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SIXTH DIVISION  
MAY 2, 2011

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IN THE APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

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In the Interest of J.M., a Minor,	)	Appeal from the
	)	Circuit Court of
Respondent-Appellee,	)	Cook County, Illinois
	)	Juvenile Justice and Child
(The People of the State of Illinois,	)	Protection Department,
	)	Child Protection Division.
Petitioner-Appellee,	)	
	)	
v.	)	10 JA 179
	)	
John M..and Jessica M.,	)	
	)	Honorable
Respondents-Appellants).	)	Bernard J. Sarley,
	)	Judge Presiding.
	)	

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JUSTICE McBRIDE delivered the judgment of the court.  
Justices Cahill and R.E. Gordon concurred in the judgment.

ORDER

*HELD:* The circuit court's finding following an adjudicatory hearing that the minor was neglected because her environment was injurious to her welfare was affirmed where the parents' other children were previously found abused and neglected and the parents had not participated in services aimed at reuniting them with those children and where the evidence indicated that the minor was neglected after her birth. The court's order following a dispositional hearing finding that the parents were unable to care for the minor was affirmed where the father did not appeal from that ruling and where the mother had not completed services aimed at reuniting her with her other children. \_\_\_\_\_

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\_\_\_\_\_ Following an adjudicatory hearing, the circuit court found that the minor, J.M., was neglected because her environment was injurious to her welfare. At a subsequent dispositional hearing, the court found that J.M.'s biological parents, the respondents John and Jessica, were unable to care for the minor, adjudicated the minor a ward of the court, and placed the minor under the guardianship of an Illinois Department of Children and Family (DCFS) Guardianship Administrator. Both parents appeal from the trial court's findings following the adjudicatory hearing and Jessica additionally appeals from the court's findings following the dispositional hearing. For the reasons that follow, we affirm.

J.M. was born on February 1, 2010. On March 4, 2010, the State filed a petition for adjudication of wardship of J.M.. The petition alleged that J.M. was neglected because her environment was injurious to her welfare (705 ILCS 405/2-3(1)(b) (West 2010)), and that she was abused based upon a substantial risk of physical injury (705 ILCS 405/2-3(2)(ii) (West 2010)). The petition alleged that the mother had seven other minors that were in DCFS care and/or custody based upon findings of abuse and neglect and that mother was inconsistent with recommended services aimed at reuniting her with the minors.<sup>1</sup> The petition further alleged that the mother and putative father resided together and did not have adequate housing for J.M. On March 4, the trial court granted temporary custody of J.M. to DCFS.<sup>2</sup>

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<sup>1</sup>Jessica's seven other children are Camilo M., John M., Mariah N., Mathew M., Adrianna M., Jeremiah M., and Nathaniel M.

<sup>2</sup>The court entered a finding that John was J.M.'s biological father on June 2, 2010. John M. is also the biological father of John, Jeremiah, Adrianna and Matthew. Camilo, Mariah and Nathaniel have other fathers who are not involved in this appeal.

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The adjudicatory hearing was held on October 12, 2010. John participated by telephone because he was incarcerated in Wisconsin. The State entered into evidence the disposition and adjudication orders entered in the case of Jessica's seven other children. Those adjudication orders reflect that on September 21, 2009, the minors were found to be neglected due to a lack of necessary care and due to an injurious environment. The order states that the apartment in which the minors resided was "in a deplorable condition as evidenced by photographs and testimony" and that "this was the second time the apartment was in this condition." The dispositional orders reflect that on November 30, 2009, Jessica was found to be unable for some reason other than financial circumstances alone to care for, protect, train or discipline the children, and was further unwilling to care for, protect, train or discipline the children. The same finding was made of John as to the four children of which he is the biological father. The minors were adjudged to be wards of the court and placed in the guardianship of a DCFS guardianship administrator.

Francee Henley of Seguin Services was assigned to be the caseworker for Jessica and five of her children when they came into the system in February 2009. Henley testified that the minors came into the system due to a "dirty house" in which they lived with Jessica and after a minor subsequently died in the home. She explained that the home was found to be in a "deplorable condition" and that DCFS was required to come and clean the house. J.M. was not exposed to this home because she was not born at the time. The minor that later died in the home was Jessica's granddaughter, the infant son of 16-year old Mariah. The minor died after the mother allegedly rolled on top of him while they were sleeping. John was incarcerated at the time of these incidents and remained so until March 2009. John and Jessica resided together in a

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motel from March 2009 until April 2010.

