

FIRST DIVISION
September 17, 2012

No. 1-12-1281

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IN THE APPELLATE COURT
OF ILLINOIS
FIRST JUDICIAL DISTRICT

IN THE INTEREST OF:)	Appeal from the
)	Circuit Court of
)	Cook County
D.O.,)	
)	
Minor-Respondent-Appellant,)	No. 12 JA 075
)	
THE PEOPLE OF THE STATE OF ILLINOIS,)	
)	Honorable
Petitioner-Appellant,)	Maxwell Griffin, Jr.,
v.)	Judge Presiding.
)	
LARITA C. and DWAYNE O.,)	
)	
Respondents-Appellees.)	

JUSTICE KARNEZIS delivered the judgment of the court.
Presiding Justice Hoffman and Justice Rochford concurred in the judgment.

ORDER

¶ 1 HELD: *The trial court's order dismissing the State's petition for adjudication of wardship of the minor was proper and its findings that the State failed to prove abuse and neglect were not against the manifest weight of the evidence where there were no signs of physical*

abuse or neglect and caseworkers testified that they were not given enough time to work with the mother to become a better parent before temporary custody was taken of the minor.

¶ 2 Minor-respondent-appellant D.O. appeals from the trial court's order finding D.O. not abused or neglected and dismissing the State's petition for adjudication. On appeal, D.O. contends the court's adjudicatory findings were against the manifest weight of the evidence and the court should not have dismissed the State's petition for adjudication of wardship. For the following reasons, we affirm.

¶ 3 Background

¶ 4 Larita C. gave birth to D.O. on December 9, 2011. Larita C. was 17 years old and a Department of Children and Family Services (DCFS) ward and resided in a group home with D.O. On January 16, 2012, D.O. was taken into temporary custody. On January 18, 2012, the State filed a petition for adjudication of wardship of D.O. The petition alleged that D.O. was neglected and abused pursuant to sections 2-3(1)(b) (environment injurious to child's welfare) and 2-3(2)(ii) (substantial risk of physical injury) of the Juvenile Court Act (705 ILCS 405/2-3(1)(b) and (2)(ii) (West 2012)). The petition alleged neglect and abuse on the basis that Larita C. had been non-compliant with services including individual therapy and parenting classes; had a history of elopement from her group home; and had participated in high risk behaviors including prostitution and substance abuse.

¶ 5 The court held an adjudicatory hearing on March 29, 2012. Lakisha Dailey, a child protection investigator for DCFS testified that she was assigned to the case on

1-12-1281

January 3, 2012. Dailey stated that Larita C. went "on the run" with D.O. on January 3, 2012, but returned later that same day. Larita C. again went on the run with D.O. on January 13, but returned on January 15. Larita C. told Dailey that she had smoked marijuana and had engaged in prostitution. Larita C. was referred for individual counseling and parenting services and had yet to complete those services. Dailey further stated that she had not observed any marks of abuse or neglect on D.O.

¶ 6 Tiffany Brown testified that she was employed by the social service agency UCAN and was Larita C.'s caseworker. Brown stated that Larita C. went on the run three times since D.O. was born, but returned either the same day or several days later. Brown stated that Larita C. had been arrested for prostitution and admitted smoking marijuana on two occasions when D.O. was with her. Brown further stated that Larita C. did not have adequate training to parent D.O. appropriately.

¶ 7 Jamie Reimen testified that she was employed by Jewish Child and Family Services and was Larita C.'s caseworker. Reimen stated that at the time that D.O. was taken into temporary custody, Larita C. was in individual therapy and had begun parenting classes and had attended a life skills meeting. Reimen further stated that she was not given enough time to work with Larita C. when temporary custody was taken of D.O.

¶ 8 Charlotte Mallon testified that she was employed by Jewish Child and Family Services and was Larita C.'s therapist. Mallon stated that between January 3 and 15, 2012, Larita C. had completed about three or four individual therapy sessions. Mallon

1-12-1281

further stated that she did not have enough time to work with Larita C. to become a better parent before temporary custody was taken of D.O.

