NOTICE
This Order was filed under Supreme Court Rule 23 and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

2024 IL App (4th) 240472-U

NOS. 4-24-0472, 4-24-0473 cons.

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
July 30, 2024
Carla Bender
4th District Appellate
Court, IL

In re B.C. and D.W., Minors	)	Appeal from the
	)	Circuit Court of
(The People of the State of Illinois, Petitioner-Appellee,	)	Tazewell County
v.	)	Nos. 23JA185
Casey D.,	)	23JA186
Respondent-Appellant).	)	
	)	Honorable
	)	Timothy J. Cusack,
	)	Judge Presiding.

PRESIDING JUSTICE CAVANAGH delivered the judgment of the court.
Justices Harris and Steigmann concurred in the judgment.

ORDER

¶ 1 *Held*: The appellate court affirmed, finding respondent forfeited arguments pertaining to the trial court's adjudication of neglect and the disposition making the minors wards of the court.

¶ 2 In October 2023, the State filed shelter care petitions for B.C. (born September 2022) and D.W. (born March 2018). Following a combined adjudicatory and dispositional hearing, the trial court adjudicated the minors neglected and made them wards of the court, finding respondent, Casey D., unfit, unable, or unwilling, for reasons other than financial circumstances alone, to care for, protect, train, educate, supervise, or discipline the minors. Respondent challenges the court's findings. We affirm.

¶ 3 I. BACKGROUND

¶ 4 In October 2023, the State filed shelter care petitions for B.C. and D.W. pursuant to the Juvenile Court Act of 1987 (Juvenile Court Act), contending the minors' environment was injurious to their welfare (705 ILCS 405/2-3(1)(b) (West 2022)). The petition alleged the Illinois Department of Children and Family Services (DCFS) received a report that L.C.—a sibling of B.C. and D.W. and who is not a subject of this appeal—had disclosed her father, James C., had sexually abused her. See *In re L.C.*, No. 4-24-0471 (May 14, 2024) (unpublished order). James C. was subsequently charged with criminal sexual assault.

¶ 5 According to the petition, on October 10, 2023, DCFS investigator Katherine Glover spoke with respondent. Respondent denied the allegations against James C. and stated she would not keep the children from him. She refused to get an order of protection. Her mother and James C.'s mother then arrived and began arguing with Glover and refused to ensure James C. would not be around B.C. or D.W. Glover told respondent DCFS would seek protective custody of the minors. When Glover went to retrieve B.C. from the babysitter's residence, she was informed respondent had already arrived and taken B.C. Respondent sent Glover a text message stating, "I will sign an order of protection and will no longer be with James. I will do anything u believe I'd [*sic*] in the best interest of my kids, please do not take my babies."

¶ 6 On October 12, 2023, the trial court entered an order placing the minors in the temporary custody of DCFS. In her answer to the petition, respondent denied the allegations regarding the interactions with Glover on October 10, but she admitted she sent Glover the text message. For the balance of the remaining allegations in the petition, respondent stated she lacked knowledge of the allegations but admitted or stipulated the State could prove said allegations.

¶ 7 On February 14, 2024, the matter proceeded to a combined adjudicatory and dispositional hearing. The State proffered it could prove the allegations in the petition through

(1) the testimonies of Glover and named detectives and (2) certified copies of hospital records. The trial court asked if anyone had anything else to offer. Respondent's counsel replied, "No." The court found, based on the proffer, the State had met its burden and adjudicated the minors neglected.

¶ 8 The matter proceeded to a dispositional hearing. The dispositional report is part of the record and discussed by the parties at the hearing; however, it is unclear from this record if it was ever formally admitted into evidence. The trial court admitted, without objection, the State's evidence of a police report from January 15, 2024. According to the report, police officers were dispatched to respondent's residence to perform a welfare check. Apparently, respondent had sent her ex-boyfriend a photograph of her holding a knife with a message stating, " 'goodbye.' " Respondent admitted to being depressed and sending the photograph. Officers found empty bottles of alcohol next to respondent's chair, and she appeared intoxicated. The report indicated respondent was involuntarily admitted into a healthcare facility due to the incident. Respondent presented no evidence.

¶ 9 After finding respondent unfit, unable, or unwilling, for reasons other than financial circumstances alone, to care for, protect, train, educate, supervise, or discipline the minors, the trial court made the minors wards of the court and appointed DCFS as guardian of B.C. The court appointed Arthur W.—who is not a party to this appeal and is the biological father of D.W.—the guardian of D.W. The court ordered respondent to complete services to be administered by DCFS.

¶ 10 On March 13, 2024, respondent filed a *pro se* document, claiming Glover had made false statements and insisting she had cooperated with DCFS. The trial court appointed appellate counsel, and this appeal followed.