In order to reunite the parents with their children, Henley assessed Jessica for services and recommended that she participate in individual therapy, parenting coaching, and a JCAP assessment, and recommended that she obtain a stable income and a safe place for the children to be returned.<sup>3</sup> Henley also assessed John and recommended that he participate in a JCAP assessment, individual therapy, and parenting coaching.

As part of the assessment, Henley provided Jessica with an ongoing referral for individual therapy. As of February 2010, Jessica had been discharged from therapy twice for nonattendance. Jessica completed the JCAP assessment in July 2009 and it was recommended that she participate in intensive outpatient treatment for substance abuse. Jessica entered an outpatient program in December 2009 but was discharged before completing the program. She was transferred to another program in March 2010, which she also did not successfully complete. Jessica participated in parenting coaching for five months but services were discontinued in November 2009 because “the parenting coach felt that he had exhausted his resources with [Jessica].”

John did not complete parenting coaching and participated in only two sessions. He was also unsuccessfully discharged from individual therapy because he attended only one session. The JCAP assessment recommended that John participate in intensive outpatient drug treatment but he never participated in the program. Prior to the day J.M. was born, Henley had most recently visited the motel in which John and Jessica lived on November 5, 2009. She assessed

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<sup>3</sup>The meaning of the acronym “JCAP” is not contained in the record.

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the appropriateness of that residence for children and found that the motel did not allow persons under the age of 18 to reside there. Henley testified that housing services were not recommended for John because he consistently indicated that he wanted to reside at the motel, where he had full-time employment. Although Henley told John that the children could not be returned to him as long as he lived at the motel, John indicated that he understood but that he still wanted to live there.

Part of Henley's responsibilities included monitoring the safety of any children that might be in Jessica's care. Henley spoke to Jessica and John on November 2, 2009, because it appeared to her that Jessica was pregnant. Henley asked Jessica if she was pregnant, and Jessica replied that she did not know and that the pregnancy had not been confirmed by a doctor. Henley explained to Jessica the importance of confirming the pregnancy with a physician and, if she was pregnant, of obtaining prenatal care, enrolling in "WIC," a program that provides food for the mother and minor, and keeping the agency informed.<sup>4</sup> Henley spoke to Jessica again on January 22, 2010. Jessica told Henley that her pregnancy had been confirmed, that she was obtaining prenatal care, and that her due date was March 28, 2010. Henley informed Jessica that she was going to be on vacation from February 8 through February 23, 2010, and that her supervisor would be handling the case in her absence. Henley gave Jessica the supervisor's contact information.

Henley further testified that Jessica and John had a planned weekly visit with the children on February 1, 2010. However, John telephoned that day to say that neither he nor Jessica could

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<sup>4</sup>The meaning of the acronym "WIC" is not contained in the record.

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attend the visit because he was tending to his sick mother and Jessica was with one of her older daughters whose child had a medical problem. Henley testified that Jessica was usually the only one who attended the visits and that it was unusual for John to even call to cancel. Upon her return from vacation, Henley learned that Jessica had given birth to J.M. on February 1, 2010.

On cross-examination, Henley testified that Jessica and John had planned weekly visits with the children because they indicated they were together and that they were seeking to be reunited with the children. Henley worked on referrals for housing for Jessica after the dispositional hearings for the seven children, but explained to Jessica that she needed to be employed and able to pay rent in order to stay in the referred housing. Jessica was employed at a grocery store in February 2009 and she briefly worked in the same motel as John but was terminated in November 2009.

Henley did not provide the father with housing because he consistently indicated that he wanted to remain in the hotel. At the time of J.M.'s birth, John had stable income and earned \$500 per week. John reported that at times he payed rent and that at other times he was allowed to stay at the hotel for free. John had two apartments at the motel. One was a one-room apartment that he shared with his elderly mother, which contained a bathroom, refrigerator, and stove. The second consisted of one room that had a bed, tv, laptop, video games, and camera that displayed the hallway outside the apartment. The apartment also had a bathroom. John told Henley that although the motel did not allow anyone under 18, it was bending the rules and allowing him to sneak J.M. in for a brief time. When Henley visited John at the apartment, it was not in a deplorable condition. John was not living in the deplorable apartment at the time the

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seven children came into the system because he was incarcerated at the time. To Henley's knowledge, the seven children were not born drug-exposed.

