



S.R., H.R., and B.R., who were subjects of the underlying proceedings but not at issue on appeal.

In early 2011, the children came to the attention of authorities after two of the older children were found to be persistently truant from school. On February 24, 2011, the State filed an amended petition for adjudication of neglect, alleging educational neglect and an environment that was injurious to the minors' welfare due to inadequate supervision, the risk of physical harm, and exposure to domestic violence. On April 28, 2011, the trial court entered an adjudicatory order, finding the children neglected and noting both respondent and Adams stipulated that the children were neglected due to an injurious environment that exposed them to domestic violence.

¶ 4 On May 26, 2011, the trial court conducted a dispositional hearing in the matter.

It considered a DCFS home and background report that had been prepared for the hearing, showing truancy issues with respect to the three oldest children and a history of domestic violence between Adams and both respondent and the father of the three older children, Christopher Rhodes. The report noted that the history of the family had been "replete with instability in a variety of ways for the involved minors." Communication between the parents was inconsistent and involved frequent disagreements regarding how the children should be raised and disciplined. The report showed respondent resided in his own home with Adams, S.R., A.H., and L.H. The remaining two children, H.R. and B.R., lived primarily with Rhodes.

¶ 5 DCFS recommended all three parents attend a parenting class that focused on choice and accountability in parenting and participate in individual counseling. It also suggested Adams and respondent participate in couples counseling. Further, alcohol and substance abuse assessments were recommended for Adams and Rhodes.

¶ 6 No additional evidence was presented at the dispositional hearing. The trial court

found it was in the children's best interests to be named wards of the court and adjudged neglected. It further determined respondent, Adams, and Rhodes were all fit, able, and willing to exercise custody of the children. Nevertheless, the court stated it was also in the children's best interests that guardianship be removed from the parents and placed with DCFS. On May 31, 2011, the court entered its written order.

¶ 7 This appeal followed.

¶ 8 Respondent argues the trial court abused its discretion in making A.H. and L.H. wards of the court and removing guardianship of the children from him and placing it with DCFS. He argues that, in removing guardianship after finding him to be fit, willing, and able to care for his children, the court selected an inappropriate disposition that was not allowed by statute.

¶ 9 Pursuant to the Juvenile Court Act of 1987, once the trial court determines that a minor is neglected, it must set the matter for a dispositional hearing. 705 ILCS 405/2-21(2) (West 2010). At the dispositional hearing, the court must "determine whether it is in the best interests of the minor and the public that he be made a ward of the court, and, if he is to be made a ward of the court, the court shall determine the proper disposition best serving the health, safety and interests of the minor and the public." 705 ILCS 405/2-22(1) (West 2010). Section 2-23 of the Act sets forth the kinds of dispositional orders the court may enter with respect to wards of the court, providing as follows:

"A minor under 18 years of age found to be neglected or abused  
\*\*\* or dependent \*\*\* may be (1) continued in the custody of his or  
her parents, guardian or legal custodian; (2) placed in accordance

with Section 2-27; (3) restored to the custody of the parent, parents, guardian, or legal custodian, provided the court shall order the parent, parents, guardian, or legal custodian to cooperate with [DCFS] and comply with the terms of an after-care plan or risk the loss of custody of the child and the possible termination of their parental rights; or (4) ordered partially or completely emancipated in accordance with the provisions of the Emancipation of Minors Act." 705 ILCS 405/2-23(1)(a) (West 2010).

¶ 10 The Act also contemplates that a court may award guardianship of a minor to DCFS. 705 ILCS 405/2-23(1)(c) (West 2010). Further, courts have acknowledged that the trial court may split guardianship and custody of a minor. *In re E.L.*, 353 Ill. App. 3d 894, 898, 819 N.E.2d 1191, 1194 (2004) (So long as custody of a minor remains with a parent there is not error in the court also granting guardianship of the minor to DCFS); *In re T.L.C.*, 285 Ill. App. 3d 922, 675 N.E.2d 228 (1996) (recognizing that a court may split custody and guardianship of a minor but holding that, where a minor is placed out of his parents' custody and with DCFS, a court may not dictate where DCFS places custody). On review, the trial court's determination "will be reversed only if the findings of fact are against the manifest weight of the evidence or the court committed an abuse of discretion by selecting an inappropriate dispositional order." *In re J.W.*, 386 Ill. App. 3d 847, 856, 898 N.E.2d 803, 811 (2008).

¶ 11 Here, in entering its dispositional order, the trial court adjudicated the minors neglected and made them wards of the court. It found all the involved parents were fit, willing, and able to exercise custody of the children and ordered custody to remain with the parents.

Nevertheless, the court ordered guardianship removed from the parents, including respondent, and placed with DCFS. Under circumstances similar to the case at bar, the Third District has found it appropriate, and permissible under the Act, for the trial court to make a minor a ward of the court, order custody of the minor to remain with a fit parent, and place guardianship of the minor with DCFS. *E.L.*, 353 Ill. App. 3d at 898, 819 N.E.2d at 1194; *In re M.P.*, 408 Ill. App. 3d 1070, 1074, 945 N.E.2d 1197, 1200 (2011). We agree and find the court did not exceed its authority under the Act.

¶ 12 As noted, the trial court was permitted to enter a dispositional order that continued A.H. and L.H. in respondent's custody pursuant to section 2-23(1)(a)(1) of the Act. It is section 2-23(1)(a)(2) of the Act which allows the minor to be "placed in accordance" with section 2-27 of the Act (705 ILCS 405/2-27 (West 2010)). Section 2-27(d) requires a finding that a parent is unfit, unwilling, or unable to maintain custody of their child before the court may "commit the minor to [DCFS] for care and service." 705 ILCS 405/2-27(d) (West 2010). Here, the court's order did not implicate section 2-27 or require findings that respondent was unfit, unable, or unwilling to parent A.H. and L.H. before it could remove guardianship from respondent.

¶ 13 In *E.L.*, 353 Ill. App. 3d at 898, 819 N.E.2d at 1194, the Third District specifically rejected the argument that the trial court must find a minor's parents unfit pursuant to section 2-27 before granting guardianship to DCFS. *E.L.*, 353 Ill. App. 3d at 898, 819 N.E.2d at 1194. It held section 2-27 concerns findings that are required before "a minor may be *placed* with DCFS for care and service" and did not "address the situation where custody remains with the parent, and only *guardianship* is granted to DCFS." (Emphasis in original.) *E.L.*, 353 Ill. App. 3d at

898, 819 N.E.2d at 1194.

¶ 14 To support his position, defendant cites *In re K.L.S.-P.*, 381 Ill. App. 3d 194, 196, 886 N.E.2d 516, 518 (2008), also a Third District case, wherein it found the trial court abused its discretion by placing custody and guardianship of a minor with DCFS despite finding the respondent father "to be dispositionally fit," and not either unable or unwilling to care for his child. Notably, *K.L.S.-P* involved the removal of both custody and guardianship from a parent, and a dispositional order that triggered application of section 2-27 of the Act.

¶ 15 In this case, the trial court had authority under the Act to enter its dispositional order. That order was also supported by the evidence presented at the dispositional hearing, showing that, while respondent may have been fit, willing, and able to care for A.H. and L.H., significant issues remained within the family. Those issues warranted continued involvement with DCFS and the services it provided. The court did not abuse its discretion.

¶ 16 For the reasons stated, we affirm the trial court's judgment.

¶ 17 Affirm.