

2020 IL App (2d) 190911-U
No. 2-19-0911
Order filed March 19, 2020

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IN THE
APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

In re BRUCE H. M. IV, a Minor) Appeal from the Circuit Court
) of Winnebago County.
)
) No. 19-JA-117
)
) Honorable
(People of the State of Illinois, Petitioner-) Mary Linn Green,
Appellee v. Julia B., Respondent-Appellant.) Judge, Presiding.

JUSTICE ZENOFF delivered the judgment of the court.
Justices McLaren and Hutchinson concurred in the judgment.

ORDER

¶ 1 *Held:* Counsel's motion to withdraw pursuant to *Anders v. California*, 386 U.S. 738 (1967), was granted, and the trial court's adjudicatory and dispositional orders were affirmed, where an examination of the record revealed no issue of arguable merit to support an appeal from the judgment.

¶ 2 The trial court adjudicated Bruce H. M. IV a neglected minor on three counts pursuant to section 2-3(1)(b) of the Juvenile Court Act of 1987 (705 ILCS 405/2-3(1)(b) (West 2018)). Following a dispositional hearing, the court appointed the Department of Children and Family Services (DCFS) as the minor's legal guardian and custodian, with discretion to place him with a responsible relative or in traditional foster care. The minor's mother, respondent Julia B., appealed the court's orders. The trial court appointed counsel on respondent's behalf.

¶ 3 Counsel now moves to withdraw pursuant to *Anders v. California*, 386 U.S. 738 (1967), representing that there is no issue of arguable merit to support an appeal. Counsel further states that he advised respondent of his opinion. Respondent failed to file a response to counsel's motion, and the time to do so has passed. For the following reasons, we grant counsel's motion to withdraw and affirm the judgment.

¶ 4 I. BACKGROUND

¶ 5 On March 20, 2019, the State filed a petition alleging that the minor was neglected. According to the State, the minor's environment was injurious to his welfare because respondent: (1) "has mental health issues which prevents her from properly parenting" (count I), (2) "has a substance abuse problem which prevents her from properly parenting" (count II), and (3) "has sat on minor in the course of disciplining him" (count III). The State alleged that respondent's behaviors placed the minor at risk of harm.

¶ 6 A. Shelter-Care Hearing

¶ 7 The minor's father waived his right to a shelter-care hearing, and he is not a party to this appeal. Respondent requested a shelter-care hearing, as she was not comfortable with DCFS having placed the minor with his paternal grandmother. The following evidence was presented at the shelter-care hearing.

¶ 8 DCFS investigator Taquisha Santos testified that she received a report in late-February 2019 that respondent and the minor were residing "in multiple different places" and that the minor was being kept in one bedroom for extended periods of time. When Santos met respondent at the location where respondent and the minor were living at the time, respondent began to cry. According to Santos, respondent did not believe that Santos was a DCFS investigator but instead thought that Santos intended to kidnap the minor. Respondent told Santos that there were many

individuals who were out to get her. Santos attempted to calm respondent, assuring respondent that she just wanted to check on the minor to make sure that he was okay. Santos testified that respondent admitted that she and the minor would stay in the bedroom for extended periods of time. When Santos questioned respondent about the longest period that they had spent in that room, respondent did not provide a specific amount of time but said that it “depend[ed] on the day or if there was dinner or not.” During this initial investigation, Santos received information that respondent had once been hospitalized at SwedishAmerican Hospital for harming herself. Respondent admitted to Santos that she smoked marijuana. Based on this initial investigation, Santos asked respondent to complete a mental health assessment and a drug drop.

¶ 9 According to Santos, several weeks after the investigation began, respondent took the minor to OSF St. Anthony’s Hospital for stomach pain, but respondent ended up being assessed by the hospital due to her “irrational behavior.” (Other evidence in the record indicates that it was respondent, not the minor, who was having the stomach pain.) Upon leaving the hospital, respondent was transferred to the Rockford Rescue Mission.

¶ 10 Santos testified that, based on the information that she received about the incident at OSF St. Anthony’s Hospital, she went to Rockford Rescue Mission on March 18, 2019, to speak with respondent. Santos found respondent and the minor walking down a street near the Rockford Rescue Mission, and they all went inside to speak. Respondent’s demeanor changed when Santos asked to speak with respondent outside the minor’s presence. Respondent began to cry and refused to speak with Santos outside the minor’s presence. Santos asked respondent what was wrong, and respondent said that she did not have anywhere to go. Santos asked respondent why the minor was not at school that day. Respondent replied that she did not have a ride to take him to school. According to Santos, even though she showed respondent a DCFS badge, respondent did not

believe that Santos worked for DCFS. When Santos tried to console respondent, respondent said that “everyone was after” the minor. Santos questioned respondent about whether the minor could reside with his maternal grandmother while respondent was evaluated and completed a drug drop. Respondent “kept crying excessively” and explained that she did not want to do that.