Henley spoke to Jessica on November 2, 2009, about the importance of completing the tasks in the DCFS service plan. Jessica told Henley that she did not think she needed therapy and that she did not like attending the sessions because they finished late at night. Henley testified that her agency offered job training to Jessica, who said she did not need it. Jessica resumed counseling in April 2010 and Henley believed that Jessica did so because she was motivated by J.M.'s birth. Jessica also completed a parenting class through the Cook County Jail.

Carla Szabo, Henley's supervisor, testified that she was the coordinator of intake, adoption, and case management at Seguin Services. On February 8, 2010, while Henley was on vacation, Szabo supervised a visit between Jessica and J.M.'s siblings. Although Jessica did not mention it, Szabo believed that Jessica was pregnant at the time. Szabo next spoke to Jessica on February 18 after learning that Jessica had given birth to J.M. Szabo asked Jessica why she did not notify the agency when J.M. was born, to which Jessica replied that she did not know she was required to. Szabo told Jessica that she was responsible for monitoring the children in her care and asked to see J.M. Jessica agreed to bring J.M. to the agency the following day, where a parent-child visit between Jessica and her other children was already scheduled. However, Jessica left a voice mail the following morning cancelling the visit and Szabo could not reach Jessica to find out why she cancelled the visit.

Szabo nevertheless met Jessica and J.M. on the afternoon of February 19, 2010, when the foster mother of two of the other minors picked up Jessica, J.M., and two other woman and drove

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them to Szabo's office. One of these women was "Yalissa," the person with whom Jessica had made a case plan for J.M. Jessica told Szabo that she was afraid to meet with her because she felt it was a trick and that Szabo was going to take custody of J.M. Szabo told Jessica that she was concerned for J.M.'s safety and well-being because Jessica and John had lied about the reason they cancelled the visit on February 1, because Jessica had not taken J.M. to any medical appointments since her birth, and because Jessica was not getting any public aid or WIC. Jessica acknowledged that she had not taken J.M. to any medical appointments and that J.M. could not stay with her and John at the motel because of its age restrictions. Jessica told Szabo that J.M. had been in the primary care of Yalissa and that she intended for Yalissa and her partner to be J.M.'s permanent primary caregivers. This was the first time Szabo had heard of Yalissa. Szabo explained to Jessica the steps necessary in order to establish a legal guardianship. She also told Jessica to take J.M. to a clinic and to obtain WIC, and asked her to bring the documentation proving she had done so to the parent-child visit scheduled for February 23, 2010. On February 22, 2010, Jessica cancelled the visit because she still needed to go to WIC, and Szabo did not see J.M. again until the temporary custody hearing.

On cross-examination, Szabo testified that Jessica did not attend a parent-child visit that was scheduled for February 15, 2010. John had not attended any parent-child visits since October or November 2009. Between February 19 and February 25, 2010, no formal arrangement for private guardianship was made despite Jessica's previous indication that she wanted Yalissa to care for J.M. Szabo acknowledged that J.M. looked well and did not show any signs of physical abuse or neglect when Szabo saw her on February 19, 2010. Although she did

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not consider there to be an “imminent” risk to J.M., she had an overall concern for risk because Jessica had been deceptive and had not obtained medical care for J.M.

Following arguments, the trial court found that the State had proven that J.M. was neglected due to an injurious environment but that the State had not proved that J.M. was abused due to substantial risk of injury. The court noted that the adjudication orders with respect to the other siblings were based on those minors residing in a home that was in a deplorable condition but that J.M. was never in that apartment or any other apartment that was considered deplorable. The court also acknowledged that J.M. appeared to be in good health and did not appear abused or neglected when Szabo saw her on February 19, 2010. However, the court noted that there were “two problems” in that the parents did not follow through on recommended services and that Jessica chose to stay in the motel with John and place J.M. in an unauthorized placement. The court noted that Jessica was responsible for J.M. and there was no information about Yalissa and her partner, the people who were taking care of J.M. The court further observed that Jessica was trying to “keep certain things” from the investigator who was trying to look out for J.M.

