

No. 1-11-0909

**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).

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

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IN THE INTEREST OF:	)	Appeal from the Circuit Court
	)	of Cook County, Illinois
CALEB L.,	)	Juvenile Justice and Child Protection
	)	Department, Child Protection
Minor-Respondent-Appellee,	)	Division
	)	
THE PEOPLE OF THE STATE OF ILLINOIS	)	
	)	
Petitioner-Appellee	)	
	)	
v.	)	No. 10 JA 002
	)	
MAKIAH L.,	)	Honorable
	)	John Huff,
Mother-Respondent-Appellant	)	Judge Presiding.

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JUSTICE HARRIS delivered the judgment of the court.  
Presiding Justice Quinn and Justice Connors concurred in the judgment.

**ORDER**

Held: The circuit court's finding of neglect based on an injurious environment is not against the manifest weight of the evidence. Respondent's argument that the circuit court erred in finding that the minor was both neglected and dependent is without merit as respondent has not cited any persuasive authority to allow this court to hold otherwise.

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¶ 1 Respondent Makiah L. (Makiah) appeals the order of the circuit court finding that her minor child, Caleb L. (Caleb), was neglected due to an injurious environment. She contends this finding was against the manifest weight of the evidence. Makiah argues further that the circuit court's findings of neglect and dependency are mutually exclusive and, thus, could not exist at the same time. She urges this court to vacate the circuit court's finding of neglect by reason of an injurious environment, but affirm its finding of dependency. We affirm.

¶ 2 JURISDICTION

¶ 3 The circuit court entered a finding of neglect and dependency on January 10, 2011. On February 22, 2011, the circuit court entered a finding that it was in the minor's best interest that he be made a ward of the court, and that guardianship be awarded to the Illinois Department of Children and Family Services. On March 18, 2011, Makiah filed her notice of appeal.

Accordingly, this court has jurisdiction pursuant to Illinois Supreme Court Rules 301, 303, and 311. Ill. S. Ct. R. 301(eff. Feb. 1, 1994); R. 303 (eff. June 4, 2008); R. 311 (eff. Feb. 26, 2010).

¶ 4 BACKGROUND

¶ 5 Caleb was born on December 29, 2009. The day after his birth, his meconium tested positive for cannabis. On January 4, 2010, the State filed a petition for adjudication of wardship and moved for temporary custody of Caleb. The State alleged in its petition that Caleb was neglected based on an injurious environment and abused due to a substantial risk of injury.

Caleb was six days old at the time of the State's petition. The State alleged that:

"Mother has four prior indicated reports for substantial risk of harm, inadequate food, environmental neglect and/or inadequate

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supervision. Mother has five other minors in the Department of Children and Family Services care or custody with findings of abuse and neglect. Mother is noncompliant with recommended services, including recommended mental health treatment. There are no other relatives able to care for this minor. The identity and whereabouts of putative father are unknown. Paternity has not been established."

On January 5, 2010, the circuit court appointed the Public Guardian to represent Caleb, and the court took temporary custody of Caleb without prejudice. After a full hearing on January 8, 2010, the circuit court took temporary custody of Caleb with prejudice.

¶ 6 On March 4, 2010, the circuit court granted the State's motion to amend its petition to add facts and an additional allegation, neglect based on a controlled substance.

¶ 7 The adjudicatory hearing took place over the span of five court days, June 28, 2010; July 1, 2010; July 21, 2010; September 28, 2010; and January 10, 2011. On June 28, 2010, the State called Ronald Miller, an investigator with the Department of Children and Family Services (DCFS), to testify. Miller was assigned to investigate Caleb after receiving a "hotline" call which contained allegations that Caleb was at risk of being harmed by his mother. The basis of the allegations were that Makiah had five other children removed from her care that were wards of the State, she had not been engaged in any services at that time, and she had not been visiting her children, several of whom had already passed adoption screening. Through his investigation, Miller was able to discover that there were four prior indicated reports involving Makiah. The

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first report, in 2002, indicated inadequate supervision, inadequate food, and environmental neglect of her minor children. The second report, also from 2002, indicated inadequate supervision and environmental neglect of the children. The third report, dated 2003, indicated risk of harm, neglect, and inadequate food. In 2006, Makiah was indicated for risk of harm, and abuse because she had removed the children from foster care and took them to Indiana.