¶ 11 Santos testified that respondent then attempted to run outside with the minor while saying: “You’re not going to take [him] away from me.” Santos believed that the minor was in immediate danger, so she contacted law enforcement. When Santos informed respondent that the minor was going to be taken into protective custody, respondent said that she would kill herself and the minor. Before the authorities arrived, respondent came back inside the Rockford Rescue Mission, but she continued to say that she wanted the minor to stay with her. Respondent eventually left the minor with Santos, and respondent was not arrested.

¶ 12 Santos testified that respondent was then transferred to OSF St. Anthony’s Hospital and later to Rosecrance. The minor informed Santos that he wanted to be placed with his paternal grandmother. Although respondent expressed concerns to Santos about both the minor’s father and the minor’s paternal grandmother, DCFS placed the minor with the paternal grandmother. Santos believed that, due to respondent’s “ongoing mental health concerns”—which had been related to Santos by OSF St. Anthony’s Hospital’s medical personnel and other individuals—respondent could not “safely maintain the child” at this time.

¶ 13 Respondent testified on her own behalf. She explained that the minor had autism, a developmental delay, and a speech delay, all of which impacted his behavior. When the minor had “episodes,” respondent restrained him using basket holds and, if necessary, placed him on the ground to make sure that he could not hurt himself. Respondent learned those techniques in the course of her employment as a “[d]irect support professional for elderly [persons] with

disabilities.”

¶ 14 Respondent testified that she presented at OSF St. Anthony’s Hospital on March 16, 2019, with complaints of abdominal pain. When she arrived, she was told that she could not bring the minor with her when she received treatment, due to the hospital’s concerns about the spread of influenza. The minor was permitted to stay with her for most of the time, but the nurses “took” the minor as she went to a back room. About 30-45 minutes later, security guards “swarm[ed]” her room, for reasons respondent did not identify in her testimony. Although she claimed that she was “very calm” while at the hospital and that there was no problem with her behavior, she said that her son was being “extra with his emotions out in the waiting room.”

¶ 15 With respect to her encounter with Santos at the Rockford Rescue Mission on March 18, 2019, respondent acknowledged that she did not agree to speak with Santos outside the minor’s presence. Respondent explained that she was not comfortable with the minor “going with a complete and total stranger.” Although respondent recognized that Santos worked for DCFS, respondent did not want to “collaborate” with Santos, due to respondent’s own experiences as a foster child.

¶ 16 According to respondent, the reason that the minor was not at school on March 18, 2019, was that she lacked transportation. Before DCFS took protective custody of the minor, respondent’s intention was to reside with him at the Rockford Rescue Mission and for him to attend school while living there. To that end, she intended to arrange transportation for the minor through a program at his school.

¶ 17 Respondent admitted to telling Santos that she smokes marijuana. She testified that she had not smoked marijuana in front of the minor in the past year.

¶ 18 Respondent testified that, prior to January 1, 2019, she allowed the minor to spend some

weekends with his paternal grandmother. Based on what respondent personally observed and what she heard from others, she had concerns about the paternal grandmother's ability to care for the minor. Among those concerns were that the paternal grandmother failed to supervise the minor and that she smoked marijuana around him. According to respondent, three or four years ago, the minor was burned on a stove in a garage where the paternal grandmother "likes to drink all night." Respondent also claimed that the paternal grandmother engaged in domestic violence with a live-in boyfriend. Respondent testified that, prior to DCFS becoming involved in this matter, she told the paternal grandmother that she would not be allowed around the minor. The minor had no further contact with his paternal grandmother until he was taken into protective custody.

¶ 19 Respondent believed that she could safely care for the minor. She preferred that the minor enter traditional foster care rather than reside with his paternal grandmother.

¶ 20 At the conclusion of the hearing, the court granted DCFS temporary guardianship and custody of the minor, with discretion to place him with a responsible relative or in traditional foster care.

¶ 21 **B. Adjudicatory Hearing**

¶ 22 At the adjudicatory hearing, Santos and respondent testified about many of the same topics that they addressed at the shelter-care hearing. Rather than summarizing their testimony again, we will highlight some of the additional facts that came to light.