The court held a dispositional hearing on November 4, 2010, at which the service plans for all of Jessica’s children were admitted into evidence, along with agency, therapy, and TASC reports.<sup>5</sup> Those documents reflect that at the time the seven minors were taken into temporary custody, there were also five adults living in the home. Further, the home had “piles of dirty clothes, open garbage, dirty dishes, dirty diapers and cockroaches all over.”

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<sup>5</sup>We take judicial notice that “TASC” stands for Treatment Alternatives for Safe Communities.

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Henley testified that John was currently incarcerated in Wisconsin, where he had been awaiting trial since September 26, 2010. Henley reiterated the testimony she gave at the dispositional hearing regarding the services for which John was assessed in March 2009. She added that John did not complete a recommended drug program and refused to cooperate with “urine drops” or requests from his TASC coach. His last urine drop, taken on April 26, 2010, tested positive for marijuana. John was assigned a counselor in August 2009 but attended only one session in September 2009 and he did not attend any of the recommended weekly sessions thereafter. He attended only two out of twenty parenting sessions from June 1 to November 2, 2009, but did request a re-referral for that service. He was also “very inconsistent” in participating in weekly supervised visits with the children, having only attended two visits in one year.

John was assessed for the same services after J.M. was born but he did not participate in any of the recommended services. Henley met with John at court on April 6, 2010, and told him that he needed to participate in the services if he wanted to be reunited with any of his children. He “blamed the agency and the service providers and told [Henley] to stay out of his life.”

Henley also reiterated the testimony she gave at the dispositional hearing regarding the services for which Jessica was assessed in March 2009 and her failure to complete those services. At that time, she was living in the motel with John, which was not a suitable place for reunification. Jessica had a JCAP assessment in July 2009 and it was recommended that she engage in intensive outpatient treatment based upon a history of alcohol abuse. Henley testified that Jessica was uncooperative and not forthcoming during the JCAP assessment and appeared to

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the assessors to be “extremely disheveled.” Jessica was assigned a TASC worker after her assessment in July 2009. The TASC worker monitored Jessica’s participation in the services that were recommended regarding treatment, including urine screens. The TASC coach met with Jessica when she was first assigned in July 2009 but Jessica did not make herself available to the coach from August 2009 through March 31, 2010. As of March 2010, Jessica had also complied with only two of 10 random urine screens. Jessica was referred to a program for outpatient treatment by the JCAP assessors but that program “closed the case” and did not refer her for further services because she reported that she did not have a history of drug or alcohol abuse. Henley testified that at that time, she and Jessica’s TASC worker still recommended outpatient treatment for Jessica. Henley explained to Jessica that she still needed treatment and offered to give her a referral. However, Jessica had not participated in outpatient treatment as of March 2010.

Jessica was referred for parenting coaching in June 2009 and participated in the service. The sessions took place on a weekly basis and included all seven of the minors. The sessions were deferred, however, because they often involved 10 to 15 family members, including boyfriends and children of the older minors, and because Jessica declined the option of dividing the sessions so that each child could receive more attention. The sessions were to be reintroduced upon Jessica finding suitable housing because she was living in the motel with John at the time. Henley attempted to contact advocacy housing groups to find housing for Jessica. However, she was denied because she did not meet the definition of homeless and she was inconsistently employed and lacked the ability to pay rent.

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Henley also testified that Jessica had a second assessment in March 2010, after J.M. was born, and that she was referred for the same services. She resumed therapy on March 15, 2010, but was terminated unsuccessfully due to lack of attendance. By the date of the dispositional hearing, Jessica had again started counseling. After March 2010, Jessica was more available to her TASC coach and complied with all required urine screens and none tested positive for alcohol or drugs. Jessica was also referred to an intensive outpatient program after her second assessment. Her attendance was “inconsistent,” as she participated in only fifty percent of the scheduled sessions. However, she successfully completed an outpatient treatment program on August 26, 2010. It was recommended that Jessica agree to participate in random urine drops and breathalyzer tests with her TASC recovery coach, as well as adhere to the rules and regulations of the recovery home. As of the date of the dispositional hearing, Jessica was compliant with her TASC recovery coach. Henley also testified that Jessica completed a parenting class that was mandated by a Cook County criminal court stemming from the allegations that brought the case into the system in February 2009. However, this was not a parenting class recommended by Seguin Services. Jessica also agreed to participate in job training on November 1, 2010.