¶ 8 On December 30, 2009, Miller spoke with Makiah at Evanston Hospital and told her that he was conducting an investigation regarding Caleb. Makiah denied that her other children had ever been neglected. Miller testified that Makiah would not give him any information and could not confirm her address or who Caleb's father was. She denied that she had any history with drugs. Miller testified that Makiah was very angry at him and eventually asked him to leave the room.

¶ 9 As part of his investigation, Miller spoke to Sherlicia Grizzard, the caseworker for Makiah's five other children, and a hospital social worker who informed Miller that Caleb's meconium tested positive for cannabis. Ultimately, Miller decided to take protective custody of Caleb after determining Caleb was at risk under the care of his mother. Miller testified that the reasons for his decision were that Makiah had five other children who were wards of the State; Makiah was not engaged in any services, including the mental health services she was supposed to be participating in; she had not been visiting her other children; and because Caleb was born exposed to drugs.

¶ 10 On cross-examination, Miller testified that when he met Makiah, no children were living with her. He also testified that he had no information as to the condition of Makiah's residence

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because Makiah would not tell him her address. Miller only knew, based on a conversation with a social worker, that Makiah lived in Evanston.

¶ 11 On redirect examination, Miller testified that despite not having any information regarding Makiah's residence or what medications Makiah had taken while at the hospital, he had enough information to make a proper assessment regarding whether Caleb would be at a risk of harm in her care.

¶ 12 After Miller's testimony concluded, the State admitted People's exhibits Nos. 1, 2, 3, and 4 without objection. People's exhibit No. 1 is Makiah's certified and delegated medical records from Evanston Hospital. The records show that none of Makiah's five other children are in her care, and that she was not open to a visit from a hospital social worker on December 30, 2009. She was not allowed to leave the floor due to possible flight risk. The records state that Makiah had a diagnosis of Mood Disorder and had sporadic prenatal care throughout her pregnancy. From this exhibit, the State published the following excerpt:

"Despite adamant denial of a history of drug abuse, it is documented in the patient's chart that she has a history of substance abuse and all five children have been born substance exposed."

¶ 13 People's exhibit No. 2 was Caleb's certified and delegated medical records from Evanston Hospital. From this exhibit, the State published that Caleb's meconium tested positive for cannabis.

¶ 14 People's exhibit No. 3 was the certified adjudication order for Caleb's five older siblings.

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On December 7, 2004, the circuit court entered findings that the five children were abused based on a substantial risk of injury and neglected because of a lack of care and due to an injurious environment. The findings included: one of the children was diagnosed with attention deficit disorder and oppositional defiant disorder, and medical personnel stated that he required constant supervision for his safety and the safety of others; the children were left without adult supervision for 45 minutes; one child stated that Makiah leaves him and his siblings without adult supervision; that on or about July 7, 2003, the children stated that they were hungry, and there was inadequate food and no electricity in the home; Makiah was non-compliant with intact services; Makiah had two prior indicated reports for inadequate supervision and food and environmental neglect; and a child stated that Makiah used illegal substances in front of them. The court found the abuse and neglect of the five minor children was inflicted by Makiah.

¶ 15 People's exhibit No. 4 contained the certified disposition orders for Caleb's five siblings. The disposition order, entered February 8, 2005, adjudged the children wards of the court and found Makiah unable and unwilling to care for, protect, train, or discipline the children.

¶ 16 The adjudication was then continued until July 1, 2010.

¶ 17 On July 1, 2010, the State admitted People's Exhibits Nos. 5 through 12, without objection. Makiah admitted Mother's Exhibits Nos. 1, 2, 3, and 4 without objection. People's Exhibit No. 5 was a July 23, 2008, letter and a July 14, 2008, discharge summary from Lutheran Social Services of Illinois. The exhibit showed that Makiah was discharged from Project S.A.F.E. Women's Outpatient Program for sporadic attendance, refusal to provide urine specimens, not meeting with her therapist/psychiatrist, and inappropriate behavior towards staff.

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Makiah did not display a readiness to change behavior and appeared to be actively using drugs. The letter stated that "it is our recommendation that [Makiah] re-engage into treatment with a Dually Diagnosed program and therapy."