¶ 23 The State admitted into evidence DCFS's indicated packet and respondent's April 2019 integrated assessment. At the State's request, the court also took judicial notice of a document entitled "Illinois Medicaid Comprehensive Assessment of Needs and Strengths," which respondent had tendered to the State during discovery.

¶ 24 Respondent testified that she cut ties with both her family and the minor's father's family

around January 1, 2019. She explained that she did so because she had been verbally, mentally, and physically abused by members of both families. Respondent lived at multiple locations between January 2019 and September 2019, when the court held the adjudicatory hearing. According to respondent, she and the minor left the residence where they lived during the first part of 2019 due to “personal reasons.” When asked what those personal reasons were, respondent testified: “My personal reasons was I had felt that I had been raped while I was in the midst of that home environment, so I had left.” Respondent did not file a police report with respect to anything that occurred at that residence. After DCFS took protective custody of the minor in March 2019, respondent was homeless for a time. At the adjudicatory hearing, respondent testified that she now had a residence, but she preferred not to say on the record where she lived, due to a history of domestic violence with the minor’s father.

¶ 25 Santos testified that her investigation began when an informant reported that respondent exhibited paranoia, erratic behavior, and disciplined the minor with inappropriate methods. Such methods purportedly included sitting on the minor and making him stand on one leg in a corner in the middle of the night with a book on his head. According to Santos, the minor was eight years old at the time, 4’11”, and weighed 70 pounds. Respondent was larger than the minor.

¶ 26 During her testimony, respondent again acknowledged that she used basket holds to restrain the minor during times of “desperarity.” Respondent said that she was trained by both an employer and a police officer to use that technique. She claimed that a doctor likewise informed her that this was an appropriate method of restraining the minor. She denied that she had ever injured the minor.

¶ 27 Kaytlyn Harvey, the minor’s case manager, testified as a rebuttal witness for the State that she never observed the minor behave in a manner that would require restraints. Nor had she heard

from the minor's school that restraints were necessary.

¶ 28 The parties elicited additional information about respondent's March 2019 hospitalization at OSF St. Anthony's. Santos testified that she learned that respondent went to the hospital for stomach pain but then exhibited "paranoia activity" while waiting to see a doctor. This included yelling and swearing at security guards who were outside her room, reporting that her legs were "on fire," and telling a nurse that a relative was trying to kill the minor.

¶ 29 Santos's testimony regarding her interaction with respondent at the Rockford Rescue Mission on March 18, 2019, largely mirrored the evidence presented at the shelter-care hearing. Respondent, however, provided more detail about this encounter than she had at the shelter-care hearing. Respondent characterized Santos's behavior that day as harassing, and respondent believed that there was no reason for Santos to have called the police. Respondent admitted that she got mad and yelled at Santos but denied threatening to kill herself or the minor. Respondent further denied that she attempted to run away from Santos with the minor. Instead, according to respondent, the minor was so frightened by what was going on that he dove underneath a desk to get into respondent's arms.

¶ 30 The parties also elicited evidence regarding respondent's mental health diagnoses. Santos testified that personnel at Rosecrance diagnosed respondent with borderline personality disorder, whereas personnel associated with OSF St. Anthony's Hospital diagnosed her with bipolar disorder and schizophrenia. Respondent, however, testified that the only disorder that she had been "legally" diagnosed with was attention deficit hyperactivity disorder as a child. In respondent's opinion, an "illegal" diagnosis is one that is based on hearsay rather than an evaluation by a psychiatrist. Respondent acknowledged that she was hospitalized at SwedishAmerican Hospital for one week in 2015 for a mental health episode, at which time she

was diagnosed with insomnia and “possible” bipolar disorder. According to respondent, personnel at SwedishAmerican Hospital prescribed her Trazodone “for sleeping,” but she stopped taking it. Respondent testified that, apart from receiving medication for anxiety in April 2019, she had never been advised to take any medication for psychiatric issues. She denied hearing voices.

¶ 31 There was additional evidence regarding respondent’s substance abuse. Santos testified that respondent said during their initial meeting that she smoked marijuana daily to “help her brain” and that she also used alcohol. Respondent admitted during her testimony that she smokes marijuana to help with her “sleeping and accuracy” and to manage stress. She also acknowledged that she did not have a medical marijuana card. She denied using alcohol.

¶ 32 The court found the minor neglected on all three counts of the petition. The court initially did not explain its ruling. On our own motion, we remanded the matter with directions to provide the bases for the decision.