Henley testified that she repeatedly reviewed the service plan with Jessica and her progress toward completing the recommended services. Jessica had not made “substantial progress,” which included more than “consistently attending services.” It also included “getting something out of those services such as individual therapy, addressing the issues that are being worked on in therapy such as the grief and loss, the separation of [Jessica from her children], her

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involvement with DCFS, developing coping skills, as well as locating an effective support network.” Henley testified that Jessica no longer lived with John because of an “altercation,” and instead was staying at a recovery home and was to be discharged within a month.

Henley agreed that Jessica’s alcohol usage was not the basis of her “shortage of parenting skills,” but still found the alcohol use “concerning.” Henley recently decided to reintroduce Jessica to parenting classes because she believed Jessica had “reengaged” and “shown a certain level of commitment towards reunifying with [J.M.]” Henley recommended that Jessica again participate in parenting coaching. Finally, she testified that Jessica had been criminally charged with “child endangerment and child death” as a result of the infant dying in the home. She later pled guilty to child endangerment and received two years’ probation and was required to attend a parenting class.

Henley recommended that J.M. be adjudged a ward of the court with a permanency goal of return home with 12 months. Henley testified that J.M. is currently placed in a nonrelative foster home. When Henley saw J.M. on October 29, 2010, the home appeared safe and appropriate, there were no signs of abuse or neglect or corporal punishment, and J.M. appeared well cared for.

The trial court found that Jessica and John were unable for reasons other than financial circumstances alone to care for J.M. and adjudged her a ward of the court. The court placed J.M. in the custody of a DCFS guardianship administrator and set a permanency goal of a return home within 12 months. The court found that the mother had made substantial progress toward the return home of J.M. but that the father had not made substantial progress. This appeal followed.

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Whenever a petition for adjudication of wardship is brought under the Juvenile Court Act of 1978 (the Act), the “ ‘best interests of the child is the paramount consideration.’ ” *In re F.S.*, 347 Ill. App. 3d 55, 62 (2004), quoting *In re K.G.*, 288 Ill. App. 3d 728, 734-35 (1997). After the filing of a petition for wardship, the State is required to prove abuse or neglect by a preponderance of the evidence. *In re F.S.*, 347 Ill. App. 3d at 62. “Preponderance of the evidence is that amount of evidence that leads a trier of fact to find that the fact at issue is more probable than not.” *In re K.G.*, 288 Ill. App. 3d at 735.

The trial court is afforded broad discretion when determining whether a child has been abused or neglected within the meaning of the Act, and a reviewing court will not disturb the trial court’s findings unless they are against the manifest weight of the evidence. *In re Arthur H.*, 212 Ill. 2d 441, 464 (2004); see also *In re Lakita B.*, 297 Ill. App. 3d 985, 994 (1998) (noting that “due to the delicacy and difficulty of child abuse cases,” “wide discretion is vested in the trial judge to an even greater degree than any ordinary appeal to which” the manifest weight standard is applied). A finding is against the manifest weight of the evidence only if the opposite conclusion is clearly evident. *In re Arthur H.*, 212 Ill. 2d at 464. Moreover, because the trial court has the best opportunity to observe the demeanor and conduct of the parties and witnesses, it is in the best position to determine the credibility of the witnesses and the weight to be given to their testimony. *In re F.S.*, 347 Ill. App. 3d at 63. Finally, cases adjudicating abuse and neglect are *sui generis* and must be decided on the basis of their own particular facts. *In re F.S.*, 347 Ill. App. 3d at 63.

In this case, the trial court found that J.M. was neglected because her environment was

