NOTICE
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NOS. 4-11-0181, 4-11-0182 cons.

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re: C.H., J.H., K.H., and M.B., Minors, THE PEOPLE OF THE STATE OF ILLINOIS, Petitioner-Appellee, v. (No. 4-11-0181) MacARTHUR BENTON, Respondent-Appellant.	)	Appeal from Circuit Court of Champaign County No. 09JA70
In re: C.H., J.H., K.H., and M.B., Minors, THE PEOPLE OF THE STATE OF ILLINOIS, Petitioner-Appellee, v. (No. 4-11-0182) RACHEL HODGE, Respondent-Appellant.	)	Honorable Richard P. Klaus, Judge Presiding.

PRESIDING JUSTICE KNECHT delivered the judgment of the court.
Justices Turner and Cook concurred in the judgment.

ORDER

¶ *1* *Held:* The trial court had subject-matter jurisdiction over the proceedings finding respondent parents unfit and terminating their parental rights.

¶ 2 Respondent mother, Rachel Hodge, and respondent father, MacArthur Benton, appeal the orders finding them unfit parents and terminating their parental rights. Respondents argue the trial court lacked subject-matter jurisdiction over the fitness and termination proceedings because the findings of neglect were improper. We affirm.

¶ 3 I. BACKGROUND

¶ 4 In November 2009, the State petitioned for an adjudication of neglect or dependency under sections 2-3(1)(a) and 2-4(1)(a) of the Juvenile Court Act of 1987 (Act) (705 ILCS 405/2-3(1)(a), 2-4(1)(a) (West 2008)) on behalf of four minor children: C.H. (born October 26, 2000), M.B. (born January 22, 2003), J.H. (born October 13, 2004), and K.H. (born August 3, 2006). Rachel is the biological mother of all four children. MacArthur is the putative father of

M.B. and J.H.

¶ 5 The petition maintained the children were neglected under section 2-3(1)(a) because their parents did not provide the proper or necessary support for the children. Specifically, the State alleged respondents had not had any contact or offered support for an extended period of time. The State further alleged the children were dependent under section 2-4(1)(a) because they had no parent, guardian, or legal custodian.

¶ 6 The State filed a shelter-care report authored by the Department of Children and Family Services (DCFS). According to the shelter-care report, on October 18, 2009, DCFS received notice respondents' children had inadequate supervision. It was reported to DCFS that on October 4, 2009, Rachel asked Shekeena Moffitt, her sister, to babysit the children while Rachel went to the store. Moffitt agreed to care for the children until Rachel returned from the store. Rachel did not return. Rachel did not provide a care plan for the children. On October 5, 2009, the police went to Moffitt's residence looking for Rachel on an outstanding warrant. On October 13, 2009, Rachel sent Moffitt an e-mail indicating she was giving Moffitt permission to consent to the children's medical, educational, and other needs. Moffitt, at no time, told Rachel she agreed to the terms of Rachel's e-mail. As of the date of the shelter-care report, Rachel's location was unknown, and the children resided with Moffitt.

¶ 7 In January 2010, a hearing was held on the State's petition. MacArthur stipulated to the allegations of neglect. The trial court found the children neglected under section 2-3(1)(a), upon finding the children lacked support, education, and remedial care. See 705 ILCS 405/2-3(1)(a) (West 2008). At a February 2010 dispositional hearing, the court found it in the children's best interests to "be made wards of the court and adjudged neglected."

¶ 8 In October 2010, the State moved for the termination of respondents' parental rights. The majority of the counts in the State's petition related to putative fathers not involved in this appeal. Only one count pertained to respondent parents: they failed to make reasonable progress toward the return of the children within the initial nine months of the neglect adjudica-

tion (750 ILCS 50/1(D)(m)(ii) (West 2008)). In December 2010, the State amended its termination motion to add the allegation that respondent parents were depraved (750 ILCS 50/1(D)(i) (West 2008)).

