

No. 1-13-0390

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).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

IN THE INTEREST OF:	)	Appeal from the
	)	Circuit Court of
JEREMIAH C.,	)	Cook County, Illinois
	)	Juvenile Justice and
Minor-Respondent-Appellee,	)	Child Protection Department,
	)	Child Protection Division
(The People of the State of Illinois,)	
)	
Petitioner-Appellee,	)	No. 12 JA 689
)	
v.)	
)	
Katherine C.,	)	Honorable
	)	Joan Marie Kubalanza,
Mother-Respondent-Appellant.)	)	Judge Presiding.

PRESIDING JUSTICE HARRIS delivered the judgment of the court.
Justices Quinn and Simon concurred in the judgment.

ORDER

Held: The circuit court's determinations, after an adjudication hearing, finding that the minor was neglected pursuant to section 405/2-3(1)(b) of the Juvenile Court Act of 1987 (705 ILCS 405/2-3(1)(b) (West 2010)) and abused pursuant to section 405/2-3(2)(ii) of that same Act (705 ILCS 405/2-3(2)(ii) (West 2010)) were not

against the manifest weight of the evidence. Similarly, the circuit court's determination, after a dispositional hearing, that it was in the best interests of the minor that he be adjudged a ward of the court and to remain in the custody of his father was also not against the manifest weight of the evidence. Accordingly, the judgment of the circuit court is affirmed.

¶ 1 The State filed a petition for adjudication of wardship for Jeremiah C., a male minor born on December 21, 2010. Prior to being taken into custody by the State, Jeremiah's mother, Katherine C., had custody of Jeremiah. The circuit court, after a temporary custody hearing, ordered that Jeremiah be removed from Katherine's home, that a Department of Child and Family Services (DCFS) administrator be granted temporary custody, and that an attorney of record and guardian *ad litem* be appointed for Jeremiah. After a temporary custody rehearing, the circuit court placed Jeremiah, under an order of protection, with his father, Edet E., who is not a party to this appeal.

¶ 2 After an adjudicatory hearing, the circuit court found Jeremiah neglected in that conduct toward him violated section 405/2-3(1)(b) of the Juvenile Court Act of 1987 (Act) (705 ILCS 405/2-3(1)(b) (West 2010)), *i.e.*, "injurious environment;" and that Jeremiah was abused in that conduct toward him violated section 405/2-3(2)(ii) of the Act (705 ILCS 405/2-3(2)(ii) (West 2010)), *i.e.*, "substantial risk/physical injury." The circuit court found that the neglect and abuse was inflicted by Katherine.

¶ 3 After a dispositional hearing, the circuit court found that it was in Jeremiah's best interests, as well as the public's best interest, that Jeremiah be adjudged a ward of the court. Katherine was found to be unable, for reasons other than financial circumstances alone, to care for, protect, train, and discipline Jeremiah. The circuit court, however, found Edet was fit, able,

and willing to care for Jeremiah and ordered that Jeremiah remain in Edet's custody. After finding that it was in the best interests of Jeremiah "for this family to be able to go forward without continuing monitoring of the Court," the circuit court terminated the temporary custody order, vacated the order of protection against Edet, and closed the case.

¶ 4 Katherine appeals the judgment of the circuit court. Before this court, Katherine is proceeding *pro se* even though she was represented by counsel in the proceedings before the circuit court. Her briefs before this court, however, are deficient for reasons discussed *infra*. Both the State and Public Guardian urge this court to affirm the judgment of the circuit court. At issue in this case is whether the circuit court's adjudicatory and dispositional orders were against the manifest weight of the evidence. Based on the facts of this case, we cannot say that the circuit court's adjudicatory or dispositional orders were against the manifest weight of the evidence. Accordingly, we affirm the judgment of the circuit court.

¶ 5 JURISDICTION

¶ 6 The trial court entered its adjudication order on January 9, 2013. The dispositional order, and the order closing the case, were entered by the circuit court on January 23, 2013. *See In re Austin W.*, 214 Ill. 2d 31, 43-44 (2005) (dispositional orders are generally considered 'final' for the purposes of appeal.") Katherine filed her notice of appeal on January 25, 2013. Accordingly, this court has jurisdiction pursuant to Illinois Supreme Court Rules 301 and 303, governing appeals from final judgments entered below and Illinois Supreme Court Rule 660, which governs appeals arising under the Act. Ill. S. Ct. R. 301 (eff. Feb. 1, 1994); R. 303 (eff. May 30, 2008); R. 660 (eff. Oct. 1, 2001).

¶ 7

BACKGROUND

¶ 8 On July 3, 2012, the State filed a petition for adjudication of wardship for Jeremiah, a male minor born on December 21, 2010. The petition listed Jeremiah's mother as Katherine and Edet as his father. According to the petition, Jeremiah had been taken into custody on July 2, 2012. The State, under section 405/2-3(2) (ii) of the Act alleged that Jeremiah was abused and asked that Jeremiah be made a ward of the court. 705 ILCS 405/2-3(2)(ii) (West 2010). As facts supporting its petition, the State alleged the following:

"Mother has two prior indicated reports for inadequate supervision and substantial risk of physical injury/environment injurious to health/welfare by neglect. On or about March 15, 2012, an intact case was opened to offer services to this family. Individual therapy, substance abuse treatment and completing a mental health evaluation are outstanding services for mother. On June 11, 2012, mother was involved in a physical altercation with her paramour while caring for this minor. Mother left this minor in the house alone during this altercation. On June 27, 2012, drug paraphernalia and illegal substances were found in the home while this minor was present. Mother admitted to using illegal substances while caring for this minor."