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injurious to her welfare under section 2-3(1)(b) of the Act, which states that those who are neglected include “any minor under 18 years of age whose environment is injurious to his or her welfare.” 705 ILCS 405/2-3(1)(b) (West 2008). “The concept of ‘neglect’ is not static; it has no fixed and measured meaning, but draws its definition from the individual circumstances presented in each case.” *In re J.P.*, 331 Ill. App. 3d 220, 234 (2002). However, neglect is generally defined as the “failure to exercise the care that the circumstances justly demand.” *In re Arthur H.*, 212 Ill. 2d at 463. Neglect also encompasses “ ‘ “willful as well as unintentional disregard of duty. It is not a term of fixed and measured meaning. It takes its content always from specific circumstances, and its meaning varies as the context of surrounding circumstances change.” ’ ” *In re Arthur H.*, 212 Ill. 2d at 463, quoting *In re N.B.*, 191 Ill. 2d 338, 346 (2000), quoting *People ex rel. Wallace v. Larenz*, 411 Ill. 618, 624 (1952). “Neglect based on ‘injurious environment’ is a similarly amorphous concept not readily susceptible to definition. *In re J.P.*, 331 Ill. App. 3d at 234. Generally, “the term ‘injurious environment’ 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 re Arthur H.*, 212 Ill. 2d at 463, quoting *In re N.B.*, 191 Ill. 2d at 346, quoting *In re M.K.*, 271 Ill. App. 3d 820, 826 (1995).

Both parents challenge the trial court’s ruling following the adjudicatory hearing. First, Jessica and John claim that there was no relationship between the events leading to the findings of abuse and neglect of the other minors and the conditions that existed at the time of J.M.’s birth. Both parents point out that J.M. was not born at the time the other minors lived in the deplorable conditions and that there was no evidence presented that those deplorable conditions

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existed at the time J.M. was born. They further argue that J.M. was born healthy, showed no signs of abuse or neglect, and was appropriately cared for. John further claims that he was incarcerated at the time the “deplorable conditions” existed and that he therefore cannot be held responsible for them.

After reviewing the record, we conclude that the trial court’s findings of abuse and neglect were not against the manifest weight of the evidence. Section 2-18 of the Act provides that, “[i]n any hearing under the Act, proof of the abuse, neglect or dependency of one minor shall be admissible evidence on the issue of abuse, neglect or dependency of any other minor for whom the respondent is responsible.” 705 ILCS 405/2-18(3) (West 2008). Sibling abuse may be *prima facie* evidence of neglect based upon an injurious environment, but this presumption weakens over time and may be rebutted by other evidence. *In re R.S.*, 382 Ill. App. 3d 453, 461 (2008); *In re J.P.*, 331 Ill. App. 3d at 235. However, “the mere admissibility of evidence [of neglect of one minor] does not constitute conclusive proof of the neglect of another minor,” but instead each case must be reviewed according to its own facts. *In re Arthur H.*, 212 Ill. 2d at 468-69. Nevertheless, an injurious environment or a substantial risk of physical injury for a minor may be found based upon a parent’s behavior toward a sibling. See, e.g., *In re Brooks*, 63 Ill. App. 3d at 338-39; *In re David D.*, 202 Ill. App. 3d 1090 (1990). To determine whether a finding of anticipatory neglect is appropriate, the trial court should consider the current care and condition of the child in question and not merely the circumstances that existed at the time of the incident involving the child’s siblings. *In re J.P.*, 331 Ill. App. 3d at 220.

In this case, it is undisputed that the seven minors were found to be abused and neglected

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because they lived in a home with Jessica that was overcrowded and “deplorable.” The parents were found to be unable for some reason other than financial circumstances alone to care for, protect, train or discipline the children, and were also found to be unwilling to care for, protect, train or discipline the children. The events leading to these findings occurred in January 2009.

John claims that he cannot be held accountable for these findings of abuse and neglect because he was incarcerated at the time the minors lived in the deplorable conditions. However, at the adjudicatory stage of proceedings, the court’s focus is solely upon whether the minor is abused and/or neglected and the court does not determine who is responsible for that abuse and neglect. *In re Arthur H.*, 212 Ill. 2d at 465. Thus, John’s incarceration does not mean that his four children that were subject of the prior adjudication were not abused and neglected. Moreover, the court in those proceedings did assign responsibility to John because, following the dispositional hearing, it found that he was “unable for some reason other than financial circumstances alone to care for, protect, train or discipline the children,” and that he was also “unwilling to care for, protect, train or discipline the children.” The trial court in this case could and did properly consider this as evidence on the issue of whether J.M. was neglected.