¶ 18 People's Exhibit No. 6 was a parenting coaching progress report, dated July 22, 2008, from E. F. Ghoughan and Associates, Inc. (EFG), discussing an observation of Makiah with her five other children. Makiah was referred to EFG by her Neighbor to Neighbor Case Manager for Parent Child Observation. The report was an assessment of her demonstrated level of parenting capacity. The report noted that Makiah has a limited understanding of her parenting role; a limited frustration tolerance; she does not intervene appropriately when the children misbehave; she appears to love her children, but "her own inability to regulate her own mood becomes a barrier to her ability to consistently demonstrate love and affection toward her children;" that "her own needs seem to take precedence over the needs of her children;" and that "her pool of discipline techniques and knowledge regarding parent-child discipline is severely lacking." The writer of the report stated that Makiah's discipline technique was to threaten the children and that her "concern is that the more the children's behavior disappoints [Makiah], the more severe her threats will advance."

¶ 19 People's Exhibit No. 7 was a letter to Makiah from Evanston Hospital's Phoenix program dated June 18, 2008. The letter indicated that Makiah was terminated from the Phoenix Program's outpatient psychiatric services due to her noncompliance with appointments.

¶ 20 People's Exhibit No. 8 was an individual therapy closing report for Makiah dated April 24, 2006. The report stated that Makiah's attendance was "sporadic" and that her "reasons for

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cancelling her sessions often appeared to be exaggerated truths." Makiah's individual therapy sessions were terminated due to Makiah's "inaccessibility for clinical services." The report stated that Makiah was diagnosed with Rule-Out Bipolar I Disorder, Most Recent Episode Mixed, Moderate; Post Traumatic Stress Disorder; Alcohol Dependence; Cannabis Abuse; and Personality Disorder NOS, Borderline and Narcissistic features. The report also noted that "Makiah was in serious denial about her mental health issues" which made treatment difficult; she continued to smoke marijuana, but denied using it; she made "herself unavailable to do random urine drops that were required by the agency;" her "response to treatment was very negative" and she was "verbally combative;" and that she "struggled with depression for a number of years."

¶ 21 People's Exhibit No. 9 was an Unusual Incident Report regarding an incident on October 30, 2006. The report stated one of Caleb's brothers, who was living with his maternal grandmother, had not been seen at school since October 25, 2006. His maternal grandmother had been hospitalized and it was believed the child was with Makiah. Makiah was not allowed to have unsupervised contact with the child. The report confirmed the caseworker's unsuccessful attempts to locate the child.

¶ 22 People's Exhibit No. 10 were Unusual Incident Reports dated October 29, 2009, and November 2, 2009. On October 29, 2009, Makiah was asked to leave the ChildServ office where Caleb's siblings were having a sibling visit. Makiah was told to leave because she was not allowed to be around her children without a therapist present. The police were called and Makiah became argumentative with both the police and a ChildServ caseworker. Makiah was

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placed under arrest after lunging at the caseworker twice and struggling with the police. The November 2, 2009, report indicates Makiah threatened the same caseworker at juvenile court. Sheriffs restrained Makiah, but did not arrest her.

¶ 23 People's Exhibit No. 11 contained several notes from Evanston Hospital pertaining to Makiah. A note from September 23, 2009, indicated Makiah's pregnancy was complicated by late prenatal care. Peggy Healy, a social work Intern, met with Makiah who was defensive and angry.

¶ 24 People's Exhibit No. 12 is the June 6, 2006, closing summary from EFG reporting on Makiah's progress in parenting coaching. The report listed observations from the various visits EFG facilitated between Makiah and her children. The report contained the conclusion that the psychological evaluation results "suggest that [Makiah] is not ready to take on the parenting of her children at this time."

¶ 25 Makiah presented four certificates of completion as Mother's Exhibits Nos. 1, 2, 3, and 4. Mother's Exhibit No. 1 shows that Makiah completed ten sessions of parenting education by the Mercy Family Health Center Give Kids a Chance Program. Mother's Exhibit No. 2 states Makiah completed a domestic violence intervention program on September 2, 2003. Mother's Exhibit No. 3 shows Makiah completed a parenting skills training course on May 20, 2004, presented by EFG. Mother's Exhibit No. 4 states Makiah completed a Caritas DCFS Outpatient Program on February 20, 2006.

¶ 26 Before continuing the case until July 21, 2010, the State withdrew its allegation of neglect based on a controlled substance because marijuana is not a controlled substance as

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defined by the Illinois Controlled Substances Act. The State stressed they were still pursuing their allegations of neglect, injurious environment, and abuse, as well as a substantial risk of injury based upon the history and the presence of marijuana in Caleb's meconium.