¶ 9 The State also filed a motion for temporary custody based on the same facts as contained in the petition for adjudication of wardship, alleging that Jeremiah was neglected pursuant to

sections 405/2-3(1)(b) and 405/2-3(2)(ii) of the Act. 705 ILCS 405/2-3(1)(b);(2)(ii) (West 2010). The State alleged that, pursuant to section 405/2-10 of the Act, there was an immediate and urgent necessity to place Jeremiah into temporary custody. 705 ILCS 405/2-10 (West 2010). Accordingly, the State asked that D. Jean Ortega-Piron be appointed temporary custody of Jeremiah.

¶ 10 After a temporary custody hearing the circuit court found that probable cause existed that Jeremiah was abused, that an immediate and urgent necessity existed to support removal of Jeremiah from the home, that Jeremiah's presence in the home was contrary to his welfare, and that reasonable efforts had been made, but had not eliminated the immediate or urgent necessity to remove Jeremiah from the home. The circuit court ordered that Jeremiah be removed from the home, and that a DCFS guardianship administrator be granted temporary custody. The circuit court ordered that DCFS prepare and file a 45 day case plan according to section 405/2-10.1 of the Act (705 ILCS 405/2-10.1 (West 2010)), that a social investigation be filed within 30 days, and that the matter be sent to mediation. Jeremiah's parents were both allowed supervised day visits with Jeremiah. An attorney of record and guardian *ad litem* were appointed for Jeremiah. Edet was ordered to be tested at the "DNA Diagnostic Center" to determine if he was, in fact, Jeremiah's father.

¶ 11 On July 25, 2012, the circuit court conducted a temporary custody rehearing. The circuit court, based on the results of a DNA test, made a finding that Edet is the natural father of Jeremiah. The State modified its temporary custody motion and asked "for a finding of probable cause and no urgent and immediate necessity under a 2-25 order of protection." The State

additionally asked that Jeremiah live with Edet. On direct examination, Edet testified that he is Jeremiah's father and that he was employed full time at "Target in Tinley Park." He answered "Yes" when asked whether he sought custody of Jeremiah under an order of protection. Edet testified that he visited Jeremiah at least one time per week, and that he called Jeremiah's grandmother "at least every other day just to see how he's doing." He paid child support of \$70 a week, which he had been doing since Jeremiah's birth. When asked where Jeremiah would sleep in his residence, Edet answered that "[h]e would sleep in his playpen until I can get him a crib." Edet testified that when money became available, he would buy a crib. He testified that his girlfriend, his mother, his sisters, and his dad would help him care for Jeremiah. He agreed to allow a background check to be performed on his girlfriend and family members. Edet testified that he had not been in contact with Katherine, and that he had not been in a relationship with her for two years. When asked why he was no longer in a relationship with Katherine, Edet answered "[w]e just can't see eye to eye. I try to help her, but she just doesn't want help." He would, if the court determines that Katherine could visit Jeremiah, allow her to do so. He denied ever being arrested or convicted of a crime. He agreed to submit to an assessment performed by DCFS if the circuit court would order it in an order of protection.

¶ 12 On cross-examination, Edet testified that Jeremiah would not have his own room, rather, Jeremiah would be in his room so that Edet could "watch him." Edet's room was big enough to fit a crib. Jeremiah had been spending the weekends with Edet, unsupervised, for an entire weekend. Edet described the visits as going "[v]ery well." Edet answered "No" when asked whether Jeremiah had ever been hurt while in his home, and answered "Yes" when asked

whether Jeremiah enjoys spending time with him. He answered "Yes" when asked whether, if he gained custody of Jeremiah, he would maintain a relationship with Miranda C., Jeremiah's grandmother and Katherine's mother. He agreed that he would use Miranda as a babysitting resource.

¶ 13 Sharon R. Smith, a child protection investigator for DCFS, and a licensed clinical practice counselor testified, that she was assigned to investigate Jeremiah's situation in December of 2011. Smith testified that she conducted an "'A' sequence" investigation. The allegations were for inadequate supervision. The result of the investigation was that the "case was indicated." When asked who the perpetrator was for the "'A' sequence," Smith answered "Katherine." Smith also spoke to Edet, who she described as the "noninvolved parent," who told her he did not want services at that time. Smith testified there was also a "'B' sequence" in March of 2012. The allegation was "substantial risk of harm," which Smith testified was also indicated. Katherine was also the perpetrator in the B sequence. Edet was not interviewed for the B sequence. Smith testified she was also the investigator for the then current sequence, the "'C' sequence." The allegations in the C sequence were "substantial risk of harm" because Katherine was arrested in her home using illicit substances while Jeremiah was present in the house. The result of the C sequence was that Katherine was indicated. Smith further explained why the C sequence was "screened" while the B sequence was not, stating:

"The case was not screened in on the 'B' sequence, because at that time, mother had stated she was going to give guardianship of her son to her mother, so we didn't screen the case in on the 'B'

sequence. When the 'C' sequence came in, my supervisor told me to screen the case into court."

Smith testified that Edet was not indicated or named a perpetrator in any of the sequences because he was a noncustodial parent.