Both parents claim that the prior circumstances surrounding the other minors are unrelated to J.M. because she was not born at the time and did not live in the same deplorable conditions and was in fact healthy and showed no signs of abuse or neglect. This argument misconstrues the nature of anticipatory neglect, which allows a court to take action before a child suffers an injury because “[w]hen faced with evidence of prior neglect by parents, ‘the juvenile court should not be forced to refrain from taking action until each particular child suffers an

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injury.’ ” *In re Arthur H.*, 212 Ill. 2d at 477, quoting *In re Brooks*, 63 Ill. App. 3d at 339. Thus, the fact that J.M. was born healthy and did not live in the same deplorable conditions does not preclude the court from considering the prior findings of abuse and neglect as *prima facie* evidence of neglect based upon an injurious environment. And while this presumption weakens over time and can be rebutted with other evidence, the prior abuse and neglect occurred approximately one year before J.M.’s birth and there was no evidence presented to rebut the presumption.

To the contrary, the evidence regarding the circumstances leading up to J.M.’s birth supported the trial court’s finding of neglect. Prior to J.M.’s birth, Jessica had not successfully completed any of the services that were recommended in order to reunite her with the seven minors. She was discharged from therapy twice due to lack of attendance, did not successfully complete outpatient drug or alcohol treatment and claimed she did not need it, and failed to complete parenting coaching. She also did not have a safe place for the children to be returned and instead chose to live in the motel with John when he got out of prison in March 2009 despite the fact that the motel did not allow anyone under the age of 18 to live there and despite the fact that Henley told her that the minors could not be returned to her until she found suitable housing. Jessica did not have a stable income and, although she claims that she was not eligible for housing due to her financial condition and that she cannot be faulted for her financial circumstances, she refused offers for job training that could have helped her attain the employment and steady income she was told she would need to be reunited with her children.

John also failed to complete any of the recommended services after his four children were

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made wards of the court. He participated in only two sessions of parenting coaching and one session of therapy, and he did not participate in the recommended intensive outpatient drug program. John was told that he could not be reunited with his children as long as he remained at the motel, but he nevertheless stated that he wanted to remain living there. He was also inconsistent in attending parent-child visits, having attended only two weekly visits in one year.

Under these circumstances, Jessica gave birth to another child, J.M., on February 1, 2010. The circumstances and events following J.M.'s birth further support the court's finding that J.M. was neglected. Contrary to the parents argument that J.M. was appropriately cared for, the evidence shows that the parents attempted to hide Jessica's pregnancy and J.M.'s subsequent birth from Henley and her supervisor, who were responsible for looking out for any children in Jessica's care. Jessica and John did not find suitable housing so that they could live with J.M., but instead remained in the motel where J.M. could not reside. Instead of locating another home where the family might live together, Jessica arranged for J.M. to be in the primary care of "Yalissa," and only told Szabo about this arrangement on February 19, 2010, over a month and half after J.M. was born. Jessica also admitted on that date that she had not taken J.M. to any medical appointments since her birth. Jessica was also not obtaining any public aid or food for herself and the minor through the "WIC" program. And although Jessica told Szabo that she intended Yalissa and her partner to be J.M.'s permanent primary caregivers, she took no steps toward this goal despite the fact that Szabo explained to her how to do so. Finally, neither parent successfully completed any of the recommended services from the time J.M. was born until the time she was taken into temporary custody.

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John claims that it is unclear what authority Szabo's agency had regarding J.M. prior to temporary custody being ordered, and that any failure to comply with that authority cannot be considered against the parents. However, after the parents' other children were found to be abused and neglected and made wards of the court, Seguin Services offered the parents services aimed at reuniting them with the children. Seguin's authority over J.M. has no bearing on whether the parents participated in the recommended services or on the trial court's ability to consider the parents' failure to do so on the issue of whether J.M. was neglected based upon an injurious environment. Moreover, Henley testified that one of her responsibilities as the assigned caseworker included monitoring the safety of any children that are in the care and custody of a parent that has children in DCFS custody. This included ensuring the safety of J.M. after she was born, and is the basis upon which Henley and Szabo attempted to ensure that J.M. received appropriate care. The issue here is not whether Seguin had authority to require Jessica to obtain appropriate medical and other care for J.M., but rather whether the parents in fact obtained such care. The record includes evidence that proper care was not provided for J.M., and we find no error in the trial court's consideration of that evidence.