¶ 27 On July 21, 2010, the State presented Sherlicia Grizzard, who testified that she is Makiah's caseworker at Hull House Association. She had been Makiah's caseworker since November of 2009, when Makiah was pregnant with Caleb. Grizzard testified that her organization provided Makiah with individual counseling, mental health services, drug and alcohol treatment, and parenting classes. Grizzard testified that between November 2006 and November 2009, Makiah participated in, but did not successfully complete mental health treatment, individual therapy, parenting classes, or drug treatment. Grizzard described Makiah's participation in the above services as "inconsistent." Based on her review of the file and Makiah's history, Grizzard testified that her assessment was that Caleb would be at risk once Makiah gave birth. She based her assessment on Makiah's history of starting, but not completing services and not taking any responsibility for the fact that her other children were in the system. Grizzard testified that Makiah was diagnosed with PTSD and depression.

¶ 28 On cross-examination, Grizzard admitted that when she formed her opinion that Caleb would have been at risk at birth, she had not made a visit to Makiah's residence. Upon examination by the court, Grizzard testified that Makiah's five other children came into the system because they were in an injurious environment due to inadequate food and being found home alone on at least two occasions. She did not know if the children were malnourished or improperly clothed. She could not recall if protective custody was taken of the children, but she

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did know that heating in the home was not an issue, but electricity was an issue. At the conclusion of Grizzard's testimony, the State rested.

¶ 29 The Public Guardian admitted, without objection, Minor's Exhibit No. 1, which contained certified and delegated DCFS indicated reports related to Makiah dated February 2, 2002, January 23, 2003, July 7, 2003, and November 2006. DCFS investigated a February 2, 2002, report indicating that four of Makiah's children were left alone for over one hour. Makiah was indicated for inadequate supervision and environmental neglect. On January 23, 2003, DCFS received a report that four of Makiah's children were found home alone with no food, and that the house was full of trash. After an investigation, Makiah was indicated for inadequate supervision, inadequate food, and environmental neglect.

¶ 30 On July 7, 2003, DCFS received a report of child abuse or neglect involving Makiah's five children. DCFS indicated Makiah for substantial risk of physical injury/environment injurious to health and welfare by neglect and inadequate food. DCFS, in its report, reasoned that Makiah did not cooperate with intact services, the worker observed no food in the home, Makiah admitted to not having food for her children because her lights were out, and Makiah had not cooperated with mental health services. The assigned investigator spoke to Makiah, who admitted that she smokes marijuana sometimes, she has not taken her prescribed medication, and had not attended her therapy for a month. The investigator observed that there was no food, milk, working lights, or working refrigerator in the home and that the children were home alone. Makiah's six year old child told the investigator that his mother leaves them all the time, he is hungry, and that his mother smokes drugs in the house. On July 9, 2003, DCFS took protective

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custody of all five children.

¶ 31 In November of 2006, DCFS indicated Makiah for substantial risk of physical injury/environment injurious to health and welfare because she took her five children out of their foster home and brought them to Indiana without permission. Makiah admitted that she had taken her children and that they had been staying with her at a friend's residence, a motel, and at a shelter. They stayed in the shelter about four days. Two of the children stated that they had missed about three weeks of school. Several of the children were diagnosed with scabies.

¶ 32 After presenting Minor's Exhibit No. 1, the Public Guardian rested. Makiah did not present any additional evidence.

¶ 33 The circuit court took the case under advisement, but invited the parties to file briefs on the issue of whether the theory of anticipatory neglect applied. The State filed a brief in support of, and the Public Guardian filed a memorandum in support of, findings of abuse substantial risk of injury and neglect injurious environment for Caleb. On August 10, 2010, Makiah filed a motion to re-open adjudication based on newly discovered evidence. Over the State's and the Public Guardian's objections, the circuit court granted Makiah's motion to re-open evidence and admitted into evidence Mother's Group Exhibit No. 5.