¶ 14 Smith further testified that DCFS recommended temporary custody. When asked why DCFS recommended "that urgent and immediate necessity exist[ed]," Smith answered:

"The reason [DCFS] is recommending that it is because [Edet] was aware of all the sequences regarding his minor child. He never took it upon himself to - - we wouldn't even have had to come to court. He never took it upon himself to say that I want my child. He was content with getting his child every other weekend and the child staying with the maternal grandmother."

Smith testified that both a "CANTS background" and "a LEADS check" were conducted on Edet, with both results being negative. Smith further testified Edet had "[n]o arrests" and that, according to Miranda, he paid child support. Smith testified that Beverly Pugh, another DCFS caseworker, saw Edet's living space. Smith testified that Pugh told her that Edet had "small living quarters" that were "doable." Pugh did not tell Smith that she had any concerns with Edet's living quarters. Smith recommended that Edet take parenting classes, to "have a drug and alcohol assessment to rule out that he's using illicit substances," and to take a mental health assessment. It was Smith's "perception" that these measures were needed "[b]ecause for a father to realize all of these situations were going on with his child and he did not intervene until it was

No. 1-13-0390

mandated by the Court." Smith added that it was her "perception that something is not registering correctly upstairs" regarding Edet. Smith explained:

"[Edet] has been in with the TDM's with the department, he never once shared with anyone within the department that he wanted to take his son. [Edet] had made it explicitly clear to the department at that time that he did not want to do any services and his rationale behind that was because he didn't do anything to his child. He wasn't there when - - at the hospital, the 'A' sequence; he wasn't there when Katherine ran out of the apartment chasing her boyfriend for the domestic violence; he wasn't there for the 'C' sequence when Katherine was arrested by the police with the illicit drugs in the house. So he felt that he didn't do anything to his child, so he didn't need any services."

Smith stressed that the domestic violence she was referring to was with "Katherine's current boyfriend that she chased down the street and left Jeremiah in his car seat in the apartment," not Edet.

¶ 15 Smith testified that she did not speak with anyone at DCFS regarding her mental health assessment of Edet. She answered "No" when asked if she had any reason to believe that Edet had any drug or alcohol issues. Smith concluded her direct examination by testifying that it was DCFS's position that temporary custody would be in Jeremiah's best interest because "Jeremiah was at risk in the care of his natural mother, who was the legal custodian. Even though Edet ***

is the father, [Edet] never stepped up to the plate until now regarding his intentions to ensure the safety of the child."

¶ 16 On cross-examination, Smith admitted that Edet had been having unsupervised overnight visits with Jeremiah and that there had not been any reports of unusual incidents occurring. It had also been reported to Smith that Jeremiah enjoyed his visits with Edet. Smith further admitted that she had not formally assessed Edet for services at that time. Smith answered "[y]es" when asked whether she had ever explained to Edet "that he could step up and take custody of his child and his child would not be screened into the system." Smith also spoke to Miranda, about Edet's interactions with Jeremiah. Miranda told her that Edet "has a very bonding relationship with his son." Smith could not answer whether Edet could financially care for Jeremiah, but did testify that Edet stated to her that he could. She verified that Edet was employed full time at Target. Smith further testified that Pugh told her that the sleeping arrangements for Jeremiah at Edet's house were appropriate. She was not aware if Jeremiah had any special needs. Jeremiah had been in a safety plan with Miranda since the C sequence began, but Smith explained that the safety plan "was voided out once we came to court." Jeremiah, at the time of the hearing, was in Miranda's care. Smith testified that Edet was happy with the care Jeremiah received from Miranda.

¶ 17 The circuit court found "probable cause but no urgent and immediate necessity" and placed Jeremiah with Edet under an order of protection. The circuit court admonished Edet to "do the assessments that they're going to ask you to do." The court found Edet's argument that there was "miscommunication" regarding whether he wanted to take custody of Jeremiah to be

"plausible." The circuit court further told Edet that he had to "do all of the services" demanded of him by DCFS.

¶ 18 Adjudication Hearing

¶ 19 On January 9, 2013, an adjudication hearing was held. The parties reached a written stipulation, which was then read into the record. Relevant to this appeal, the stipulation provided that Katherine had "two prior indicated reports for inadequate supervision and substantial risk of physical injury/environment injurious to health/welfare by neglect." In the first incident, as stated in a report dated June 11, 2012, Katherine was indicated for inadequate supervision after she admitted to leaving Jeremiah home alone following an altercation with her paramour. In the second incident, as stated in a report dated December 28, 2011, Katherine was "indicated for substantial risk of physical injury/environment injurious to health and welfare by neglect" based on Katherine's behavior at a hospital, which placed Jeremiah at risk. The stipulation further provided that Katherine had "a tendency to leave her child with strangers."

¶ 20 According to the stipulation, had Beverly Pugh, an "Intact caseworker" for DCFS, been called to testify, she would have testified that, from March 2012 through June 2012:

"she referred mother for parenting, anger management, substance abuse, individual counseling, and mental health Intact services to mother and monitored mother's residence and the daycare provision; and that on May 9, 2012, mother completed 8 hours of anger management classes and 16 hours of effective parenting classes***; that as of June 2012, mother's individual

therapy, substance abuse treatment, and mental health evaluation services were outstanding; and that as of the end of June 2012, she was unable to meet with mother after several unsuccessful visits to mother's home."

