

THIRD DIVISION
March 31, 2011

Nos. 1-10-3079, 1-10-3253 (Consolidated)

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

<i>In re</i> JOSHUA M., a Minor)	APPEAL FROM THE
)	CIRCUIT COURT OF
(The People of the State of Illinois,)	COOK COUNTY
Petitioner-Appellee,)	
)	
v.)	
)	No. 10 JA 00371
Carolyn E.,)	
Respondent-Appellant)	
)	
and)	
)	HONORABLE
Joseph M.,)	MARY L. MIKVA,
Respondent-Appellant).)	JUDGE PRESIDING.

JUSTICE STEELE delivered the judgment of the court.
Presiding Justice Quinn and Justice Neville concurred in the judgment.

ORDER

HELD: In this appeal from orders finding the minor neglected based on an injurious environment, the trial court did not err in ultimately denying the father's motion for a substitution of judge. The trial court's findings that the minor was neglected and the father was unable to care for the minor are not against the manifest weight of the evidence.

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In these consolidated appeals, respondents Joseph M. and Carolyn E. appeal orders entered by the circuit court of Cook County finding their son, Joshua M., abused or neglected based on exposure to an injurious environment. 705 ILCS 405/2-3 (West 2010). Joseph M. also appeals an order of the circuit court denying his motion for substitution of judge as of right. The circuit court's findings are not against the manifest weight of the evidence. Additionally, we conclude that the circuit court did not err in denying the motion for substitution of judge. Accordingly, for the following reasons, we affirm the judgment of the circuit court.

BACKGROUND

The record on appeal discloses the following facts. Joshua M. was born on April 17, 2010. The State filed a petition for adjudication of wardship and temporary custody on May 5, 2010, alleging Joshua M. was neglected due to an injurious environment and a substantial risk of physical injury by other than accidental means. The State alleged: (1) Carolyn E. had four prior indicated reports¹ for substantial risk of injury and injurious environment; (2) Joseph M. had two prior indicated reports for substantial risk of injury and injurious environment; (3) Carolyn E. had nine other minors who are or were under the care or custody of the Department of Children and Family Services (DCFS) with findings of abuse, neglect, dependency or unfitness; (4) Joseph M. has two other minors who are or were under DCFS care or custody with findings of abuse and

¹ An indicated report is one made pursuant to the Abused and Neglected Child Reporting Act, where it is determined after investigation that credible evidence of abuse or neglect exists. 325 ILCS 5/3 (West 2010).

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neglect; (5) both parents had a history of illegal substance use; (6) Carolyn E. was diagnosed with bipolar disorder and admits she is not currently engaged in mental health treatment; (7) Joshua M. showed symptoms of withdrawal; (8) Carolyn E. refused to consent to have the hospital social worker speak to her methadone counselor; and (9) hospital staff had concerns over Carolyn E.'s ability to parent and barred Joseph M. from the hospital due to his behavior.

On the same day, the circuit court appointed the Cook County Public Guardian to represent Joshua M., and conflict bar attorneys to represent Joseph M. and Carolyn E. Joseph M. moved for a substitution of judge as of right. Judge Mary L. Mikva granted the motion and transferred the case for reassignment. The temporary custody hearing was held later that day before Judge Rena M. Van Tine. Based on a written stipulation of facts, the circuit court found probable cause that Joshua M. was neglected and granted temporary custody of Joshua M. to a DCFS administrator.

On May 12, 2010, the Cook County Public Guardian filed a motion to reconsider the order granting a substitution of judge. The Public Guardian argued that Joseph M. was not entitled to a substitution of judge because Judge Mikva was also assigned to preside over abuse or neglect proceedings involving Joshua M.'s half-sibling. On June 9, 2010, Judge Mikva reconsidered and vacated her prior order granting a substitution of judge. Judge Mikva also granted Joseph M.'s request to vacate the appointment of counsel and allowed him time to retain private counsel. However, on June 17, 2010, the circuit court appointed a new conflict bar attorney for Joseph M.