¶ 34 Mother's Group Exhibit No. 5 included letters from Dianne Glenn, a psychotherapist, dated July and August of 2003, in which Glenn stated Makiah is in therapy, she has been diagnosed with recurrent depression and post traumatic stress disorder, and has been responding well with medication and psychotherapy. The exhibit also included letters from Sharon Lieteau, MD. In an April 2004 letter, Lieteau stated Makiah had been keeping her appointments and

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complying with her medications. In a March 2005 letter, Lieteau indicated that Makiah had been attending her appointments and that she claims to be drug free. The March 2005 letter indicated Makiah had post traumatic stress disorder and major depression. The exhibit also included various documents related to Makiah's efforts to secure housing. Group Exhibit No. 5 also includes documents from Resurrection Health Care related to Makiah's participation in a chemical dependency program from August 5, 2008, until October 31, 2008, and a letter stating Makiah underwent individual counseling sessions on April 1, 2009, and April 29, 2009.

¶ 35 On January 10, 2011, the court asked the parties "is this case not more appropriate a Dependency B case where the mother is unable to care for the child because of mental disability?" The State and the Public Guardian answered that this was not a dependency case. Makiah's attorney stated that he "did not consider the issue of dependency," but that "perhaps, there is support for that particular theory that, in fact, this is actually more of a dependency matter rather than an anticipatory neglect matter." After hearing the parties arguments concerning the dependency question it presented to them, the court rested until the afternoon.

¶ 36 On the afternoon of January 10, 2011, the circuit court issued its findings. The court found Caleb was dependent because he was without proper care due to Makiah's mental disability and that he was neglected based on an injurious environment. The court found, by a preponderance of the evidence, that there is evidence of dependency based on Makiah's diagnosis of chronic mental illness. The court cited section 2-4(1)(b) of the Juvenile Court Act of 1987 (Act) in making its dependency finding. 705 ILCS 405/2-4(1)(b) (West 2008). Relying on the theory of anticipatory neglect, the court found, by a preponderance of the evidence, that

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Caleb was neglected due to the failure of the parent to provide a safe and nurturing environment for him. The court noted that Caleb's meconium tested positive for marijuana. The court reasoned further that Makiah has been offered numerous mental health services and substance abuse services over the years that have not been completed, which led the court to "make the finding that Caleb is neglected as well as dependent." The circuit court did not find that Caleb was abused based on substantial risk of harm.

¶ 37 On February 22, 2011, the circuit court conducted a dispositional hearing and found that it was in Caleb's best interest to be adjudged a ward of the court. The court found that Makiah was unable to care for Caleb and DCFS was named his legal guardian.

¶ 38 Makiah timely filed her appeal, seeking reversal of the circuit court's findings of neglect, best interests, wardship, and guardianship.

¶ 39 ANALYSIS

¶ 40 Before this court, Makiah argues that the circuit court's finding of neglect was against the manifest weight of the evidence. Makiah also argues that the circuit court's findings of neglect and dependency are mutually exclusive and, thus, urges this court to vacate the circuit court's finding of neglect, but affirm its finding of dependency. Both the State and the Public Guardian argue that the circuit court's finding of neglect was not against the manifest weight of the evidence and that the evidence established that Caleb was neglected due to an injurious environment. The State and Public Guardian also argue that Makiah has waived her argument that the circuit court's findings of neglect and dependency are mutually exclusive because she did not raise them before the circuit court. Makiah did not file a reply brief in this matter.

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¶ 41 Initially, we note that in Makiah's notice of appeal, Makiah states she is appealing the circuit court's "findings of neglect, best interests, wardship, and guardianship." However, in her brief before this court, she only takes issue with the circuit court's finding of neglect, claiming it was against the manifest weight of the evidence and that the circuit court could not make both a finding of dependency and neglect because they are mutually exclusive. She does not make any arguments in her brief before this court addressing the circuit court's rulings from the dispositional hearing that it was in Caleb's best interests to be made a ward of the court and placed in the custody and guardianship of DCFS. We hold that Makiah is procedurally defaulted from raising arguments concerning the circuit court's dispositional findings for failing to argue them in her brief. Ill. S. Ct. R. 341(h)(7)(eff. July 1, 2008); *In re R.S.*, 382 Ill. App. 3d 453, 464 (2008).

¶ 42 The Act provides, in pertinent part, that a neglected minor is "any minor \*\*\* whose environment is injurious to his or her welfare." 705 ILCS 405/2-3 (West 2008). The circuit court must first determine at an adjudicatory hearing whether the minor is abused, neglected, or dependent before conducting a dispositional hearing on wardship. 705 ILCS 405/2-21 (West 2008); 705 ILCS 405/2-18(1) (West 2008) ("At the adjudicatory hearing, the court shall first consider only the question whether the minor is abused, neglected, or dependent."); *In re Arthur H.*, 212 Ill. 2d 441, 462 (2004). At the adjudicatory hearing, the State must prove its allegations by a preponderance of the evidence. *In re Faith B.*, 216 Ill. 2d 1, 13 (2005). The preponderance of the evidence standard is defined as "proof that makes the condition more probable than not." *In re N.B.*, 191 Ill. 2d 338, 343 (2000).