¶ 21 Officer David Jackson, of the Richton Park Police Department, according to the stipulation, would have testified:

"on June 11, 2012, at approximately 8:30 p.m. in the lobby of the Richton Park Police Station *** he observed mother on the floor, grabbing a man by his pants leg; that soon thereafter, mother complained of stomach pain, and the Richton Park Fire Department arrived for mother; that he then went with Officer Webb to mother's apartment *** where he met mother and the Richton Park Fire Department Fire Chief Rodney Wilson, and when he gained access to the apartment via a key which mother gave to Wilson, he found Jeremiah alone in mother's apartment, secured in his stroller with a diaper full of urine but with no signs of physical abuse. Later at St. James Olympia Field Hospital, mother said that she jumped on the man's back because he broke up with her and that the man punched her in the stomach when she jumped on the man's back."

¶ 22 Sharon R. Smith, the DCFS investigator who investigated Katherine, Edet, and Jeremiah,

No. 1-13-0390

according to the stipulation, would have testified that she prepared a Child Endangerment Risk Assessment Protocol Safety Determination Form (CERAP) for Katherine and Jeremiah on June 11, 2012. The State entered the CERAP into evidence as an exhibit. Smith would have further testified that:

"On June 13, 2012, at 7:30 a.m., mother told her that she and her paramour got into an altercation and she left Jeremiah in her apartment; that during [her] domestic violence questioning, mother said that her paramour has threatened her, and hurt her; and *** on June 13, 2012, at 11:30 a.m., she saw Jeremiah with maternal grandmother and that Jeremiah appeared healthy and showed no signs of abuse or neglect."

¶ 23 It was stipulated that Officer Andrew Derewonko, of the Village of Richton Park police department, would have testified as follows:

"On June 26, 2012, shortly before midnight, accompanied by Officer Webb, he responded to a call at 22411 Butterfield Drive, Apartment 302, Richton Park, Illinois 60471; that when mother opened the door to her apartment, he saw mother holding Jeremiah in the air by one of his arms, not supporting his body, and smelled the odor of burnt cannabis; that he entered the apartment because he was concerned for Jeremiah's safety; and that he saw in plain view a pink pipe next to a green leafy substance; that mother

appeared to be intoxicated; that later at the Richton Park police station, mother said that a few of her friends had come over to 'kick it' and she ingested cannabis but only a little; that Jeremiah was in his crib in the apartment when mother and her friends ingested cannabis; that after mother received a call from Jeremiah's maternal grandmother, her friends left the apartment; that mother said she knows what she is doing is wrong and wants to try to get better but doesn't know how and hopes she can get some help."

¶ 24 All of the parties agreed to the stipulation, stating the "parties stipulate and agree that the foregoing facts and evidence support findings of neglect injurious environment and abuse substantial risk of injury as to Jeremiah."

¶ 25 After the stipulation was read into the record, the circuit court asked both Katherine and Edet whether they understood the facts read into the record, to which each answered "Yes." The court further admonished the parents regarding the consequences of the stipulation, stating that it "will use those facts to decide whether the State has proven by a preponderance of the evidence that Jeremiah is neglected and abused." When asked by the circuit court whether they understood that is how the stipulation would be used by the court, both parents answered "Yes." After further admonishments to the parents, the circuit court accepted the stipulation and found that both parents understood "the contents and the consequences of the stipulation , that each *** entered into the stipulation of their own free will." The stipulation, signed by both parents, was submitted to the court as an exhibit. Outside of the stipulation, the parties did not present any

additional evidence before resting.

¶ 26 The circuit court found that the State had met its burden of proof by a preponderance of the evidence. Specifically, Jeremiah was neglected by being in an environment injurious to his welfare and that he was abused because "a member of his household created a substantial risk of injury by other than accidental means, which would likely cause death or disfigurement, impairment of emotional health or loss or impairment of bodily function." The circuit court found that Edet was noncustodial. The circuit court noted that Katherine admitted to a history of domestic violence and substance abuse. The circuit court was particularly concerned with the events of June 26, 2012, stating Katherine opened "the door with the home smelling strongly of the smell of burnt cannabis and in plain view there appeared to be a pipe and a green leafy substance; as well as the manner in which the child was being held; that together with the minor being left alone on a prior occasion without adequate supervision are facts" that supported its findings of "environment injurious" and "substantial risk of injury." The circuit court admonished both parents regarding correcting the conditions causing "Jeremiah to be in care."

¶ 27 The circuit court entered a written adjudication order stating that Jeremiah was neglected in that conduct toward him violated section 405/2-3(1)(b) of the Act (705 ILCS 405/2-3(1)(b) (West 2010)), *i.e.*, "injurious environment;" and that Jeremiah was abused in that conduct toward him violated section 405/2-3(2)(ii) of the Act (705 ILCS 405/2-3(2)(ii) (West 2010)), *i.e.*, "substantial risk/physical injury." The court found that the neglect and abuse was inflicted by Katherine, and set a dispositional hearing for January 23, 2013.

¶ 28

Dispositional Hearing

¶ 29 On January 23, 2013, the circuit court conducted a dispositional hearing. At the start of the hearing, the State asked the court to take judicial notice of the evidence and findings of the prior adjudication hearing, which the court agreed to do. Additionally, the State successfully, without objection, entered the following exhibits into evidence: a court report dated January 9, 2013; a letter from Kristina Jones dated January 3, 2013, which included a court report dated December 17, 2012; a "JCAP Assessment" for Edet dated August 5, 2012; a service plan for Jeremiah, with a date plan initiation date of December 21, 2012; an "Integrated Assessment" for the family dated January 3, 2013; and a status report dated on January 23, 2013, authored by Kristen Skoskiewicz.

