

**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).

NO. 4-10-0678

Filed 1/18/11

IN THE APPELLATE COURT  
OF ILLINOIS  
FOURTH DISTRICT

In re: J.R., a Minor, )  
THE PEOPLE OF THE STATE OF ILLINOIS, )  
Petitioner-Appellee, )  
v. )  
ANTHONY WALKER-LAWRENCE, )  
Respondent-Appellant. )  
Appeal from  
Circuit Court  
Champaign County  
No. 07J4  
Honorable  
Richard P. Klaus,  
Judge Presiding.

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PRESIDING JUSTICE KNECHT delivered the judgment of the court.

Justices Turner and Pope concurred in the judgment.

**ORDER**

*Held:* The order terminating parental rights did not violate the holding of *In re E.B.*, 231 Ill. 2d 459, 473, 899 N.E.2d 218, 226 (2008), that parental rights may not be terminated based upon a finding of dependency under section 2-4(1)(c) of the Juvenile Court Act of 1987 (705 ILCS 405/2-4(1)(c) (West 2008)). In this case, after a finding of dependency, the trial court also found the child neglected under section 2-3(1) of the Act (705 ILCS 405/2-3(1) (West 2008)). This adjudication of neglect renders *E.B.* distinguishable and did not prohibit the termination of respondent father's parental rights.

Respondent father, Anthony Walker-Lawrence, appeals the order terminating his parental rights to J.R. (born July 11, 2007). Walker-Lawrence argues the termination order violates the holding of *In re E.B.*, 231 Ill. 2d 459, 473, 899 N.E.2d 218, 226 (2008), which prohibits the termination of parental rights based upon a finding of dependency under section 2-4(1)(c) of the Juvenile Court Act of 1987 (Act) (705 ILCS 405/2-4(1)(c) (West 2008)-). We affirm.

## I. BACKGROUND

In July 2007, the State petitioned the trial court for an adjudication of dependency under section 2-4(1)(b) of the Act. The State maintained J.R. lacked proper care because of her mother's mental disability. Respondent mother is not a party in this appeal. Two days later, the State filed an amended petition, adding the allegation J.R. was dependent under section 2-4(1)(c) through "no fault, neglect, or lack of concern by" Walker-Lawrence. Finding probable cause J.R. was dependent, the court placed temporary custody of J.R. with the Department of Children and Family Services. In September 2007, the court entered an adjudicatory order finding J.R. dependent on both grounds alleged in the amended petition.

In October 2008, the State sought termination of the mother's and Walker-Lawrence's parental rights. In January 2009, the State, recognizing the recently decided *E.B.* barred the termination of parental rights on a finding of dependency under section 2-4(1)(c), moved to dismiss Walker-Lawrence from the motion to terminate parental rights. The trial court granted the motion and dismissed Walker-Lawrence from the termination proceedings.

In March 2009, the State filed a petition for adjudication of neglect and shelter care. In the petition, the State alleged five grounds of neglect by Walker-Lawrence. In May 2009, the trial court found J.R. neglected under sections 2-3(1)(a) (705 ILCS 405/2-3(1)(a) (West 2008)) and 2-3(1)(b) (705 ILCS

405/2-3(1)(b) (West 2008)) of the Act on three of the alleged grounds: (1) Walker-Lawrence did not provide the remedial care necessary for J.R.'s well-being; (2) Walker-Lawrence did not provide J.R. adequate shelter; and (3) J.R. resided in an injurious environment when she resided with Walker-Lawrence because he failed to correct the conditions that led to the earlier finding of parental unfitness. The court noted Walker-Lawrence resided with a registered sex offender, had twice been terminated from parenting classes, failed to complete substance-abuse evaluations or engage in treatment, and participated in only about half of the individual counseling sessions. The court also noted Walker-Lawrence testified the sex offender no longer resided with him.

In May 2010, the State moved for a finding of unfitness and the termination of Walker-Lawrence's parental rights. The State alleged four grounds for a finding Walker-Lawrence was an unfit parent of J.R., alleging Walker-Lawrence failed to: (1) make reasonable efforts to correct the conditions that were the basis for J.R.'s removal (750 ILCS 50/1(D)(m)(i) (West 2008)); (2) make reasonable progress toward the return of J.R. within 9 months of the adjudication of neglect (750 ILCS 50/1(D)(m)(ii) (West 2008)); (3) maintain a reasonable degree of interest, concern or responsibility as to J.R.'s welfare (750 ILCS 50/1(D)(b) (West 2008)); and (4) make reasonable progress toward J.R.'s return during a nine-month period, May 13, 2009, through February 13, 2010, after the initial nine-month period following the neglect adjudication (750 ILCS 50/1(D)(m)(iii) (West 2008)).