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The circuit court commenced the adjudicatory hearing on July 28, 2010. The State introduced, without objection, People's Exhibit Number One, which contained certified adjudication, dispositional and termination of parental rights orders involving seven of Carolyn E.'s children and one of Joseph M.'s children, Mariah S. The exhibit also included a May 8, 2006, circuit court dispositional order that found Joseph M. unable and unwilling to care for Mariah S. and placed her in the custody of the DCFS guardianship administrator. The case was then continued to August 16, 2010.

When the adjudicatory hearing resumed, DCFS child protection investigator Patricia Pinkney testified that she was assigned to the case on April 22, 2010. According to Pinkney, Carolyn E. had just given birth to Joshua M. and both tested positive for methadone. Pinkney added that Joshua M. was experiencing withdrawal symptoms. A question was also raised about Carolyn E.'s psychiatric issues.

Pinkney testified that on May 8, 2010, she spoke to Carolyn E. and Joseph M. in their home, explaining the allegations regarding Joshua M. Carolyn E. admitted that DCFS had already removed nine children from her care, due to risk of harm. Carolyn E. also told Pinkney that she had been in a methadone program for 10 years, but was not participating in other services.

Furthermore, Pinkney testified that she spoke to Joseph M. by telephone prior to the home visit. According to Pinkney, Joseph M. admitted that two of his daughters by Carolyn E. were removed from his custody by DCFS and were then under private guardianship through DCFS. Joseph M. told Pinkney that he was in a treatment program at the Human Resources

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Development Institute (HDRI), receiving methadone, and attending Alcoholics Anonymous meetings once or twice weekly. Pinkney testified that she took protective custody of Joshua M. due to risk of harm.

HDRI substance abuse counselor Barbara Davis testified that she had been working with Joseph M. for approximately seven months, although Joseph M. began receiving services from HDRI since 2002 or 2003. Joseph M. participated in random urine drops and received methadone through HDRI. Davis believed that Joseph M. had not tested positive for any drug other than methadone since 2004 or 2005. However, she noted that Joseph M. did not have a counselor for some time prior to her assignment and did not know whether he was tested during that period.

Davis also testified that HDRI had recommended that Joseph M. meet with Davis weekly, attend group sessions at HDRI once or twice weekly and attend Narcotics Anonymous/Alcoholics Anonymous (NA/AA) meetings outside HDRI. According to Davis, Joseph M. met with her weekly, but failed to attend group sessions and provided no proof of attendance at NA/AA meetings. Davis stated that she had consistently reminded Joseph M. that he needed to attend group and outside sessions. At the conclusion of Davis's testimony, the hearing was continued to September 24, 2010.

When the hearing resumed, the State submitted People's Exhibit Number Two, which consisted of certified and delegated records from the Family Guidance Center regarding Carolyn E., without objection. These records noted that Carolyn E. had a history of bipolar disorder, and

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she had stopped taking psychotropic medication and following through with psychiatric services from July 2008 through May 2010, despite ongoing recommendation and referrals for services.

The State also submitted People's Exhibit Number Three, which included certified and delegated records from Northwestern Memorial Hospital (NMH) for both Carolyn E. and Joshua M., without objection. These records indicated Joshua M. was born exposed to methadone and was thereafter treated with the drug in decreasing amounts. On April 20, 2010, after a hospital social worker told Joshua M.'s parents that NMH had contacted DCFS over concerns about Carolyn E.'s sobriety, Joseph M. became upset and said his civil rights attorney would contact NMH because NMH was a racist institution. On April 26, 2010, Joseph M. reportedly appeared at NMH at 1 a.m., looking for his Bible. He was described as incoherent, combative and smelling of alcohol from two feet away. Joseph M. again complained about the alleged racist attitude of NMH's staff and the way he and Carolyn E. were treated at NMH. The next day, Joseph M. returned to NMH and was escorted to the floor by hospital security. Joseph M. was reportedly upset, displayed disruptive behavior and yelled at the charge nurse. On April 28, 2010, NMH staff decided that Joseph M. could no longer visit Joshua M. there.