¶ 30 Kristen Skoskiewicz, a caseworker for Jeremiah employed by Children's Home Aid, testified on behalf of the State. Skoskiewicz testified she had been Jeremiah's caseworker since September of 2012. Jeremiah had been living in Edet's home since Skoskiewicz started working on the case. She testified that she visits Jeremiah in his father's home once a month. When she was first assigned the case, however, she saw him more often and additionally conducted unannounced home visits. Skoskiewicz stated that she had visited Edet's home in the past 30 days, and answered "Yes" when asked whether the home was "safe and appropriate." She did not know of any unusual incidents occurring in the home, nor had there been any sign of neglect, abuse, or risk of harm, injury, or corporal punishment. In checking a home, Skoskiewicz performs a CERAP to ensure the home's safety. She also checks the child for marks and other issues. Skoskiewicz testified that at the time of the hearing, Jeremiah was "about a little over

two." She had conducted a "0-3" evaluation. Jeremiah had no special needs and his immunizations were current. Jeremiah was not hospitalized while in his father's care, nor did any medical issues arise. In addition to Jeremiah, Edet and his father reside in the home. Jeremiah attends a daycare.

¶ 31 Skoskiewicz testified Katherine was assessed the following services: anger management and parenting classes. Katherine completed a "JCAP," which recommended intensive outpatient services, but Katherine rejected the referral by JCAP. Skoskiewicz explained that she could not refer Katherine to services through DCFS, since Jeremiah was in his father's care. She did, however, give her multiple community-based resources including "Avance," for domestic violence. Katherine told her that she did not participate in Avance. Katherine additionally told her that she did not need a referral for drinking, because she did not think she had a problem with drinking. According to Skoskiewicz, Katherine told her that "she would at times smoke marijuana to let loose." Katherine completed some anger management services, which Skoskiewicz explained meant that Katherine "completed what was recommended by Intact." Intact, however, recommended additional services.

¶ 32 Skoskiewicz testified that she had been unable to reach Katherine since November of 2012. Katherine had "completed some parenting services," but it was "recommended that she continue *** to complete more." She was recommended to complete more parenting classes because the parenting services agency "felt that there was not enough as there was an additional case opening."

¶ 33 Since Jeremiah was placed in temporary custody, Katherine had had supervised visits

with Jeremiah since July of 2012. At first, she visited every other week, but in November she started seeing him every Sunday. The supervisor at those visits, up until November 2012, was Miranda, the maternal grandmother. No unusual incidents were reported. Skoskiewicz testified that she was "supposed to be monitoring one parent/child visit a month," but when she attempted to observe one of the visits in Miranda's home "she did not want me to be there and wanted to record the visit." She also told Skoskiewicz that she would need a court order to be in her house. The visits were then moved to a community location. When asked whether the agency believed that Edet was an appropriate supervisor for the visits between Jeremiah and Katherine, Skoskiewicz answered "Yes." The agency, however, was not recommending any unsupervised visits with Katherine because she had not completed services. Skoskiewicz testified the agency recommended that the case be closed and that Jeremiah remain in Edet's sole custody because Edet had "been able to provide a safe and loving home for Jeremiah."

¶ 34 On cross-examination, Skoskiewicz explained that DCFS does not allow the visits to be videotaped. When Skoskiewicz explained this to the Miranda, Miranda thought she needed a court order. Skoskiewicz further testified that Edet was not in need of any services at the time of the hearing. Edet participated in two random urine drops, on July 25, 2012, and October 1, 2012, respectively, with both results coming up negative. Skoskiewicz described the bond between Jeremiah and Edet as "real good" and "very close." She added that "[y]ou can just tell by their interactions that they're very close; and Jeremiah often likes to imitate Edet." Skoskiewicz agreed that Edet has a close relationship with his own parents and family and that they provide support for him. When asked whether Edet has had any legal troubles, Skoskiewicz answered

that Edet "stated in the Integrated Assessment that he didn't have any history. There may be. I think in the CANTS and LEADS there was something in there; but it wasn't - - it was like a - - I don't remember what it was." Skoskiewicz further testified that Edet does not have a history of substance abuse. Skoskiewicz did not have any concerns with giving Edet full custody of Jeremiah.

¶ 35 On cross-examination conducted by Katherine's attorney, Katherine's attorney asked her to expand on her answer regarding Edet's possible legal troubles. Skoskiewicz stated that "I don't know for sure. I want to say it was something like disorderly conduct or something like that. It wasn't anything that might be concerning. I was going to say I believe it was from high school." Skoskiewicz also clarified that she had not supervised any of the weekly visits since they had been moved to a community location. She had not observed any because she was not "able to get ahold of Katherine; and *** left a message for Edet; but he didn't respond." She had also attempted to call the Miranda, but "[n]o one answers the phone." Skoskiewicz admitted that she had not been able to observe any visits. When counsel asked her "[s]o you wouldn't be able to testify as to anything that you have or have not observed as far as a bond," Skoskiewicz answered "No; I wouldn't." Skoskiewicz agreed that Katherine completed 16 hours of effective parenting at "Knock on Midnight," and that she completed eight hours of anger management. When asked whether "that was the sum total of what was the recommended services twice in the Intact case; is that correct," Skoskiewicz answered, "Yes." Skoskiewicz was aware that Katherine's mother, Miranda, supported her and took an active role in Jeremiah's life. She further agreed that the agency's recommendation that Jeremiah be in the sole custody of his father and

that the case be closed was made with the knowledge that Skoskiewicz had not observed any visits between Jeremiah and his mother.