¶ 9 Larita C. testified that two of the times she left her group home with D.O., she had taken the bus to Indiana to visit a family friend. She stated that she did not return when she was supposed to because she did not have enough money for bus fare and waited until her friend could drive her home. Larita C. also stated that the last time she smoked marijuana was on February 6, 2012.

¶ 10 The trial court determined that the State had not met its burden of proof that D.O. was abused or neglected. The court found a lack of evidence of abuse or neglect and a lack of any physical signs of abuse or neglect. The court also noted that the State did not present the testimony of the caseworkers who had made the determination to take D.O. into temporary custody. The court further noted caseworker Jamie Reimen's testimony that Larita C. had not been in services for very long and was not given enough time to change her behavior and learn to be a better parent. The court did admonish Larita C. about being a good mother and making good decisions for her and D.O. Ultimately, however, the court determined that the allegations of abuse and neglect had not been proven.

¶ 11 Analysis

¶ 12 D.O. contends on appeal that the trial court's adjudicatory findings were against the manifest weight of the evidence and the court should not have dismissed the State's petition for adjudication of wardship.

¶ 13 The purpose of an adjudicatory hearing is to determine whether an allegation that a minor is neglected is supported by a preponderance of the evidence. *In re Arthur H.*, 212 Ill. 2d 441, 465 (2004). The State bears the burden of proving neglect by a preponderance of the evidence. *In re J.P.*, 331 Ill. App. 3d 220, 234 (2002). Cases involving an adjudication of neglect are *sui generis* and each case must ultimately be decided on the basis of its own particular facts. *In re Christina M.*, 333 Ill. App. 3d 1030, 1034 (2002). A trial court's findings concerning a petition for adjudication of wardship will not be disturbed on appeal unless contrary to the manifest weight of the evidence. *In re T.H.*, 148 Ill. App. 3d 877, 882 (1986). A trial court's finding is against the manifest weight of the evidence only if the opposite conclusion is clearly evident. *In re Arthur H.*, 212 Ill. 2d at 464.

¶ 14 D.O. argues that the trial court's findings were against the manifest weight of the evidence because testimony at the adjudicatory hearing established that Larita C. had smoked marijuana, had taken D.O. on the run with her and had been arrested for prostitution. D.O. maintains that the allegations of neglect and abuse in the petition for adjudication of wardship were proven by a preponderance of the evidence.

¶ 15 Here, D.O. is correct that the trial court heard testimony that Larita C. had smoked marijuana on two occasions since D.O.'s birth, had taken D.O. on the run with her twice to visit a family friend in Indiana and had also been arrested for prostitution. The trial court also heard testimony that Larita C. was beginning to engage in services such as parenting classes and individual therapy. Caseworker Tiffany Brown also

1-12-1281

testified that Larita C. did not yet have adequate training to parent D.O. appropriately and both caseworker Jamie Reimen and therapist Charlotte Mallon testified that they did not have enough time to work with Larita C. to become a better parent before temporary custody was taken of D.O. The trial court was faced with a 17-year old mother who was herself a DCFS ward who had lived in various group homes, not exactly the most ideal of circumstances. However, as the trial court noted, there were neither signs of physical abuse or neglect of D.O. nor evidence that D.O. was not being cared for appropriately. The trial court also expressed concern that the State had not presented the testimony of those caseworkers who had made the determination to take D.O. into temporary custody. Therefore, the court concluded that the State had not met its burden of proving neglect and abuse. We cannot say that these findings are against the manifest weight of the evidence or that the opposite conclusion is clearly apparent. As a result, the court properly dismissed the State's petition for adjudication of wardship.

¶ 16

Conclusion

¶ 17 Accordingly, we affirm the judgment of the trial court.

¶ 18 Affirmed.