Following the admission of these exhibits, the State rested.

The Cook County Public Guardian called Dr. Jennifer Clark, Clinical Director for the Cook County Juvenile Clinic (Juvenile Clinic), to testify regarding a February 8, 2007, report containing clinical information regarding Carolyn E. and Joseph M. The trial court admitted the record over foundational objections from the attorneys for Carolyn E. and Joseph M, adding that the date would be relevant to the weight of the evidence.

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The Juvenile Clinic report indicated that in 2005, Carolyn E. had been diagnosed by Paul Linden, Psy.D. with major depression (recurrent with psychotic features), opioid dependence in remission, mild mental retardation and dependent personality disorder. During a 2007 clinical interview with Jessica Ransom, Psy.D., Carolyn E. stated that she had been hospitalized for psychiatric treatment approximately 12 times. Dr. Linden opined that Carolyn E. had an extremely limited ability to care for herself, lacked the ability to parent, and suffered from significant psychological difficulties that caused her to regress into psychosis when stress exceeded her coping skills. Dr. Linden also opined that Carolyn E.'s prognosis for developing functional parenting skills was extremely poor.

According to the Juvenile Clinic report, Dr. Linden diagnosed Joseph M. with bipolar disorder in partial remission, opioid dependence and personality disorder not otherwise specified (with paranoid and antisocial features). Joseph M. first received therapy for depression when he was 12 years old. In 1991-92, Joseph M. was hospitalized for depression. In 2004, HDRI staff admitted him at Loretto Hospital, believing him to be a threat to himself and society. Joseph M. refused to take antipsychotic medication and was discharged back to HDRI. Joseph M. has a history of being prescribed Prozac but was never compliant. Dr. Ransom reported that Joseph M. sometimes evidenced paranoid and delusional thoughts. According Dr. Ransom, Joseph M. stated that Mariah S. was taken into DCFS custody at birth because he failed to complete a recommended psychological evaluation. Joseph M. also stated that he did not believe his children were at any risk in Carolyn E.'s care. Dr. Ransom opined that Joseph M.'s personality style was characterized by paranoia, distrust, narcissism, and a tendency to displace

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responsibility. Dr. Ransom also opined that Joseph M.'s mental illness and personality style would pose a significant risk of harm to his children if Joseph M. was allowed unsupervised visitation with his children. Although it was unlikely that either parent would make progress, Dr. Ransom recommended services for Carolyn E. and Joseph M.

The Public Guardian then rested its case. Neither Carolyn E. nor Joseph M. offered evidence on their behalf.

Following closing arguments, the circuit court found that the State had proved neglect due to an injurious environment. The court did not enter a finding of abuse based on a substantial risk of injury, but noted it was a "close question." The court found that the case was "primarily, but not exclusively" one of anticipatory neglect, explaining that the medical records clearly reflected ongoing issues respective to the parents. The court noted that Joseph M. had made significant progress regarding being less hostile to people trying to help him care for Joshua M. However, an ongoing deficiency in terms of anger remained, including the fact that Joseph M. was barred from the hospital for some period of time. The court entered an adjudication order consistent with these findings.

The circuit court then proceeded to the dispositional hearing. The State submitted a court report from Volunteers of America (VOA), signed by caseworker Hilary Hunter, which was admitted into evidence without objection. According to the VOA report, neither Carolyn E. nor Joseph M. cooperated with DCFS or VOA since Joshua M.'s case was opened. In telephone conversations, Joseph M. had been combative and argumentative, and denied any mental health history or DCFS involvement. The State also submitted letters from VOA to Carolyn E. and

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Joseph M. seeking a meeting to assess them for services.