¶ 9 In January 2011, a hearing was held on parental fitness. Rachel stipulated to both counts of parental unfitness in the State's amended petition. The trial court found Rachel's stipulation knowing, intelligent, and voluntary, and concluded it was supported by a factual basis. The court found MacArthur depraved.

¶ 10 In February 2011, the trial court terminated respondents' parental rights to the children. This appeal followed.

¶ 11 II. ANALYSIS

¶ 12 On appeal, respondents argue only "[t]he trial court never had subject[-]matter jurisdiction" over the fitness and termination proceedings. Respondents maintain proceedings under the Act may only be instituted for children "who are abused, neglected or dependent, as defined in [s]ections 2-3 or 2-4" (705 ILCS 405/2-1 (West 2008)). Respondents cite section 2-3(1)(a) (705 ILCS 405/2-3(1)(a) (West Supp. 2009)) as showing the children could not be found neglected because Rachel left the children with her adult sister, who was both physically and mentally able to take care of the children. Respondents thus challenge the fitness and termination orders by arguing the earlier neglect findings were improper and no further proceedings under the Act should have followed for lack of jurisdiction. See *In re Arthur H.*, 212 Ill. 2d 441, 464, 819 N.E.2d 734, 747 (2004) (holding "[a] finding of abuse, neglect or dependence is jurisdictional" and a trial court may not proceed to an adjudication of wardship without such a finding).

¶ 13 There are several flaws in respondents' argument. First, MacArthur stipulated to the findings his children were neglected. As to MacArthur, the Act applied to his children in relation to his parental rights to them and MacArthur has no basis for arguing lack of subject-matter jurisdiction.

¶ 14 Second, the trial court's neglect findings became a final order when the February 2010 dispositional order was entered. See *In re Winks*, 150 Ill. App. 3d 657, 659-60, 502 N.E.2d 35, 37 (1986). As a final order or judgment, any appeal of the order finding neglect is governed by the rules concerning appeals from civil cases. See Ill. S. Ct. R. 660(b) (eff. Oct. 1, 2001). If respondents wanted to challenge the neglect determinations, respondents had 30 days after the dispositional order to file their notice of appeal. See Ill. S. Ct. R. 303(a)(1) (eff. Jun. 4, 2008). Because respondents did not timely appeal the dispositional order and the adjudication of neglect, those orders stand and the neglect findings gave the trial court jurisdiction to proceed under the Act. See 705 ILCS 405/2-1 (West 2008).

¶ 15 Third, the argument would fail on the merits. A trial court's determination of neglect will not be disturbed unless it is against the manifest weight of the evidence. *In re D.S.*, 217 Ill. 2d 306, 322, 840 N.E.2d 1216, 1225 (2005).

¶ 16 Section 2-3(1)(a) provides the following in relevant part:

¶ 17 "[A] minor shall not be considered neglected *for the sole reason* that the minor's parent or parents or other person or persons responsible for the minor's welfare have left the minor in the care of an adult relative for any period of time, who the parent or parents or other person responsible for the minor's welfare know is both a mentally capable adult relative and physically capable adult relative." 705 ILCS 405/2-3(1)(a) (West Supp. 2009) (emphasis added).

¶ 18 The record shows the neglect findings were not based on "the sole reason" the children were left with Moffitt. The children were left with Moffitt under the pretense Rachel was going to the store and would return. Rachel did not return for her children. Rachel had not requested or been assured her children would be provided for longer than the time it takes to go to and return from a store. The day after Rachel left her children, the police arrived at Moffitt's

residence looking for Rachel. Rachel abandoned her children with no assurance they would be cared for, with no questions as to their welfare, and with no meaningful concern for their future well-being. These are sufficient reasons supporting the trial court's neglect findings. Had the neglect findings been timely appealed, they would have been affirmed.

¶ 19 III. CONCLUSION

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

¶ 21 Affirmed.