¶ 43 Our supreme court has defined the term "' neglect' as the 'failure to exercise the care that circumstances justly demand.'" *Id.* at 346, quoting *People ex rel. Wallace v. Labrenz*, 411 Ill. 618, 624 (1952). Further, our supreme court has said:

" [Neglect] embraces wilful 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 changes." *Id.*, quoting *Labrenz*, 411 Ill. at 624.

¶ 44 The definition of the term "injurious environment" has been described "as an amorphous concept that cannot be defined with particularity." *In re Arthur H.*, 212 Ill. 2d at 463.

"Generally \*\*\* our courts have interpreted 'injurious environment' to include the breach of a parent's duty to ensure a 'safe and nurturing shelter' for his or her children." *In re N.B.*, 191 Ill. 2d at 346, quoting *In re M.K.*, 271 Ill. App. 3d 820, 826 (1995).

¶ 45 The theory of anticipatory neglect is defined as when:

"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." *In re Arthur H.*, 212 Ill. 2d at 468.

The Act does provide that "proof of the abuse, neglect, or dependency of one minor shall be admissible evidence on the issue of the abuse, neglect, or dependency of any other minor." 705 ILCS 405/2-18 (West 2008). However, our supreme court has stressed that neglect of one child does not establish conclusively that another child in the household is neglected. *In re 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.'" *Id.*, quoting *In re Edward T.*, 343 Ill. App. 3d 778, 797 (2003). Further, "when 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 injury.'" *Id.* at 477, quoting *In re Brooks*, 63 Ill. App. 3d 328, 339 (1978).

¶ 46 Due to the unique circumstances in cases involving neglect and injurious environment allegations, each case must be decided on its own unique set of facts. *In re Arthur H.*, 212 Ill. 2d at 463; *In re N.B.*, 191 Ill. 2d at 346. This is due to the "fact-driven nature of neglect and injurious environment rulings." *In re N.B.*, 191 Ill. 2d at 346. We will not reverse the circuit court's finding of neglect unless it is against the manifest weight of the evidence. *In re Faith B.*, 216 Ill. 2d at 13-14. "A decision is against the manifest weight of the evidence if the facts clearly demonstrate that the court should have reached the opposite result." *In re N.B.*, 191 Ill. 2d at 347.

¶ 47 Applying these principles to the case at bar, we hold that the circuit court's finding that Caleb was neglected based on an injurious environment is not against the manifest weight of the

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evidence. Makiah had a long history of both mental health issues and drug abuse. Under the theory of anticipatory neglect, both the circumstances surrounding the minor in question and the minor's siblings was properly considered. *In re Arthur H.*, 212 Ill. 2d at 468, quoting *In re Edward T.*, 343 Ill. App. 3d 778, 797 (2003).(" ' neglect should be measured not only by the circumstances surrounding the sibling, but also by the care and condition of the child in question.' "). In this case, all five of Caleb's siblings were born drug exposed. All five of his siblings were also wards of the State due to various infractions by their mother, Makiah. The evidence presented made clear that Makiah had several treatment options for both her mental health and for substance abuse around the time of Caleb's birth that she never completed. The State and the Public Guardian presented numerous exhibits, as well as the testimony of Ronald Millar and Sherlica Grizzard, addressing Makiah's and Caleb's sibling's history. Although Caleb was less than a week old when the State filed its petition, his meconium had already tested positive for cannabis. The record also showed that Makiah did not receive proper prenatal care while she was pregnant with Caleb. A finding that the environment Caleb was born into was injurious based on his sibling's circumstances, his mother's untreated mental health and substance abuse issues, and the fact that Caleb was born with cannabis in his meconium is not against the manifest weight of the evidence. Under the circumstances of this case, it is not against the manifest weight of the evidence for the circuit court to conclude that Caleb was neglected based on an injurious environment. We cannot say that "the facts clearly demonstrate that the court should have reached the opposite result." *In re N.B.*, 191 Ill. 2d at 347. Nor are we prepared to stop the circuit court from taking action to stop further harm to Caleb. *In re Arthur*

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*H.*, 212 Ill. 2d at 477, quoting *In re Brooks*, 63 Ill. App. 3d 328, 339 (1978) ("when 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 injury.'").