Hunter also testified at the dispositional hearing. Hunter testified regarding the conditions of Joshua's foster home, which she deemed safe and appropriate. Hunter elaborated on her telephone conversation with Joseph M., who said that he "couldn't stand" VOA, the proposed service plan was "all wrong," the integrated assessment was "a bunch of garbage," and that he wanted to dispute a lot of the services offered by a prior caseworker. Hunter also testified that Joseph M. failed to appear for two meetings she scheduled with him so that he could voice his concerns. Hunter said she spoke to Joseph M. just before the court hearing and that he agreed to meet and be assessed for services.

Hunter further testified to a range of services she recommended for Joseph M.. Hunter reported that Carolyn E. and Joseph M. were both having supervised visits with Joshua for two hours each week. Hunter stated that Joseph M. occasionally stepped out for 15 minutes to talk on the phone or get food, but was attentive to Joshua M. when present. However, Hunter opined the prognosis for a return home was poor and recommended that the court adjudge Joshua M. a ward of the court.

At the conclusion of the hearing, the circuit court found that it was in Joshua M.'s best interest to adjudge Joshua M. a ward of the court and appoint DCFS as Joshua M.'s guardian. The court found that Carolyn E. and Joseph M. were unable to care for Joshua M. The court declined to find that Carolyn E. and Joseph M. were unwilling to care for Joshua M., but stated it was a "close question."

On October 7, 2010, Carolyn E. filed a timely notice of appeal of the circuit court's

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adjudication and dispositional orders. On October 21, 2010, Joseph M. filed a timely notice of appeal of the circuit court's adjudication and dispositional orders, as well as the court's order denying his motion for substitution of judge.

DISCUSSION

I. Joseph M.'s Brief

Initially, we address the Public Guardian's request that this court dismiss Joseph M.'s appeal and strike his brief for failure to comply with a number of Illinois Supreme Court Rules, including the provisions in Rule 341 requiring the appellant's brief contain the following:

"(6) Statement of Facts, which shall contain the facts necessary to an understanding of the case, stated accurately and fairly without argument or comment, and with appropriate reference to the pages of the record on appeal, e.g., R. C7, or R. 7, or to the pages of the abstract, e.g., A. 7. Exhibits may be cited by reference to pages of the abstract or of the record on appeal or by exhibit number followed by the page number within the exhibit, e.g., Pl. Ex. 1, p. 6.

(7) Argument, which shall contain the contentions of the appellant and the reasons therefor, with citation of the authorities and the pages of the record relied on. Evidence shall not be copied at length, but reference shall be made to the pages of the record on appeal or abstract, if any, where evidence may be found. Citation of numerous authorities in support of the same point is not favored. Points not argued are waived and shall not be raised in the reply brief, in oral argument, or on petition for rehearing.

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(9) An appendix as required by Rule 342." Ill. S. Ct. R. 341(h)(6), (7), (9) (eff. July 1, 2008).

Our supreme court's rules are mandatory rules of procedure, not mere suggestions. *People v. Garstecki*, 382 Ill. App. 3d 802, 811 (2008), *aff'd on other grounds*, 234 Ill. 2d 430 (2009). A party's failure to abide by Rule 341 makes appellate review of his or her claim more onerous (*In re Marriage of Cerven*, 317 Ill. App. 3d 895, 900 (2000)) and may result in waiver (e.g., *People v. Universal Public Transportation, Inc.*, 401 Ill. App. 3d 179, 198 (2010); *Gomez v. The Finishing Co.*, 369 Ill. App. 3d 711, 723, 861 N.E.2d 189, 201 (2006)). Moreover, the law is well settled that the appellant bears the burden of presenting a sufficiently complete record to support his claims of error, and any doubts arising from the incompleteness of the record will be resolved against him. E.g., *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92 (1984). When the appellant fails to present this court with a complete record, the reviewing court must indulge in every reasonable presumption favorable to the judgment and will presume the trial court followed the law and had a sufficient factual basis for its ruling. *Foutch*, 99 Ill. 2d at 391-92.

