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2011 IL App (3d) 100756-U

Order filed August 16, 2011

IN THE

APPELLATE COURT OF ILLINOIS

THIRD DISTRICT

A.D., 2011

In re Kev. E., III, Kel. E., Ken. E.,	)	Appeal from the Circuit Court
	)	of the 10th Judicial Circuit,
Minors	)	Peoria County, Illinois,
	)	
(The People of the State	)	
of Illinois,	)	Appeal No. 3-10-0756
	)	Circuit Nos. 10-JA-197, 10-
Petitioner-Appellee,	)	JA-198 & 10-JA-199
	)	
v.	)	
	)	
K.E., II,	)	Honorable
	)	Richard D. McCoy,
Respondent-Appellant).	)	Judge, Presiding.

JUSTICE LYTTON delivered the judgment of the court.
Presiding Justice Carter and Justice Holdridge concurred in the judgment.

ORDER

¶ 1 *Held*: Where the father committed several acts of domestic violence against the mother, the no-contact provision included in the orders of protection in the dispositional orders was a reasonable condition.

¶ 2 Respondent, K.E., II, appeals from the dispositional orders of the circuit court finding him

unfit. On appeal, he argues that the trial court abused its discretion by including a provision in the orders of protection attached to the dispositional orders that required no contact between the mother and respondent father. We affirm.

¶ 3 In July 2010, the State filed three juvenile petitions alleging that the minors, K.E., III, K.E., and K.E., were neglected and in an injurious environment. The petitions included several allegations of domestic violence committed by respondent. Specifically, the petitions indicated that (1) on July 12, 2010, respondent tried to kick the mother, "grabbed her by the throat and pushed her" and "kicked in the door" in the presence of the children, (2) on August 26, 2008, respondent "placed a knife against [mother's] throat," and (3) on September 3, 2007, respondent "pushed [mother] in the face and stomach and choked her."

¶ 4 The dispositional report prepared prior to the hearing revealed that respondent had recently committed an act of domestic violence against the mother when the children were present, which led to the juvenile petitions. Respondent had since moved out of the home and both parents had signed orders of protection that stipulated that respondent could not reside with the minors and that all contact with the minors was to be supervised by the Department of Children and Family Services (DCFS). The report also included a statement by the mother that she and respondent had a lengthy history of domestic abuse due to respondent's addiction to alcohol. The report concluded that the children needed to reside in a safe and stable environment "free of domestic violence and substance abuse" and recommended that respondent undergo domestic violence assessment and counseling.

¶ 5 Following the dispositional hearing, the trial court ordered that the minors be made wards of the court and named DCFS as guardian. The court placed the children with the mother, finding her fit, but found respondent unfit. Included in the dispositional orders were orders of protection

which stated:

> "Mother and Father to have no contact with each other unless through couples counseling or family or co-parenting counseling as arranged by DCFS."

¶ 6 ANALYSIS

¶ 7 On appeal, respondent argues only that the trial court erred in adding the orders of protection to the dispositional orders preventing any contact between the mother and respondent.

¶ 8 Under the Juvenile Court Act of 1987 (Act) (705 ILCS 405/1 *et seq*. (West 2008)), a trial court may include an order of protection as a condition of a dispositional order if it determines that such an order is necessary for the "health, safety and best interests of the minor." 705 ILCS 405/2-25(1) (West 2008). The court must comply with section 2-25 of the Act when it enters an order of protection and may impose "reasonable conditions of behavior" on the respondent parents. 705 ILCS 405/2-25(1) (West 2008). Whether the trial court's order of protection complies with section 2-25 is a matter of statutory construction that we review *de novo*. *People v. Taylor*, 221 Ill. 2d 157 (2006).

¶ 9 The primary rule of statutory construction is to determine and effectuate the intent of the legislature. *Taylor*, 221 Ill. 2d at 162. In doing so, courts should consider the statute in its entirety, keeping in mind the subject it addresses and the legislature's apparent objective in enacting it. *People v. Davis*, 199 Ill. 2d 130 (2002). However, our inquiry must always start with the language of the statute itself, which is the most reliable indicator of the legislature's intent. *Taylor*, 221 Ill. 2d at 162. Where the language of the statute is clear, it must be applied as written without resort to extrinsic aids of interpretation. *In re R.L.S.*, 218 Ill. 2d 428 (2006). Generally, legislative use of the word "may" indicates a permissive or directory reading, whereas use of the word "shall" expresses

a mandatory one. *People v. Reed*, 177 Ill. 2d 389 (1997).

¶ 10 Section 2-25 of the Act provides that,

"(1) The court may make an order of protection in assistance of or as a condition of any other order authorized by the Act. The order of protection shall be based on the health, safety and best interests of the minor and may set forth reasonable conditions of behavior to be observed for a specified period. Such an order may require a person:

(a) to stay away from the home or the minor;

(b) to permit a parent to visit the minor at stated periods;

(c) to abstain from offensive conduct against the minor, his parent or any person to whom custody of the minor is awarded;

(d) to give proper attention to the care of the home;

(e) to cooperate in good faith with an agency to which custody of a minor is entrusted by the court or with an agency or association to which the minor is referred by the court;

(f) to prohibit and prevent any contact whatsoever with the respondent minor by a specified individual or individuals who are alleged in either a criminal or juvenile proceeding to have caused injury to a respondent minor or a sibling of a respondent minor;

(g) to refrain from acts of commission or omission that tend to make the home not a proper place for the minor;

(h) to refrain from contacting the minor and the foster parents in any manner

that is not specified in writing in the case plan." 705 ILCS 405/2-25(1) (West 2008).

¶ 11 The plain language of the statute states that the order of protection must be based on the safety and best interests of the children. The statute further provides that the trial court may impose "reasonable conditions of behavior" in the order. The statute then lists several requirements that "may" be included in the order of protection. The legislature's use of the word "may," indicates that the eight conditions listed are not exclusive or exhaustive, but merely suggestive of requirements that could be included in the order. See *Reed*, 177 Ill. 2d at 393.

¶ 12 Here, the trial court entered orders of protection along with the dispositional orders that required the mother and respondent to refrain from any contact with each other. The petitions and the dispositional hearing report indicate that respondent and the mother had an extensive history of abuse and that respondent often initiated his violent behavior in the presence of the children. The adjudication petitions before the trial court were based on the respondent's act of domestic violence against the mother while all three children were in the home. During that incident, respondent beat the mother and tried to kick her. When the mother took the children into another room and locked the door to protect them, respondent kicked down the door. In light of this evidence, the conditions imposed by the trial court were reasonable.

¶ 13 Based on the health, safety and best interests of the minors, the court included in the dispositional order an order of protection that would limit the children's exposure to respondent's acts of domestic violence and the damaging effects thereof. The trial court did not abuse its authority under section 2-25 by imposing the no-contact provision in the orders of protection.

¶ 14 CONCLUSION

¶ 15 The dispositional orders of the circuit court of Peoria County are affirmed.

¶ 16 Affirmed.