¶ 48 Makiah's final argument is that the circuit court's findings of neglect and dependency are mutually exclusive and, thus, she urges this court to vacate the circuit court's finding of neglect, but affirm its finding of dependency. Both the State and the Public Guardian maintain that Makiah has not properly preserved this issue for appeal.

¶ 49 We hold that Makiah's final argument has no merit for several reasons. First, we agree with both the State and the Public Guardian that Makiah did not make any objections before the circuit court regarding its findings of dependency and neglect. This court has stressed that "to preserve an alleged error for appellate review, a party must, even in child custody cases, object at trial and file a written posttrial motion addressing it." *In re William H.*, 407 Ill. App. 3d 858, 869-70 (2011). Had Makiah made an objection at trial or in a written posttrial motion, the circuit court would have had an opportunity to address the issue. Makiah failed to do so here.

¶ 50 Forfeiture aside, Makiah's only relevant citation to authority for her argument is this court's decision in *In re J.M.*, 245 Ill. App. 3d 909 (1993), which is distinguishable. The respondents in *In re J.M.* raised, amongst other issues, the issue of whether the circuit court erred in not ordering the DuPage County State's Attorney to prosecute the respondent parents' supplemental dependency petition. *Id.* at 916. The State had filed a petition for adjudication of wardship alleging neglect. *Id.* at 911. The respondent parents moved for leave to file a supplemental petition under section 2-4(1)(d) of the Act, alleging that they "wished to be

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relieved of all residual parental rights and responsibilities." *Id.*; 705 ILCS 405/2-4(1)(d) (West 2008). This court held that although the circuit court had the power to order the State's Attorney to prosecute the dependency petition, it did not err when it did not order the State's Attorney to do so. *Id.* at 918-19. This court commented that:

"The State's Attorney had already taken the position that J.M. was a neglected child. Under these circumstances, the determination of J.M. as a neglected child or the determination of J.M. as a dependent child were mutually exclusive outcomes. Thus it would have put the State's Attorney in a conflict of interest to have to prosecute both petitions." *Id.* at 919.

¶ 51 In this case, Makiah never filed a supplemental petition pursuant to section 2-4(1)(d) of the Act. 705 ILCS 405/2-4 (1)(d) (West 2008). Section 2-4(1)(d) of the Act provides, in relevant part:

"(d) \*\*\* a parent, guardian or legal custodian who with good cause wishes to be relieved of all residual parental rights and responsibilities, guardianship or custody, and who desires the appointment of a guardian of the person with power to consent to the adoption of the minor." 705 ILCS 405/2-4(1)(d) (West 2008).

Unlike in *In re J.M.*, here, Makiah did not seek to have the State's Attorney prosecute a dependency petition in order to be "relieved of all residual parental rights." 705 ILCS 405/2-4(1)(d) (West 2008). Neither party even raised the issue of dependency. The court raised the

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issue *sua sponte*. Further, the court based its findings on section 2-4(1)(b) of the Act, which provides in relevant part, that a dependent minor is one:

"(b) who is without proper care because of physical or  
mental disability of the parent, guardian, or custodian." 705 ILCS  
405/2-4(1)(b) (West 2008).

We hold that *In re J.M.* is distinguishable to the case at bar both based on its facts and the procedural posture of the case.

¶ 52 Makiah did not cite any other authority to support her argument that a finding of dependency and a finding of neglect are mutually exclusive. This court has, however, affirmed concurrent findings of neglect and dependency by the circuit court. See *In re R.S.*, 382 Ill. App. 3d at 458-64 (affirming the circuit court's findings that minor was abused and neglected due to an injurious environment and dependent); *In re Bobbie Hill*, 102 Ill. App. 3d 387, 391-92 (1981) (holding "the finding of neglect and dependency was not against the manifest weight of the evidence."); *In the Interest of A.D.W.*, 278 Ill. App. 3d 476, 481 (1996). Makiah has not shown that a circuit court cannot make a neglect finding in addition to a dependency finding. Under the circumstances of this case, we cannot say that the circuit court erred in making a finding of neglect concurrently with a finding of dependency.

¶ 53 CONCLUSION

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

¶ 55 Affirmed.