¶ 33 On remand, with respect to count I of the petition, the court concluded that respondent “clearly has mental health issues that prevent her from properly parenting that would place this minor at risk of harm.” In support of that finding, the court first mentioned that respondent offered “different explanations for things” in her assessments versus her testimony. One issue the court focused on was respondent’s psychiatric hospitalization several years ago. The court noted that, during her integrated assessment, respondent claimed that this hospitalization was related to financial stress and “questioning her adoption and trying to find her biological parents.” During the Medicaid assessment, by contrast, respondent indicated that this hospitalization was precipitated by her relationship troubles with a work supervisor.

¶ 34 In further support of its finding on count I, the court noted that respondent reported “a terrible history of trauma, physical and sexual abuse.” The court mentioned that respondent was

“diagnosed with bipolar and potentially schizophrenia and paranoia, as well as have [*sic*] a personality disorder and potentially PTSD.” In the court’s view, this “equals a significant amount of mental health issues” that “[a]ll put[] the minor at risk of harm.” The court added:

“In the integrated assessment *** the mother indicated she has talked to many mental health professionals and been advised to be put on medication for: anxiety, depression, hearing voices, and sleep issues. (The mother did not admit all of this in her testimony.)”

With this comment, the court apparently was referencing the following language from the integrated assessment:

“[Respondent] was provided the MHSF-III on April 15, 2019 and endorsed the following questions: *** that she has been advised to take medication for anxiety, depression, hearing voices, or for any other emotional problem ***.”

¶ 35 As the final points in support of its findings on count I, the court mentioned that (1) respondent believed that people intended to harm both her and the minor and (2) respondent threatened to kill herself or the minor if DCFS took protective custody of him. The court determined that such evidence “clearly proves [respondent] had mental health issues that prevented her from properly parenting.”

¶ 36 The court then addressed count II of the petition, which related to respondent’s substance abuse problem. The court explained that, despite lacking a medical marijuana card, respondent self-medicated with marijuana. The court also determined that “there was evidence of [respondent’s] frequent alcohol use.”

¶ 37 With respect to count III, which focused on respondent’s methods of disciplining the minor, the court first noted the disparity in size between respondent and the minor. The court recited

evidence that respondent isolated the minor in a locked room, sat on him as a means of discipline, used basket holds to restrain him, and had him “stand in a corner with books on his head and his leg raised.” In the court’s view: “[g]iven the minor’s age, his diagnosis of autism and moderate intellectual disability, the minor’s size and the mother’s size, it is clear from the evidence that it was inappropriate and minor was at risk of harm because of this discipline.”

¶ 38 For these reasons, the court determined that the State proved by “at least a preponderance of the evidence” that the minor was neglected pursuant to all three counts of the petition.

¶ 39 C. Dispositional Hearing

¶ 40 At the dispositional hearing, the State rested after asking the court to take judicial notice of various reports and the evidence from the adjudicatory hearing.

¶ 41 Respondent, testifying on her own behalf, explained that she believed it would be in the minor’s best interests for her to have guardianship and custody. She expressed concerns about her safety while attending scheduled supervised visits with the minor, given the possibility of encountering the minor’s father and paternal grandmother. Irrespective of whether the court granted her guardianship and custody of the minor, she was willing to engage in services.

¶ 42 Harvey testified as a rebuttal witness for the State. She recommended that guardianship and custody should remain with DCFS. According to Harvey, DCFS wanted respondent to complete additional assessments and participate in a parenting class. Harvey stated that she would address respondent’s concerns surrounding the supervised visitations.

¶ 43 The court made the minor a ward of the court and appointed DCFS as his legal guardian and custodian, with the discretion to place him with a responsible relative or in foster care. The court ruled that respondent’s visitation with the minor would be subject to DCFS’s discretion. The court initially did not explain its ruling. On our own motion, we remanded the case with directions

to provide the bases for the decision. On remand, the court noted that respondent had not yet received services. The court also expressed its concern that respondent might run away with the minor if she were granted guardianship and custody. Accordingly, the court determined that respondent was “unfit, unable, or unwilling at this time to appropriately care for, train, protect, or discipline the minor.”

¶ 44 Respondent timely appealed, and the trial court appointed counsel for her.