However, both the State and the Public Guardian submitted detailed briefs which, while lacking indicies, contain sufficient information to allow this court to locate their citations in the record on appeal. *Associated Underwriters of America Agency, Inc. v. McCarthy*, 356 Ill. App. 3d 1010, 1016 (2005). Although the shortcomings in Joseph M.'s brief may affect our ability to review particular points raised in his brief, given the seriousness of the case, we decline to dismiss the appeal or strike Joseph M.'s brief. Accordingly, we turn to the merits of the appeal.

II. Substitution of Judge

We now turn to Joseph M.'s claim that the circuit court erred in failing to grant his motion for a substitution of judge as a matter of right. Joseph M.'s brief mentions this issue only in passing, but cites section 114-5(a) of the Illinois Code of Criminal Procedure of 1963 (725 ILCS 5/114(a) (West 2010)). Joseph M.'s citation is incorrect, because abuse and neglect proceedings under the Juvenile Court Act (Act) are civil in nature. *In re C.M.*, 351 Ill. App. 3d 913, 916-17 (2004). Accordingly, any motion for substitution of judge would have to be made under section 2-1001(a)(2) of the Illinois Code of Civil Procedure (Code) (735 ILCS 5/2-1001(a)(2) (West 2010)). Moreover, the Act specifically provides:

"A party shall not be entitled to exercise the right to a substitution of a judge without cause under subdivision (a)(2) of Section 2-1001 of the Code of Civil Procedure in a proceeding under this Act if the judge is currently assigned to a proceeding involving the alleged abuse, neglect, or dependency of the minor's sibling or half sibling and that judge has made a substantive ruling in the proceeding involving the minor's sibling or half sibling." 705 ILCS 405/1-5(7) (West 2010).

In this case, the Public Guardian filed a motion to reconsider the order granting a substitution of judge because Judge Mikva was also assigned to preside over abuse or neglect proceedings involving Joshua M.'s half-sibling. Joseph M. has presented no argument that the trial court erred in vacating its prior order granting a substitution of judge. Accordingly, we presume that the trial court's order was correct. *Foutch*, 99 Ill. 2d at 391-92.

III. The Finding of Neglect

Joseph M. further maintains that the trial court erred by finding Joshua M. neglected due to an injurious environment, claiming the State failed to prove its case by a preponderance of the evidence. The State bears the burden of proving allegations of neglect by a preponderance of the evidence. *In re K.L.S-P.*, 383 Ill. App. 3d 287, 291 (2008). However, we review a trial court's neglect finding to determine whether that finding was against the manifest weight of the evidence. *K.L.S-P.*, 383 Ill. App. 3d at 291-92. A finding is against the manifest weight of the evidence only when the opposite conclusion is clearly evident. *K.L.S-P.*, 383 Ill. App. 3d at 292. We afford great deference to the trial court due to its superior position to observe the witnesses, assess credibility and weigh the evidence. *In re M.W.*, 386 Ill. App. 3d 186, 196 (2008).

Under section 2-3(1)(b) of the Act, a neglected minor includes "any minor under 18 years of age whose environment is injurious to his or her welfare." 705 ILCS 405/2-3(1)(b) (West 2010). The terms "neglect" and "injurious environment" do not have fixed meanings, but rather the meanings vary with the facts and circumstances of a particular case. *In re Arthur H., Jr.*, 212 Ill. 2d 441, 463 (2004). "Thus, cases involving such allegations are *sui generis* and must be decided on the basis of their individual facts." *K.L.S-P.*, 383 Ill. App. 3d at 292.