¶ 36 Edet testified on behalf of the State. Edet testified that in 2008 he had a conviction for resisting a peace officer. When asked what sentence he received, he stated "they let me go. They just told me to go and don't do it again." He did not have any other arrests.

¶ 37 During closing arguments, the State asked for a finding that Katherine was "unable for some reason other than financial circumstances alone to care for, protect, train, or discipline the minor." The State, however, also asked for a finding that Edet was "fit, willing, and able to care for Jeremiah." Accordingly, the State asked that the court make a "finding that Jeremiah is a ward of the court; that the case be closed with legal custody to stand totally in father Edet[']s*** custody because we believe, based on the evidence, that would serve the interest of the public and the minor. " The Public Guardian also asked for a finding that Edet "be found fit willing and able to train, care for and protect" Jeremiah. The Public Guardian, however, asked that Katherine "be found unable and unwilling." The Public Guardian argued that Katherine "refused to participate in the services and has not had contact with the worker as to any services she might have completed or participated in on her own despite the many attempts of the caseworker *** to contact her." The public guardian further asserted that she believed it was in Jeremiah's best interest to have the case closed and for his sole custody to be with Edet. Both parents argued that they should be found fit, willing, and able to care for Jeremiah.

¶ 38 The circuit court adjudged Jeremiah to be a ward of the court, finding "it to be in the best interests of the minor and for his welfare as well as for the public." The circuit court found

No. 1-13-0390

Katherine was "unable right now for some reason other than financial circumstances alone to care for, protect, and train or discipline" Jeremiah. As for Edet, the circuit court found him fit, able, and willing to care for, protect, discipline and train Jeremiah. The court noted that Jeremiah had been in Edet's care, had "been doing very well," that Jeremiah and Edet have bonded, and that Edet is not in need of any additional services. Accordingly, the court found Jeremiah was to remain in Edet's custody. The circuit court concluded that it was "in the best interests of the child for this family to be able to go forward without continuing monitoring of the Court." Accordingly, the circuit court closed the case and terminated the temporary custody and vacated the appointment of D. Jean Ortega-Piron and vacated "the 2-25 order of protection against the father."

¶ 39 The circuit court also entered a written disposition order finding that Jeremiah be adjudged a ward of the court. The circuit court restated in the written order that Katherine was "unable for some reason other than financial circumstances alone to care for, protect, train, or discipline the minor," but that Edet was "fit, able, and willing to care for, protect, train, and discipline the minor." The circuit court further found that "[r]easonable efforts have *** been made to prevent or eliminate the need for removal of the minor from the home" and that "[a]ppropriate services aimed at family preservation and family reunification have been *** successful." The circuit court ordered that Jeremiah remain in Edet's care and vacated the July 25, 2012, order of protection entered against Edet. On that same day, in a separate order, the circuit court found that the family is not in need of further monitoring by the court and that it is in Jeremiah's best interest that the case be closed. Accordingly, the circuit court ordered that the

order of protection be terminated and that Edet maintain legal custody of Jeremiah.

¶ 40 On January 25, 2013, Katherine filed her notice of appeal, appealing the orders entered by the circuit court on January 23, 2013. Under the title, "Nature of the order appealed from," and subtitle "Other," Katherine stated "facts to emergency removal 2-25/placement with unwed father."

¶ 41 ANALYSIS

¶ 42 Initially, we must determine whether or not Katherine's brief should be stricken and her appeal dismissed based on both the Public Guardian and the State's contention that Katherine's brief fails to comply with Illinois Supreme Court Rule 341. Ill. S. Ct. R. 341 (eff. Feb. 6, 2013). Alternatively, both the State and Public Guardian argue that the circuit court's adjudication and dispositional orders were not against the manifest weight of the evidence.

¶ 43 After reviewing Katherine's brief, we agree with the Public Guardian and the State that it failed to conform with Illinois Supreme Court Rule 341. Ill. S. Ct. R. 341 (eff. Feb. 6, 2013). For example, Katherine's brief contained an improper jurisdictional statement (Ill. S. Ct. R. 341(h)(4) (eff. Feb. 6, 2013)) and failed to cite the record in either the statement of facts or the argument sections (Ill. S. Ct. R. 341(h)(6), (7) (eff. Feb. 6, 2013)). Additionally, it was very difficult to follow Katherine's brief as her arguments are not cohesive, coherent, or developed. See *Vancura v. Katris*, 238 Ill. 2d 352, 369-70 (2010); *Holzrichter v. Yorath*, 2013 IL App (1st) 110287, ¶ 80 ("This court is not a depository in which the burden of argument and research may be dumped."). Katherine's appearance *pro se* does not relieve her noncompliance with the applicable rules of appellate practice. *Voris v. Voris*, 2011 IL App (1st) 103814, ¶ 8. This court

does have the discretion to strike Katherine's brief and to dismiss her appeal based on her violations of Illinois Supreme Court Rule 341. *Holzrichter*, 2013 IL App (1st) 110287, ¶ 77.

