	Nos. 18-JA-20, 18-JA-21
	)	
A.S.,	)	Honorable
	)	Ericka A. Sanders,
Respondent-Appellant).	)	Judge, presiding.

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PRESIDING JUSTICE OVERSTREET delivered the judgment of the court. Justices Welch and Moore concurred in the judgment.

**ORDER**

- ¶ 1 *Held:* After a dispositional hearing, the circuit court properly declared H.S. and I.S. wards of the court and awarded guardianship to DCFS.
- ¶ 2 Following a stipulation to an adjudicatory order of neglect, the circuit court of Marion County conducted a dispositional hearing, adjudged H.S., born December 4, 2013, and I.S., born November 27, 2014, wards of the court, and awarded temporary guardianship to the Department of Children and Family Services (DCFS). On appeal, the respondent contends that the circuit court's finding that he was unable for some reason other than financial circumstances alone to care for, protect, train, or discipline H.S. and

I.S. was against the manifest weight of the evidence. For the following reasons, we affirm the circuit court's dispositional order.

¶ 3 BACKGROUND

¶ 4 On March 16, 2018, the State filed petitions for adjudication of wardship involving I.S. and H.S. The State alleged that the minors were neglected on three bases: (1) their mother, D.C., and aunt were involved in a physical altercation resulting in their arrests while in the minors' presence; (2) the minors were in an injurious environment because D.C. had a history of substance abuse and was involved in domestic violence as evidenced by police reports; and (3) D.C. was not capable of caring for them as evidenced by D.C. having another child previously taken into protective custody and in the father's care.

¶ 5 At a hearing on March 16, 2018, DCFS caseworker Alice Badger testified that after the altercation between D.C. and the minors' aunt, the children were taken into limited custody and placed with the respondent. Badger testified that the respondent was living in a Centralia hotel room. Badger testified that D.C. and the respondent had engaged in domestic violence in the past and that the respondent had a criminal history involving 25 arrests.

¶ 6 On June 20, 2018, D.C. and the respondent appeared in court for an adjudicatory hearing. Both D.C. and the respondent admitted the petition's allegations involving the altercation between D.C. and the minors' aunt. Following the admissions, the court set the matter for a dispositional hearing.

¶ 7 On August 8, 2018, the circuit court held a contested dispositional hearing. The State presented as evidence, without objection, the DCFS written dispositional report filed on July 12, 2018. In the dispositional report, DCFS child welfare specialist Rebecca Zurliene noted that custody was taken of the minors on March 15, 2018, and they were initially placed in the respondent's temporary custody. Zurliene reported that the children were moved to a traditional foster home placement on March 29, 2018, "due to safety issues at their prior placement." Zurliene noted that the respondent did not adhere to DCFS expectations by failing to provide the minors with a stable home environment, failing to take H.S. for dental treatment for significant tooth decay, failing to prepare appropriate meals, failing to enroll them in a pre-kindergarten program, and allowing the children to be cared for by D.C. Zurliene reported that DCFS also had concerns surrounding the respondent's ability to provide stability and gain employment. Zurliene noted that the respondent was residing in a motel room and that he had contended that he was employed.

¶ 8 In the dispositional report, Zurliene indicated that the substitute caregivers had reported that the minors had easily transitioned into their home, which she described as "clean and inviting." Zurliene noted that H.S. had "some crying spells particularly at night when she report[ed] that she misse[d]" the respondent and that I.S. had also verbalized that he missed the respondent.

¶ 9 Zurliene recommended in the dispositional report that the respondent participate in a "Men Challenging Violence" program, based upon the respondent's prior police contacts and charges, H.S.'s report of violence occurring between the respondent and

D.C., and D.C.'s statement that she and the respondent were "violent towards each other." Pursuant to the report, the respondent denied any past domestic violence with D.C., but he acknowledged that he had a prior battery conviction concerning another woman. The respondent was also required to demonstrate that he was "stable with his housing and employment." Noting that the respondent did not enroll the children in a pre-kindergarten program and had allowed the children to be cared for by D.C., although he was aware that she was actively abusing narcotics, Zurliene further recommended parenting education for the respondent. In the report, Zurliene indicated that D.C. and the respondent "appear to be in constant contact."

¶ 10 In the dispositional court report, Zurliene noted that the respondent had been scheduled for an integrated assessment interview on April 24, 2018, but he did not attend the interview, did not contact her to cancel or reschedule the interview, and had not maintained consistent contact with her. Zurliene reported that she and the clinical screener, Sarah Viernum, subsequently interviewed the respondent on June 4, 2018, at the Mt. Vernon DCFS office. Zurliene noted that they interviewed the respondent at the Mt. Vernon DCFS office because he was living in a motel room. Zurliene reported that the respondent did "not appear willing to engage in services and [was] angry at the DCFS." Zurliene noted that the respondent's "prognosis will heavily depend on his ability to cooperate with the DCFS and invest in recommended services."

¶ 11 At the dispositional hearing, Zurliene testified that the minors were originally placed with the respondent and that it was DCFS policy to place children with people who are safe and appropriate. Zurliene also testified that D.C. and the respondent were

living separately. Zurliene testified that the respondent had refused to sign any release of information and, thus, she was unable to validate his attendance at the recommended services. Zurliene testified that she had thrice requested the respondent to sign releases but that the respondent had refused to fully cooperate because he was adamant that DCFS had mistreated him.

¶ 12 At the dispositional hearing, the respondent testified that he resided in a two-bedroom apartment in Centralia, Illinois, and had resided there for approximately two months. The respondent further testified that he was employed full-time by Eagle Recycling, had worked for Eagle Recycling for five or six months, and had received approximately \$358 per week as income. According to the respondent, his DCFS caseworker had not asked for copies of his paycheck stubs and did not visit anymore. The respondent testified that he signed a release at the Community Resource Center and had signed a one-year lease for his apartment, for which he paid \$500 per month, but he acknowledged that he did not provide a copy of the lease to his caseworker. The respondent testified that a DCFS caseworker named Brian picked him up at his apartment and transported him to visits with the children.

