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2011 IL App (3d) 110276-U

Order filed September 6, 2011

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IN THE  
APPELLATE COURT OF ILLINOIS  
THIRD DISTRICT

A.D., 2011

<i>In re</i> C.J.,	)	Appeal from the Circuit Court
	)	of the 10th Judicial Circuit,
a Minor	)	Tazewell County, Illinois,
	)	
(The People of the State of Illinois,	)	
	)	Appeal No. 3-11-0276
Petitioner-Appellee,	)	Circuit No. 10-JA-112
	)	
v.	)	
	)	
Angela V.,	)	Honorable
	)	Joe Vespa,
Respondent-Appellant).	)	Judge, Presiding.

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JUSTICE O'BRIEN delivered the judgment of the court.  
Presiding Justice Carter and Justice Schmidt concurred in the judgment.

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**ORDER**

¶ 1           *Held:* The trial court's finding at the dispositional hearing that the respondent was unfit to care for her minor son was not contrary to the manifest weight of the evidence.

¶ 2           Following a dispositional hearing, the circuit court found that the respondent, Angela V., was unfit to care for her nine-year-old son, C.J. On appeal, the respondent

argues that the trial court's finding of unfitness was against the manifest weight of the evidence. We affirm.

¶ 3

### FACTS

¶ 4

In 2006, the respondent divorced the minor's father after five years of marriage. The respondent and the minor's father were granted joint custody of the minor. The minor primarily resided with the respondent during the week and with his father on weekends.

¶ 5

In March 2009, the respondent became involved with Rex Monroe, who eventually moved in with the respondent and the minor. On September 25, 2010, the respondent and Monroe were involved in an act of domestic violence, which resulted in Monroe being charged with domestic battery.

¶ 6

On October 12, 2010, the respondent made a false statement to the prosecutor's office in an effort to have the charges against Monroe dropped. In the statement the respondent indicated that: (1) her injuries were caused by a woman who had "jumped" her outside a bar; (2) Monroe "only tried to restrain [her]" and did not hurt her; (3) when she and Monroe returned home only words were exchanged between them and "nothing else"; (4) she called for help because she needed medical attention; and (5) her statement to police indicating that Monroe had harmed her was inaccurate because she was intoxicated.

¶ 7

On October 21, 2010, the respondent sent a letter to Monroe's attorney indicating that she had known Monroe since high school and they had lived together for the past year. She indicated that Monroe "ha[d] become a friend and male role modle [*sic*] to

[her] son" and "contributed to the household expenses." She further indicated that now that Monroe was gone "things [were] harder" for her family. She stated that in spite of the serious charges against Monroe she was requesting that the court set aside its order that prohibited Monroe from having contact with her. She also indicated that she had no fear for her safety "should [Monroe] be allowed to return home to live with [her]."

¶ 8 On November 20, 2010, the State filed a juvenile petition, alleging that the minor was neglected due to an injurious environment in that: (1) on September 25, 2010, the respondent and Monroe were involved in an act of domestic violence wherein Monroe "choked and struck" the respondent; (2) the respondent indicated that there had been several incidents of domestic violence; (3) the respondent requested that the subsequently implemented no-contact order and order of protection be lifted so that Monroe could resume residing with her and the minor; and (4) Monroe had an extensive criminal history, including convictions for battery, aggravated battery, and violation of an order of protection. On January 20, 2011, the respondent stipulated that the petition could be proven by the State.

¶ 9 On February 24, 2011, a shelter care hearing took place. The caseworker testified that she had been working with the respondent for six weeks and the respondent was cooperative, other than not being forthcoming when questioned as to the origin of a hickey on her neck. At the time, the caseworker was concerned that the respondent was still involved with Monroe. A few days after initially withholding the source of the hickey, the respondent named the man who gave her the hickey as Jim McGowan. The

respondent explained that she withheld his name because he was involved in another relationship and she did not want to cause problems between McGowan and his girlfriend.