¶ 44 In *In re A.H.* (215 Ill. App. 3d 522 (1991)), the Fourth District of this court was presented with a similar situation to the case at bar. The appellants, *pro se* parents appealing the termination of their parental rights, failed to comply with Illinois Supreme Court Rule 341 or to provide a cohesive legal argument for appellate review. *Id.* at 529-30. The Fourth District made the following holding regarding what issues they would address on appeal:

"Nevertheless, because of the serious nature of these proceedings, we will address the merits of the case. Our courts have recognized parental rights and responsibilities are of deep human importance, and thus, will not be lightly terminated. [Citation.] We assume, as did the State in its brief, that respondents contend the trial court's decision terminating their parental rights was contrary to the manifest weight of the evidence." *Id.* at 530.

¶ 45 In this case, as in *In re A.H.*, we will review whether the circuit court's adjudication and dispositional orders were against the manifest weight of the evidence. In reaching this conclusion, we note that we reviewed both the issues raised by Katherine, albeit undeveloped, and her notice of appeal. For example, as support for our review of the adjudication order, Katherine did assert as her fourth issue on appeal that this court should review "[w]hether *** the State presented sufficient evidence to support a finding of neglect," a finding made by the circuit court after the adjudication hearing. As support for our review of the dispositional order,

we point out that in Katherine's notice of appeal she lists the January 23, 2013, judgments as the "[d]ate of judgment being appealed." January 23, 2013, was the date the dispositional order was entered. Additionally, Katherine also asked this court to review, as her fifth issue raised on appeal, "[w]hether *** the Department has made reasonable efforts to reunite the family," which seems to allude to a finding made by the circuit court after the dispositional hearing.

¶ 46 We also note what we will not be addressing on appeal. First, as issue number two, Katherine asks this court to review "[w]hether the criminal case no. 12600584501, at Markham Courthouse, *** Markham, Illinois has subject matter jurisdiction." The proceedings appealed from in this case were under circuit court case number "12 JA 689." As such, we will not review whether the circuit court has jurisdiction in a case not before this court. Furthermore, both in her notice of appeal and in her briefs before this court, Katherine references issues relating to the temporary custody hearing conducted by the circuit court. In her notice of appeal, she stated under the heading "Other" that "facts to emergency removal 2-25 placement with unwed father." Similarly in her opening brief before this court, Katherine lists as her first and third issues, the following: "[w]hether the circuit court *** jurisdiction to entertain a *ex parte* motion for removal of a minor from maternal grandmother Miranda C. home pursuant to sect[ion] 2-10 of the *** Act;" and "[w]hether the *** court having fully complied with concerning the law under emergency (Immediate and urgent necessity)." Typically, an adjudication of wardship, supported by adequate evidence, renders findings made at a previously held temporary custody hearing moot. *In re Edward T.*, 343 Ill. App. 3d 778, 792 (2003). We may, however, review moot issues where "they concern issues of great public interest or that are likely to be repeated yet evade

review." *Id.* at 793. Our ultimate conclusion in this case, as discussed *infra*, is that the State did not present adequate evidence to support the adjudication of wardship. Additionally, we do not believe either exception to the mootness doctrine exists in this case. As such, we will not address the issues raised by Katherine that relate to the temporary custody hearing conducted by the circuit court. Therefore, our review in this case is limited to whether the circuit court's adjudication and dispositional orders were against the manifest weight of the evidence.

¶ 47 The Act sets forth a two-step process the circuit court is to use when determining whether a minor should be removed from a parent's custody and be made a ward of the court. *In re A.W.*, 231 Ill. 2d 241, 254 (2008); *In re Jay H.*, 395 Ill. App. 3d 1063, 1068 (2009). The circuit court first conducts an adjudication hearing to determine whether a minor is abused, neglected, or dependent. *In re Jay H.*, 395 Ill. App. 3d at 1068. If the circuit court makes such a finding, it then conducts a dispositional hearing to determine whether to make the minor a ward of the court. *Id.* In all proceedings under the Act, the best interest of the minor is the supreme consideration of the court. *In re Arthur H., jr.*, 212 Ill. 2d 441, 464 (2004). As stated by our supreme court, "[t]he best interests of the child is the paramount consideration to which no other takes precedence." *In re Austin W.*, 214 Ill. 2d at 46. We must also remember that "a parent has a duty to keep his children free from harm." *In re Kamesha J.*, 364 Ill. App. 3d 785, 793 (2006).

¶ 48 Adjudication Hearing

¶ 49 In a proceeding for adjudication of wardship under the Act, the State must prove the allegations in its petition by a preponderance of the evidence. *In re Arthur H., jr.*, 212 Ill. 2d at 463. Therefore, in other words, the State has the burden of establishing that its allegations "are

more probably true than not." *Id.* at 464. We will not reverse the circuit court's adjudication findings unless they are contrary to the manifest weight of the evidence, *i.e.*, the "opposite conclusion is clearly evident." *Id.*; *In the Interests of: D.W., V.R., and N.B.,jr.*, 386 Ill. App. 3d 124, 134 (2008) ("On review, we will not disturb the circuit court's findings regarding abuse and neglect unless the findings are against the manifest weight of the evidence."). "Cases involving allegations of abuse, neglect and adjudication of wardship are *sui generis*, and must be decided on the basis of their unique facts." *In re Kamesha J.*, 364 Ill. App. 3d at 793. Furthermore, the circuit court is in the best position to weigh the testimony and to make credibility determinations because it observed the conduct and demeanor of the parties and witnesses. *In re Stephen K.*, 373 Ill. App. 3d 7, 20 (2007).