¶ 45 **II. ANALYSIS**

¶ 46 Pursuant to Supreme Court Rule 311(a)(5) (eff. July 1, 2018), our disposition in this matter was due on March 16, 2020. On December 9, 2019, respondent’s counsel moved to withdraw. After reviewing the record, we determined that counsel’s motion was premature, as the trial court’s failure to set forth the factual bases for its orders prevented us from conducting a meaningful review. Accordingly, on January 24, 2020, we remanded the matter to the trial court for the limited purpose of explaining its findings. Once the supplemental record containing the court’s findings was filed with this court, respondent’s counsel filed a second motion to withdraw on February 13, 2020. Respondent had until March 16, 2020, to respond to that motion. Respondent failed to file a response. Under these circumstances, there is good cause for our failure to file our disposition within the 150-day deadline.

¶ 47 Respondent’s counsel maintains that there is no nonfrivolous argument that he can make on respondent’s behalf, as the court’s findings in support of the adjudicatory and dispositional orders were not against the manifest weight of the evidence. We agree.

¶ 48 The State must prove its allegations of neglect by a preponderance of the evidence. *In re Faith B.*, 216 Ill. 2d 1, 13 (2005). A finding of neglect will stand unless it is against the manifest weight of the evidence, which means that “the opposite conclusion is ‘clearly evident.’ ” *Faith B.*,

216 Ill. 2d at 13 (quoting *In re Arthur H.*, 212 Ill. 2d 441, 464 (2004)). Where the trial court adjudicates a minor neglected on multiple grounds, the reviewing court will affirm the judgment if any one of those grounds may be upheld. *Faith B.*, 216 Ill. 2d at 14.

¶ 49 Once the trial court adjudicates a minor neglected, the matter proceeds to a dispositional hearing. *In re K.E.S.*, 2018 IL App (2d) 170907, ¶ 49. At that hearing, “the court must determine whether it is in the best interests of the child and the public that the child be made a ward of the court and, if so, the disposition that will best serve ‘the health, safety and interests of the minor and the public.’ ” *K.E.S.*, 2018 IL App (2d) 170907, ¶ 49 (quoting 705 ILCS 405/2-22(1) (West 2016)). “A court may not restore parental custody of a child who has been adjudicated neglected *** unless the court determines, after a hearing, that the parent is fit to care for the minor.” *K.E.S.*, 2018 IL App (2d) 170907, ¶ 49. The State bears the burden of proving unfitness by a preponderance of the evidence, and we will not reverse the court’s dispositional order unless it is against the manifest weight of the evidence. *K.E.S.*, 2018 IL App (2d) 170907, ¶ 51. In conducting our review, we are mindful that “the trial court had a superior opportunity to view and evaluate the parties.” *K.E.S.*, 2018 IL App (2d) 170907, ¶ 51.

¶ 50 We focus on count I of the State’s petition, which addressed respondent’s mental health. To sustain its burden, the State had to prove both that respondent had a mental illness and that such illness placed the minor in an injurious environment. *Faith B.*, 216 Ill. 2d at 14. The trial court reasonably concluded that the State met its burden here.

¶ 51 The evidence showed that respondent suffered from multiple mental illnesses and was unmedicated when the minor was taken into protective custody. In early 2019, DCFS received information that respondent exhibited behaviors that were indicative of a need for treatment. This included, for example, severing ties with her family, acting in a paranoid manner, and isolating the

minor in a room for periods long enough to alarm the people around her. Weeks later, when respondent presented at OSF St. Anthony's Hospital for stomach pain, she reportedly behaved in an irrational and aggressive manner while awaiting treatment. When a DCFS representative later spoke with respondent at the Rockford Rescue Mission, respondent exhibited signs of paranoia, and she purportedly attempted to flee with the minor. Although respondent denied some of these allegations, it was the trial court's role to determine the witnesses' credibility. Given that the court emphasized in its ruling that respondent offered "different explanations" at different times, the court obviously did not deem respondent credible.

¶ 52 There was also evidence that respondent's mental illness placed the minor in an injurious environment. For example, respondent reportedly disciplined the minor in unorthodox ways and was unable to provide stable housing for him. Respondent's frequent relocation at times interfered with the minor's school attendance. Respondent also allegedly threatened to kill herself and the minor if DCFS took protective custody of him. Under these circumstances, the court's finding of neglect on count I of the State's petition was not against the manifest weight of the evidence.

¶ 53 The evidence likewise supported the court's dispositional order. There was ample evidence justifying a conclusion that respondent should not serve as the minor's guardian and custodian until she undergoes assessments and participates in recommended services. The court's findings were not against the manifest weight of the evidence.

¶ 54 III. CONCLUSION

¶ 55 For the reasons stated, we grant counsel's motion to withdraw and affirm the judgment of the circuit court of Winnebago County.

¶ 56 Affirmed.