¶ 10 The respondent testified that on the night of the domestic battery incident on September 25, 2010, Monroe put her in a choke hold several times and would not allow her to leave. Once the respondent got away from Monroe, she asked a neighbor to call the police. Both the respondent and Monroe had been drinking alcohol. Monroe was intoxicated. On the night of the incident, the minor was with his father for the weekend. The respondent also testified to two previous incidents of domestic violence between her and Monroe.

¶ 11 The respondent additionally indicated that Monroe used cocaine. She acknowledged that in Monroe's phone calls to her from jail he had insinuated that she also used cocaine. The respondent admitted to writing a false statement to the prosecutor indicating that her injuries were caused by an unknown woman. She explained that she wrote the false statement so the prosecutor would "ease up" on Monroe.

¶ 12 The respondent explained that she wrote the letter to Monroe's attorney stating that he was a friend and role model to her son because Monroe was "very charming, and he was very, very nice to [her] son." The respondent acknowledged that at the time she wrote the letter she knew that Monroe had been violent with her and used alcohol and cocaine. The respondent testified that she had made a mistake in writing the letters to the prosecutor and defense attorneys.

¶ 13 The guardian *ad litem* (GAL) indicated that she had spoken with the minor and his father. The father indicated that he and the minor had dinner with the respondent the night before the hearing. During dinner the respondent spoke about inappropriate subject matter in front of the minor, such as making sure the minor understood that he had not seen Monroe since September. The GAL felt that the minor was not being honest about the last time he had seen Monroe but she could not prove that he was lying.

¶ 14 The trial court found that there was an immediate and urgent necessity to remove the minor from the respondent's home based upon the respondent's inappropriate relationship with Monroe and her untrustworthiness. The trial court entered an order giving temporary custody of the minor to the father and supervised visitation to the respondent.

¶ 15 On March 25, 2011, at the adjudication hearing, the court found that the State had proven the neglect petition in that, despite the respondent having at least three domestic abuse incidents with Monroe, she sought to have him return to living with her and the minor. The trial court adjudicated the minor neglected and held a dispositional hearing *instanter*. In proceeding to the disposition, the trial court found that the respondent needed to undergo counseling and found her to be dispositionally unfit. The respondent appeals.

¶ 16 ANALYSIS

¶ 17 On appeal, the respondent argues that the trial court's finding was against the manifest weight of the evidence. We disagree.

¶ 18 Under section 2-21(2) of the Juvenile Court Act of 1987, after a minor is adjudicated abused, neglected, or dependent, the trial court shall hold a dispositional hearing. 705 ILCS 405/2-21(2) (West 2010). At the dispositional hearing, the trial court determines whether the parents of a minor are "unfit or are unable, for some reason other than financial circumstances alone, to care for, protect, train, or discipline the minor or are unwilling to do so, and that the health, safety, and best interest of the minor will be jeopardized if the minor remains in the custody of his or her parents[.]" 705 ILCS 405/2-27(1) (West 2010). On review, the trial court's section 2-27 fitness determination will be reversed only if the trial court's findings of fact are against the manifest weight of the evidence. *In re J.C.*, 396 Ill. App. 3d 1050 (2009).

¶ 19 In this case, the court was presented with evidence that the respondent attempted to have the domestic battery charges against Monroe dropped in order for him to resume living with her and the minor after at least three incidents of domestic violence within one year. Despite his domestic violence and alcohol and drug use, the respondent claimed that Monroe was a role model for the minor and lied in order to protect him from criminal charges. The respondent also chose to withhold information from the caseworker apparently to protect another man, McGowan, from admitting to their relationship. She did so knowing that she had an obligation to be truthful to her caseworker in order to be united with the minor.

¶ 20 At the time of the dispositional hearing, there was no indication before the court, other than the respondent's testimony, that she could exercise good judgment to protect

the minor. With good reason, the trial court found the respondent to be untrustworthy. Consequently, the trial court's finding of unfitness was not against the manifest weight of the evidence.

¶ 21

#### CONCLUSION

¶ 22

For the foregoing reasons, we affirm the judgment of the circuit court of Tazewell County.

¶ 23

Affirmed.