We finally note that the trial court acknowledged the parents' claims that J.M. was not born into the same "deplorable" home that the other minors were found living in. However, the court expressed concern that the parents had not followed through on services that were recommended in order to reunite them with the children and that the parents attempted to conceal J.M.'s birth from Henley and Szabo and placed her in the care of someone with whom the agency was unfamiliar. These were essentially the allegations in the petition filed by the State, and we

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conclude that those allegations were proven by a preponderance of the evidence. Therefore, the trial court's finding that J.M. was neglected due to an injurious environment was not against the manifest weight of the evidence.

We next consider the trial court's ruling following the dispositional hearing. The purpose of a dispositional hearing is for the court to determine whether it was in the best interests of the children to be made wards of the court. *In re Edward T.*, 343 Ill. App. 3d 778, 800 (2003). The health, safety and interests of the minor remain the guiding principles when issuing an order of disposition regarding the custody and guardianship of a minor ward. *In re Austin W.*, 214 Ill. 2d 31, 46 (2005). Under section 2-27(1) of the Juvenile Court Act, the trial court may commit a minor to DCFS wardship if it determines that the parent is unfit or unable, for some reason other than financial circumstances alone, to care for, protect, train, or discipline the minor and that the health, safety, and best interests of the minor will be jeopardized if the minor remains in the custody of the parent. 705 ILCS 405/2-27(1) (West 2010). The trial court's determination will be reversed only if the factual findings are against the manifest weight of the evidence or if the court abused its discretion by selecting an inappropriate dispositional order. *In re April C.*, 326 Ill. App. 3d 245, 257 (2001).

John does not contest the trial court's dispositional order. Jessica claims that the trial court's ruling was against the manifest weight of the evidence because she was engaged in all of the recommended services at the time the dispositional order was made.

This court rejected a similar argument in *In re April C* and recognized that "the question before the trial court was not whether respondent had participated in recommended services," but

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instead “whether the children should be adjudged wards of the court on the basis that [the parents] were unfit or unable, for some reason other than financial circumstances alone, to care for, protect, train, or discipline the minors or were unwilling to do so, and that it was in the best interest of the minors to take them from the custody of their parents.” *In re April C.*, 326 Ill. App. 3d 245, 257 (2001), citing 705 ILCS 405/2-27(1) (West 1998). We further recognized that the “respondent's participation in the various recommended services does not mean that a disposition other than that entered by the trial court would be in the best interests of the children.” *In re April C.*, 326 Ill. App. 3d at 258; *In re Kamesha J.*, 364 Ill. App. 3d 785, 796 (2006). In affirming the trial court’s order following the dispositional hearing, we noted that the caseworkers testified that it was not in the minor’s best interest to be reunited with the respondent, and that the respondent’s participation in the recommended services was “less than satisfactory,” in that some services were not completed and some were not started. *In re April C.*, 326 Ill. App. 3d at 258.

In this case, this is no dispute that at the time of the dispositional hearing, Jessica had participated in some of the recommended services. She had completed outpatient treatment and was compliant with her TASC coach. The trial court acknowledged as much when it found that Jessica had made “substantial progress.” However, the fact that Jessica was engaged in some of the recommended services at the time of the dispositional hearing does not establish that a disposition order other than the one entered by the trial court would be in J.M.’s best interest. See *In re April C.*, 326 Ill. App. 3d at 258; *In re Kamesha J.*, 364 Ill. App. 3d at 796. At the time of the dispositional hearing, Jessica had not completed the recommended counseling, parenting

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classes, or job training and had not found suitable housing. Moreover, although she had participated in some of these services, she had also done so in the past but failed to complete them. Henley explained that in her opinion, Jessica needed to do more than “consistently attend[] services” and that substantial progress meant “getting something out of those services such as individual therapy, addressing the issues that are being worked on in therapy such as the grief and loss, the separation of [Jessica from her children], her involvement with DCFS, developing coping skills, as well as locating an effective support network.” For this reason, Henley recommended that J.M. be adjudged a ward of the court with a permanency goal of a return home within 12 months. The trial court agreed and found that services aimed at family reunification had been unsuccessful and that Jessica was presently unable for reasons other than financial circumstances alone to care for, protect, train, or discipline J.M. The court adjudged J.M. a ward of the court and set a permanency goal of return home within 12 months. We find that the trial court’s dispositional order was not an abuse of discretion.

For the foregoing reasons, the judgment of the circuit court of Cook County is affirmed.

Affirmed.