¶ 13 In its dispositional order, the circuit court found the respondent unfit to care for, protect, train, educate, supervise, or discipline the minors and held that placement with the respondent was contrary to the health, safety, and best interests of the minors because the environment was injurious to the welfare of the minors. The circuit court thereby adjudicated the minors neglected and made them wards of the court, placing temporary

custody with the DCFS guardianship administrator. On August 24, 2018, the respondent filed timely notices of appeal.

¶ 14

#### ANALYSIS

¶ 15 The respondent argues that the circuit court's dispositional order making the minors wards of the court, thereby finding that he was, for reasons other than financial circumstances alone, unfit to care for, protect, train, educate, supervise, or discipline the minors and that the placement of the minors with the respondent was contrary to the health, safety, and best interest of the minors because the respondent's environment is injurious to the welfare of the minors, was against the manifest weight of the evidence.

¶ 16 In proceedings under the Juvenile Court Act of 1987 (Act), if the court determines a minor is abused or neglected it must then hold a dispositional hearing to determine whether it is consistent with the health, safety, and best interests of the minor and the public for the minor to be made a ward of the court. 705 ILCS 405/2-21 (West 2018). A dispositional hearing allows the court to decide what further actions are in the minor's best interests and gives the parents " 'fair notice of what they must do to retain their rights to' " the minor. *In re April C.*, 326 Ill. App. 3d 225, 237 (2001) (quoting *In re G.F.H.*, 315 Ill. App. 3d 711, 715 (2000)). "Pursuant to section 2-27 of the [Act], a minor may be adjudged a ward of the court and custody taken away from the parents where it is determined that the parents are either unfit or unable, for some reason other than financial circumstances alone, to care for, protect, train or discipline a minor or are unwilling to do so" and the health, safety, and best interests of the minor will be jeopardized if the minor

remains in the parents' custody. *In re April C.*, 326 Ill. App. 3d 245, 256 (2001); 705 ILCS 405/2-27(1) (West 2018).

¶ 17 If the minor is made a ward of the court, the court may place the minor in accordance with section 2-27 of the Act. 705 ILCS 405/2-23(1)(a) (West 2018); *In re M.M.*, 2016 IL 119932, ¶ 18. Section 2-27 provides in relevant part:

“(1) If the court determines and puts in writing the factual basis supporting the determination of whether the parents, guardian, or legal custodian of a minor adjudged a ward of the court are unfit or are unable, for some reason other than financial circumstances alone, to care for, protect, train or discipline the minor or are unwilling to do so, and that the health, safety, and best interest of the minor will be jeopardized if the minor remains in the custody of his or her parents, guardian or custodian, the court may at this hearing and at any later point:

\* \* \*

(d) \*\*\* commit the minor to the Department of Children and Family Services for care and service \*\*\*.” 705 ILCS 405/2-27(1)(d) (West 2018).

“Where the State does not seek to terminate parental rights, section 2-27(1) is concerned only with placement of the minor.” *In re M.M.*, 2016 IL 119932, ¶ 18.

¶ 18 “The standard of proof in a trial court’s section 2-27 finding of unfitness that does not result in a complete termination of all parental rights is [the] preponderance of the evidence.” *In re April C.*, 326 Ill. App. 3d at 257. “On review, the trial court’s determination will be reversed only if the findings of fact are against the manifest weight of the evidence or if the trial court committed an abuse of discretion by selecting an

inappropriate dispositional order.” (Internal quotation marks omitted.) *Id.* “A finding is against the manifest weight of the evidence where a review of the record clearly demonstrates that the result opposite to that reached by the trial court was the proper result.” *Id.* “Because a trial court is in a superior position to assess the credibility of witnesses and weigh the evidence, a reviewing court will not overturn the trial court’s findings merely because the reviewing court may have reached a different decision.” *Id.*

¶ 19 In the present case, the parties stipulated to the neglect finding on the allegations that an injurious environment existed when D.C. and the minors’ aunt had engaged in a physical altercation resulting in their arrests. Following a finding of neglect, the circuit court proceeded to a dispositional hearing to determine “whether it [was] consistent with the health, safety and best interests of the minor and the public that [the minors] be made \*\*\* ward[s] of the court.” 705 ILCS 405/2-21(2) (West 2018). At the dispositional hearing, the State showed that H.S. and I.S. had been subjected to extensive domestic violence. As noted by the State, the respondent was not a party to the domestic violence that prompted the court’s adjudication of neglect; however, the State showed that the respondent had also engaged in domestic violence. H.S., when interviewed, stated that the respondent and her mother engaged in a great deal of conflict and that the respondent “hit” D.C., and D.C. reported that she and the respondent engaged in violence. The State also showed that the respondent engaged in domestic violence with another woman, which resulted in his battery conviction. The State further showed that the respondent and D.C. remained in “constant contact” and that the respondent had permitted D.C. to provide care despite her existing substance abuse. The State also showed that the



respondent's cooperation with DCFS was not ideal, that he had not signed the appropriate releases, and that he had not provided any documentation to support his claims that he had acquired housing and employment or that he was participating in the services, including domestic violence and parenting services, recommended by DCFS. Accordingly, ample evidence supported the circuit court's dispositional order, and the circuit court did not abuse its discretion.

¶ 20

#### CONCLUSION

¶ 21 For the foregoing reasons, we affirm the circuit court's judgment.

¶ 22 Affirmed.