¶ 11 II. ANALYSIS

¶ 12 Pursuant to the Juvenile Court Act, there is a two-stage process the trial court must follow prior to making a neglected minor a ward of the court. *In re A.P.*, 2012 IL 113875, ¶ 18. First, the court must determine, by a preponderance of the evidence, whether the minor is neglected. *Id.* ¶ 19. If the court finds the minor is neglected, the court "determines 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. In considering the appropriateness of wardship, the court must decide if the parent is unfit, unable, or unwilling, for reasons other than financial circumstances alone, to care for, protect, train, or discipline the minor, and that the health, safety, and best interest of the minor will be jeopardized if the minor remains in the parent's custody. *Id.*; see also 705 ILCS 405/2-27(1) (West 2022).

¶ 13 Respondent argues the trial court erred when it (1) found the minors neglected due to an injurious environment and (2) found respondent unfit, unable, or unwilling, for reasons other than financial circumstances alone, to care for, protect, train, or discipline the minors. We address each contention in turn.

¶ 14 A. Adjudication of Neglect and Injurious Environment

¶ 15 Neglect cases are "*sui generis*, and must be decided on the basis of their unique circumstances." *In re Arthur H.*, 212 Ill. 2d 441, 463 (2004). " '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 re Kamesha J.*, 364 Ill. App. 3d 785, 792-93 (2006). A parent has a duty to shield his or her child from harm. *Id.* at 793. A trial court's finding of neglect is afforded great deference and will not be overturned unless it is against the manifest weight of the evidence. *In re R.S.*, 382 Ill. App. 3d 453, 459 (2008). "A finding is against the manifest weight of the evidence only if the opposite conclusion is clearly evident." *Id.*

¶ 16 "Under the anticipatory neglect theory, the State seeks to protect not only children who are the direct victims of neglect or abuse, but also those who have a probability to be subject to neglect or abuse because they reside, or in the future may reside, with an individual who has been found to have neglected or abused another child." *Arthur H.*, 212 Ill. 2d at 468. "The theory of anticipatory neglect flows from the concept of an 'injurious environment' which is set forth in the [Juvenile Court Act]." *Id.*

¶ 17 Respondent argues she did not stipulate or admit to all of the allegations in the shelter care petition, and even if she had, the trial court failed to ascertain whether her stipulations or admissions were voluntarily and intelligently made. Regarding the court's findings the minors' environment was injurious, respondent contends James C. no longer lived with the minors and no evidence was presented B.C. or D.W. had been subjected to sexual abuse. The State contends respondent has forfeited these issues because she did not raise these issues before the trial court. We agree with the State.

¶ 18 At the adjudicatory hearing, respondent did not object to or take issue with any of the State's proffer. "[B]y failing to properly preserve the issues she now raises, respondent has forfeited those issues on appeal." *In re C.J.*, 2011 IL App (4th) 110476, ¶ 22 (citing *In re William H.*, 407 Ill. App. 3d 858, 869-70 (2011) (stating in order to preserve an alleged error for appellate review, a party must object at trial and file a written posttrial motion addressing it even in cases under the Juvenile Court Act). Additionally, respondent affirmatively acquiesced to the evidence and procedure at the adjudicatory and dispositional hearings. See *In re K.B.*, 2019 IL App (4th) 190496, ¶ 96 ("It would be unreasonable of [this court] to hold that the circuit court erred by entering an order to which respondent, through her attorney, explicitly agreed.").

¶ 19 B. Dispositional Finding

¶ 20 Respondent first argues, because there was insufficient evidence to support an adjudication of neglect, the trial court lacked jurisdiction to proceed to the dispositional hearing making the minors wards of the court. However, because we have already found respondent forfeited these issues, we reject respondent's argument the court lacked jurisdiction to proceed to a dispositional hearing without further analysis.

¶ 21 Respondent next argues the State's exhibit of a police report alluding to her mental health issues was insufficient to support the trial court's dispositional finding. In support, respondent cites *In re Faith B.*, 349 Ill. App. 3d 930 (2004). The State argues respondent's reliance on *Faith B.* is misplaced because it involves the nexus between a parent's mental illness and placing a child in an injurious environment for the purposes of adjudicating neglect. We agree with the State. *Faith B.* stands for the proposition that "it is not enough for the State to show simply that the parent suffers from a mental illness. Rather, the State must also show that the mental illness places the children in an injurious environment." (Internal quotation marks omitted.) *In re Faith B.*, 216 Ill. 2d 1, 14 (2005).

¶ 22 In the case *sub judice*, the State had offered the police report to demonstrate plausible mental health issues and sought additional services as part of respondent's court-ordered services. The trial court had already adjudicated the minors neglected prior to the admission of this evidence. Notably, this was evidence to which respondent did not object. We will not reverse a trial court's ruling at a dispositional hearing unless it is against the manifest weight of the evidence. *In re J.W.*, 386 Ill. App. 3d 847, 856 (2008). A finding is against the manifest weight of the evidence when the opposite result is clearly evident. *In re Audrey B.*, 2015 IL App (1st) 142909, ¶ 32. Accordingly, respondent provides no basis for which this court should reverse as being against the manifest weight of the evidence, the trial court's finding that respondent was unfit,

unable, or unwilling, for reasons other than financial circumstances alone, to care for, protect, train, or discipline the minors.

¶ 23 III. CONCLUSION

¶ 24 For the reasons stated, we affirm the trial court's judgment.

¶ 25 Affirmed.