Joseph M. argues that this case is similar to this court's decision in *Arthur H.*, where the trial court found neglect on a completely different factual basis from the allegations in the State's petition. *Arthur H., Jr.*, 338 Ill. App. 3d 1027, 1038-39 (2003), *aff'd in part and rev'd in part*, 212 Ill. 2d 441 (2004); see also *In re J.B.*, 312 Ill. App. 3d 1140, 1143-45 (2000); *Schultz v. Schultz*, 297 Ill. App. 3d 102, 106 (1998). However, as the Public Guardian notes, where the

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State's petition alleges neglect based on an injurious environment, the petition need not encompass every piece of evidence the State may present at the adjudicatory hearing. See *In re Sharena H.*, 366 Ill. App. 3d 405, 417-18 (2006). Moreover, in this case, the State's petition and evidence were both primarily directed toward the theory of anticipatory neglect. Thus, Joseph M.'s argument is unpersuasive.

This case, as the circuit court noted is one primarily, but not exclusively, of anticipatory neglect. "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. Proof of neglect of one minor is admissible on the issue of the neglect of any other minor for whom the parent is responsible. 705 ILCS 405/2-18(3) (West 2010). However, "the mere admissibility of evidence does not constitute conclusive proof of the neglect of another minor." *Arthur H.*, 212 Ill. 2d at 468. In other words, "there is no *per se* rule that the neglect of one child conclusively establishes the neglect of another child in the same household." *Arthur H.*, 212 Ill. 2d at 468. "Rather, 'such neglect should be measured not only by the circumstances surrounding the sibling, but also by the care and condition of the child in question.'" *Arthur H.*, 212 Ill. 2d at 468 (quoting *In re Edward T.*, 343 Ill. App. 3d 778, 797 (2003)); see also *In re Edricka C.*, 276 Ill. App. 3d 18, 29-31 (1995). Nevertheless, the Illinois Supreme Court also recognizes that "when faced with evidence of prior neglect by parents, 'the juvenile court should not be forced to refrain from

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taking action until each particular child suffers an injury.' " *Arthur H.*, 212 Ill. 2d at 477 (quoting *In re Brooks*, 63 Ill. App. 3d 328, 339 (1978)).

Joseph M. argues that the proof at trial contradicted the State's allegations and that the State's witnesses were inconsistent and contradictory. However, the record on appeal contains extensive evidence supporting the State's allegations. Joshua M. was born exposed to methadone. People's Exhibit Number One contained certified adjudication, dispositional and termination of parental rights orders involving seven of Carolyn E.'s children and one of Joseph M.'s children, Mariah S. The exhibit included the May 8, 2006, circuit court dispositional order finding Joseph M. unable and unwilling to care for Mariah S. and placing her in the custody of the DCFS guardianship administrator. According to caseworker Patricia Pinkney, Joseph M. admitted that his two other daughters by Carolyn E. were removed from his custody by DCFS and placed under private guardianship through DCFS. The record also contains evidence that both Carolyn E. and Joseph M. have been diagnosed with serious mental health problems, with little evidence that either has sought to address the problems. Joseph M. notes that Barbara Davis testified that he had not tested positive for any drug other than methadone since 2004 or 2005. However, Davis also noted that Joseph M. had been without a counselor for some time prior to her assignment and she did not know whether he was tested during that period. Moreover, Davis was one of several sources indicating Joseph M. generally declined to take advantage of services offered for his mental health issues and drug dependency.

Joseph M. claims that the various records were uncorroborated and years out of date. However, the records submitted by the State and Public Guardian are generally consistent. Aside

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from Joseph's attendance of weekly meetings at HDRI, there is no evidence that he sought treatment for his mental health or drug problems. Furthermore, the most recent evidence of Joseph's behavior is consistent with the previous assessments regarding his combative and paranoid personality style. For example, NMH staff reported that Joseph smelled of alcohol from two feet away during a disruptive incident at the hospital. Additionally, the record shows that Joseph M. was living with Carolyn E. Although the trial court may enter a finding of neglect regarding one parent and not the other, the State correctly notes that in this case, Carolyn E.'s unaddressed problems would be part of the environment in which Joshua M. would be raised.