Following the adjudicatory hearing, the trial court, in July 2010, found Walker-Lawrence unfit. The court noted Walker-Lawrence's failure "to attend numerous visitations," his positive test for tetra hydro cannabinol (THC), his failure to show for two scheduled drops, and his unsuccessful termination and discharge from other programs.

A best-interests hearing was held in August 2010. After the hearing, the trial court terminated Walker-Lawrence's parental rights to J.R.

This appeal followed.

## II. ANALYSIS

Walker-Lawrence's only argument on appeal is the termination order violates the supreme court's holding in *E.B.*, as the termination follows an adjudication of dependency under section 2-4(1)(c) of the Act. Walker-Lawrence maintains the State's actions in seeking an adjudication of neglect following the *E.B.* decision is "a thinly veiled attempt" to escape *E.B.*'s ruling and argues, if such State action is allowed, section 2-4(1)(c) has no effect.

In *E.B.*, the State filed an amended petition alleging the children were dependent under section 2-4(1)(c) because they lacked remedial or other care through no fault, neglect, or lack of concern by respondent mother. *E.B.*, 231 Ill. 2d at 461-62, 899 N.E.2d at 220. The trial court found the dependency allegations proved, upon finding, in part, respondent mother lacked stable housing, had difficulty maintaining a child's medication,

"and was overwhelmed with parenting." *E.B.*, 231 Ill. 2d at 462, 899 N.E.2d at 220. Later, after a finding of unfitness, the court terminated respondent mother's parental rights. *E.B.*, 231 Ill. 2d at 463, 899 N.E.2d at 221. On appeal, the supreme court held section 2-4(1)(c) prohibited the termination of parental rights based on a finding of dependency under the same section. See *E.B.*, 231 Ill. 2d at 473, 899 N.E.2d at 226.

This case is not like *E.B.* Here, there was an initial finding, relating to Walker-Lawrence, J.R. was a dependent minor under section 2-4(1)(c). Following an amended petition and a hearing on that petition, the trial court entered an adjudication of neglect under sections 2-3(1)(a) (705 ILCS 405/2-3(1)(a) (West 2008)) and 2-3(1)(b) (705 ILCS 405/2-3(1)(b) (West 2008)) of the Act. The court concluded J.R. was a neglected minor in that Walker-Lawrence did not provide adequate shelter or the remedial care necessary for J.R.'s well-being and J.R. resided in an injurious environment when she resided with Walker-Lawrence. These findings went unchallenged. Approximately one year after the adjudication of neglect, the State filed its motion seeking a finding of unfitness and the termination of parental rights.

Given the finding of neglect in this case, *E.B.* is not controlling. The record establishes the State and the trial court were aware of *E.B.*'s holding and did not base the termination proceedings on the adjudication of dependency. Instead, the record shows the termination proceedings were based on the adjudication of neglect. Nothing in *E.B.* or in the language of sec-

tion 2-4(1)(c) or 2-3(1) prohibits the termination of Walker-Lawrence's parental rights after the adjudication of neglect. We find no error on this ground.

We disagree with Walker-Lawrence's argument section 2-4(1)(c) is abrogated in these circumstances. Section 2-4(1)(c) continues to allow trial courts to protect children who are not neglected or abused but deemed dependent "through no fault, neglect or lack of concern by his parents." See 705 ILCS 405/2-4(1)(c) (West 2008). As *E.B.* demonstrates, the section extends beyond neglected and abused children to those children whose parents simply cannot provide the necessary care through no fault of their own. See, e.g., *E.B.*, 231 Ill. 2d at 462, 899 N.E.2d at 220. Moreover, nothing in the language of section 2-4(1)(c) prohibits later findings of neglect should the parent later demonstrate neglect or lack of concern toward the child. See 705 ILCS 405/2-4(1)(c) (West 2008). Such prohibition would violate public policy as it would deter the State from seeking the protections offered by section 2-4(1)(c).

### III. CONCLUSION

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

Affirmed.