¶ 50 The definition of an abused minor under the Act, includes the following:

"[A]ny minor *** whose parent or immediate family member, or any person responsible for the minor's welfare, or any person who is in the same family or household as the minor, or any individual residing in the same home as the minor, or a paramour of the minor's parent:

(ii) creates a substantial risk of physical injury to such minor by other than accidental means which would be likely to cause death,

disfigurement, impairment of emotional health, or
loss or impairment of any bodily function[.]" 705
ILCS 405/2-3(2)(ii) (West 2010).

¶ 51 The definition of a neglected minor under the Act, includes the following: "any minor *** whose environment is injurious to his or her welfare." 705 ILCS 405/2-3(1)(b) (West 2010). "Neglect is defined as the failure to exercise the care that circumstances justly demand and encompasses both willful and unintentional disregard of parental duty." *In the Interests of: D.W., V.R., and N.B.,jr.*, 386 Ill. App. 3d at 135. Our supreme court has described the term "injurious environment" to be "an amorphous concept that cannot be defined with particularity." *In re Arthur H., jr.*, 212 Ill. 2d at 463. This court, however, has noted that the term "has been interpreted to include the breach of a parent's duty to ensure a safe and nurturing shelter for his or her children." *In the Interests of: D.W., V.R., and N.B.,jr.*, 386 Ill. App. 3d at 135.

¶ 52 In this case, we cannot say that the circuit court's findings of neglect and abuse, as defined by the Act (705 ILCS 405/2-3(1)(b), (2)(ii) (West 2010)), are contrary to the manifest weight of the evidence. *In re Arthur H., jr.*, 212 Ill. 2d at 464. We note that all the parties agreed to proceed by way of stipulation, and the circuit court admonished both parents at length about the consequences of proceeding by stipulation. *See In re April C.*, 326 Ill. App. 3d 225, 242 (2001) ("Admissions under the Juvenile Court Act must be voluntarily and intelligently made."). We further point out that Katherine has not challenged the stipulation. The facts of this case, as stated in the stipulation, show that the opposite conclusion of the circuit court in this case is not "clearly evident." *In re Arthur H., jr.*, 212 Ill. 2d at 464. Specifically, Jeremiah was exposed to

reverse the findings of the circuit court conducted after a dispositional hearing unless they are against the manifest weight of the evidence. *Id.* at 51-52.

¶ 55 The Act also provides factors the circuit court considers when determining what is in the best interest of the minor. *In re Desiree O.*, 381 Ill. App. 3d 854, 865-66 (2008), citing 705 ILCS 405/1-3(4.05) (West 2006). Specifically, the Act provides:

"Whenever a 'best interest' determination is required, the following factors shall be considered in the context of the child's age and developmental needs:

- (a) the physical safety and welfare of the child, including food, shelter, health, and clothing;
- (b) the development of the child's identity;
- (c) the child's background and ties, including familial, cultural, and religious;
- (d) the child's sense of attachments, including:
 - (I) where the child actually feels love, attachment, and a sense of being valued (as opposed to where adults believe the child should feel such love, attachment, and a sense of being valued);
 - (ii) the child's sense of security;
 - (iii) the child's sense of familiarity;
 - (iv) continuity of affection for the child;

- (v) the least disruptive placement alternative for the child;
- (e) the child's wishes and long-term goals;
- (f) the child's community ties, including church, school, and friends;
- (g) the child's need for permanence which includes the child's need for stability and continuity of relationships with parent figures and with siblings and other relatives;
- (h) the uniqueness of every family and child;
- (I) the risks attendant to entering and being in substitute care; and
- (j) the preferences of the persons available to care for the child." 705 ILCS 405/1-3(4.05) a-j (West 2010).

Other considerations, as identified by our supreme court, include " 'the nature and length of the child's relationship with the present caretaker' and the effect that a change of placement would have upon the emotional and psychological well-being of the child." *In re Austin W.*, 214 Ill. 2d at 50, quoting *In re Violetta B.*, 210 Ill. App. 3d 521, 534 (1991). Even though the above factors must be considered, no one consideration is dispositive. *Id.*

¶ 56 In this case, after reviewing the record and the factors stated in section 405/1-3(4.05) a-j of the Act, we cannot say that the circuit court's findings after the dispositional hearing were against the manifest weight of the evidence. 705 ILCS 405/1-3(4.05) a-j (West 2010); *In re*

Austin W., 214 Ill. 2d at 51-52. We agree with the circuit court that it is in both Jeremiah's, and the general public's, best interest that he remain with Edet. At the time of the dispositional hearing, Edet had provided Jeremiah with a safe and loving home. According to Skoskiewicz, Jeremiah and Edet had bonded, and were "very close." Edet was close to his own family, who provide further support for Jeremiah. Unlike Katherine, Edet did not have a history of substance abuse and did not have any recommended services outstanding. Katherine, on the other hand, did have services outstanding and an admitted history of substance abuse and domestic violence. As in all child custody cases, our "paramount concern" is what is in Jeremiah's best interest. *In re Austin W.*, 214 Ill. 2d at 46. We hold that the circuit court in this case, through its findings after the dispositional hearing, served that interest. Accordingly, the circuit court's findings after the dispositional hearing were not against the manifest weight of the evidence.

¶ 57

CONCLUSION

¶ 58 For the foregoing reasons, the judgment of the circuit court is affirmed.

¶ 59 Affirmed.