



¶ 5 The State's January 4, 2011, petition alleged L.G. was (1) neglected pursuant to section 2-3(1)(b) of the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/2-3(1)(B) (West 2010) in that her environment was injurious to her welfare when she resides with respondent and/or Paige because the environment exposes her to domestic violence and (2) neglected pursuant to section 2-3(1)(b) of the Juvenile Court Act (705 ILCS 405/2-3(1)(b) (West 2010)) in that her environment is injurious to her welfare when she resides with respondent and/or Paige because the environment exposes her to risk of physical harm.

¶ 6 An adjudicatory hearing was held on April 13, 2011. Respondent and Paige both stipulated to count I of the petition and the State withdrew count II.

¶ 7 On May 4, 2011, the trial court held the dispositional hearing. Respondent was then 18 years old and had fathered two children with Paige, also then 18 years old. L.G. was their first child. Their second child, Lyhnden, born July 30, 2010, died on September 27, 2010, after suffocating while sleeping with respondent and L.G. Cause of death was determined to be accidental.

¶ 8 On March 6, 2010, respondent and Paige had an argument in which Paige attempted to walk away from respondent. Respondent followed and began pushing her and eventually picked her up and carried her back to his home. Witnesses called the Rantoul police and respondent was arrested for domestic battery. On August 24, 2010, the Rantoul police received a call about a domestic battery wherein respondent allegedly punched Paige, which prompted Paige to scratch respondent in his face in self-defense. Paige had two large bumps on her head and was transported to the hospital for treatment of her injuries. Both the parties' children were present during this incident. After this incident, DCFS began an investigation into

whether the children were neglected due to the domestic violence between their parents.

¶ 9 After the filing of the neglect petition on January 4, 2011, respondent was arrested for domestic battery against his brother on January 20, 2011. The reports indicate the two brothers had been wrestling and respondent punched his brother in the arm after they were done wrestling because of language directed at respondent by his brother. Respondent's mother called the police. She reported respondent had anger issues and a violent past. L.G. was present during this incident.

¶ 10 On January 27, 2011, respondent and Paige agreed to open-and-intact-family case with DCFS to address their domestic-violence issues. Both parents worked part-time. At one time, L.G. lived with respondent and his mother but later moved to Paige's home when she was able to get an apartment of her own. Respondent cared for L.G. at Paige's home when Paige was at work. DCFS made both announced and unannounced visits to Paige's home and found parents to be competent parents and L.G. was bonded with both parents.

¶ 11 After initial reluctance, respondent began domestic-violence classes and attended several by the time the dispositional hearing was held in May 2011. Since the parents began living apart, the record shows no more domestic-violence issues between them.

¶ 12 At the dispositional hearing, DCFS recommended custody remain in both parents as the case was going well. Respondent was attending both domestic-violence classes and parenting classes. The attorney for L.G. as well as the attorneys for both parents agreed with the recommendation of DCFS that custody remain in both parents while guardianship be given to DCFS to monitor the parents' compliance with court orders. The State disagreed with DCFS and recommended custody as well as guardianship be removed from the parents and placed in DCFS.

¶ 13 The trial court disagreed with DCFS and ordered custody as well as guardianship of L.G. be placed in DCFS. The court noted respondent had been late in recognizing he needed help to address his domestic-violence issues although he was now attending classes. The court stated DCFS would be in charge of L.G.'s custody and visitation with her parents. Thus, DCFS could, if it desired, leave L.G. in her parents' actual, physical custody. Respondent had not yet proved he was free of domestic-violence issues. The court placed legal custody with DCFS, so if respondent were involved in another issue of domestic violence, DCFS would not need to come to court for another hearing to remove L.G. from her parents' custody. This appeal followed.

¶ 14 II. ANALYSIS

¶ 15 The Juvenile Court Act authorizes a trial court to remove a child from the custody of his parents if the court determines the parent is unfit or unable to care for, protect, train, or discipline the minor and the health, safety, and best interest of the minor would be jeopardized if the minor remains in the custody of the parent. 705 ILCS 405/2-27 (West 2010). The court's finding must be supported by a preponderance of the evidence and its findings will not be disturbed unless they are against the manifest weight of the evidence. *In re D.W.*, 386 Ill. App. 3d 124, 139, 897 N.E.2d 387, 400 (2008). "A finding is against the manifest weight of the evidence only if the opposite result is clearly evident." *In re A.W.*, 231 Ill. 2d 241, 254, 897 N.E.2d 733, 740 (2008).

¶ 16 Respondent admits issues of domestic violence arose between respondent and Paige prior to their breakup, the DCFS investigation showed both parents loved L.G., cooperated in her care, and adequately parented her. She was bonded to both of them. DCFS recommended custody remain with respondent after observing him with L.G. Respondent notes the DCFS

personnel who made the recommendation on custody held masters of social work degrees and had experience in these matters; thus, they were in a superior position to determine whether custody should be removed from either parent.

¶ 17 Respondent notes section 2-27 of the Juvenile Court Act provides in order to remove custody from a parent, the trial court must find "the health, safety, and best interest of the minor will be jeopardized if the minor remains in the custody of his or her parents, guardian or custodian." 705 ILCS 405/2-27 (West 2010). However, in giving DCFS the ability and authority to leave L.G. in respondent's care, the court has implicitly acknowledged respondent was actually a fit and proper person to exercise custody of L.G. and L.G.'s health, safety, and best interests would not be jeopardized by doing so.

¶ 18 The trial court stated it believed its actions were necessary to allow respondent to prove to the court and DCFS he was done with any incidents of domestic violence between himself and anyone in his family. The court did not believe enough time had elapsed between respondent's last reported incident of domestic violence and the time of the dispositional hearing to find he was no longer a domestic-violence threat. Respondent was finally attending domestic-violence classes, but had resisted at first, not believing he had a real problem. He had not yet completed the classes. The court noted if respondent engaged in domestic violence again, he would be demonstrating to the court he was not an appropriate parent for L.G.

¶ 19 The trial court apparently intended to emphasize to respondent and to Paige, very young parents, the harmful effects of domestic violence upon L.G. In removing custody from respondent, the court kept ultimate control over respondent's interactions with L.G. By removing custody of L.G. from respondent and Paige, the court created a strong incentive for respondent to