Joseph M. points to other isolated pieces of testimony that his demeanor was cooperative on one occasion or another², and the trial court's finding that he has made some progress regarding his hostility to others trying to care for Joshua M. However, after assessing the entirety of the evidence, the trial court nevertheless found not only that the State had proved neglect due to an injurious environment, but also found that it was a "close question" of abuse based on a substantial risk of injury, while ultimately declining the latter finding. Given the record on

² Many of these assertions are not supported by any citation to the record. A few assertions appear to have a citation to the record, but these citations cannot be verified, given that Joseph M.'s brief lacks an index to the record on appeal. However, assuming *arguendo* that such statements could be located in the record, the trial court reached its decision based on the entire record.

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appeal before us, the opposite conclusion is not clearly evident. Accordingly, the trial court's finding of neglect was not against the manifest weight of the evidence.

IV. Joseph M.'s Ability to Care for Joshua

Lastly, Joseph M. presented a question for review about whether the trial court erred in finding him unable to care for Joshua M. at the dispositional hearing. Joseph M. does not argue the point on its merits in his brief. Nevertheless, we briefly address the issue.

"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." *In re April C.*, 326 Ill. App. 3d at 256; 705 ILCS 405/2-27(1) (West 2010). Section 2-27 of the Act specifically provides:

"In making a determination under this Section, the court shall also consider whether, based on the best interests of the minor,

(a) appropriate services aimed at family preservation and family reunification have been unsuccessful in rectifying the conditions that have led to a finding of unfitness or inability to care for, protect, train, or discipline the minor, or

(b) no family preservation or family reunification services would be appropriate." 705 ILCS 405/2-27(1.5) (West 2010).

"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." *April C.*, 326 Ill. App. 3d at 257. "On review, the trial court's determination will be reversed only if the

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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." *In re T.B.*, 215 Ill. App. 3d 1059, 1062 (1991). 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. *T.B.*, 215 Ill. App. 3d at 1062. Because the 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. *April C.*, 326 Ill. App. 3d at 257.

In this case, the record on appeal shows that Joseph M. needed to complete many assessments and services to address issues regarding his mental health and prior involvement with DCFS. The record also shows that Joseph M. not only failed to participate in an integrated assessment, but also dismissed the assessment as a "bunch of garbage." Joseph M. also failed to attend scheduled meetings to discuss recommended services. Indeed, Joseph M. generally denied he had mental health issues or prior DCFS involvement. Joseph M.'s caseworker, Hilary Hunter, opined the prognosis for a return home was poor and recommended that the court adjudge Joshua M. a ward of the court. Given the record on appeal, taken as a whole, we conclude that the trial court's finding is not against the manifest weight of the evidence.

V. Motion to Withdraw by Carolyn E.'s counsel

Carolyn E.'s court-appointed counsel filed a motion to withdraw based on *Anders v. California*, 386 U.S. 738 (1967). The motion, which is accompanied by a supporting brief, states that counsel has reviewed the entire record and concluded that there are no arguable bases

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for relief. Copies of the motion and brief were sent to Carolyn E. and she was advised that she could submit any points in support of her appeal. Carolyn E. has not responded. The motion to withdraw was taken with these consolidated cases for disposition. We have carefully reviewed the record and counsel's brief, and find no issue of arguable merit. Therefore, counsel's motion is allowed and we affirm the judgment of the trial court as it pertains to Carolyn E.

CONCLUSION

In sum, we conclude that the trial court did not err in ultimately denying Joseph M.'s motion for a substitution of judge. The trial court's finding that Joshua M. was neglected is not against the manifest weight of the evidence. Furthermore, the trial court's finding that Joseph M. was unable to care for Joshua M. is not against the manifest weight of the evidence. Lastly, we grant the motion to withdraw by Carolyn E.'s counsel, based on *Anders v. California*, 386 U.S. 738 (1967), as we find no arguable issues of merit, and thus, affirm the trial court's judgment as to her. For all of the aforementioned reasons, the judgment of the circuit court of Cook County is affirmed.

Affirmed.