



¶ 4 Respondent father, Troy Reffett, is the father of R.R. (born March 16, 2005) and J.R. (born August 12, 2006). In April 2011, the minors lived in Danville with their father and mother, respondent Crystal Hamm (not a party to this appeal), and their half-brother and half-sister, C.P. (born June 28, 1999) and A.W. (born July 1, 1997), Hamm's children from prior relationships.

¶ 5 On April 5, 2011, Danville police were called to the parties' residence due to an incident of domestic violence between respondent and Hamm. They were arguing over respondent father looking through a hole in the wall in a bedroom to see A.W. taking a shower in the bathroom next door. This was reported to the Illinois Department of Children and Family Services (DCFS) as respondent sexually exploiting one of the minors' siblings as well as battering Hamm. Respondent was ordered out of the home due to criminal charges filed against him. He went to live with his father and the minors remained in their home with Hamm. DCFS offered services to respondent but he refused.

¶ 6 During an initial DCFS investigation, DCFS found respondent in the home. He contended he thought the no-contact order was only in effect for 72 hours. The State's Attorney's office informed respondent the order was in effect for the duration of the criminal proceedings and he left the home. By June 2011, DCFS found the allegations against respondent to be indicated.

¶ 7 On June 14, 2011, DCFS received a hotline call alleging inadequate food at Hamm and respondent's home and risk to the minors due to drug use. Those allegations were determined to be unfounded, but DCFS again discovered respondent living in the home. An indication of sexual abuse was found because respondent, a reported sex offender due to the prior

indicated report originating in April, had access to the home. Both respondent and Hamm claimed they were not living together and respondent was not found with the children, who were staying with their maternal grandmother. DCFS opened a case and entered a safety plan. Under the plan, respondent would not live with Hamm and the children, and Hamm would supervise his visits with the minors. Services recommended for respondent included a sex offender evaluation and domestic violence counseling. He did not participate in those services.

¶ 8 By September 2011, DCFS discovered respondent, Hamm, and the children living together. Another report was found to be indicated due to the prior indicated finding of sexual exploitation.

¶ 9 On October 6, 2011, the State filed a petition for adjudication of wardship in regard to R.R. and J.R. alleging their environment was injurious to their welfare due to domestic violence in the home and the fact respondent had sexually exploited their half-sibling by drilling a hole in the bedroom wall and watching her take a shower.

¶ 10 At the November 22, 2011, adjudicatory hearing, Danville police officer James Snyder testified he responded to a dispatch on April 5, 2011 based on a 9-1-1 call by Hamm who reported being battered by respondent. Officer Snyder went to their home and spoke to R.R., who was then six years old. R.R. told Snyder she saw respondent looking through a hole in the wall in a bedroom and then went to get her mother. Snyder looked through the hole and saw the shower area of a bathroom.

¶ 11 Tracy Vincent, a child protection investigator with DCFS, testified she received a report respondent sexually exploited one of the minors' siblings as well as battered Hamm. Vincent talked with Hamm and Hamm stated she got into an argument with respondent because

R.R. told her she saw respondent looking through a hole into the bathroom where A.W. was taking a shower. Hamm told Vincent respondent briefly had his hands around her neck during the argument. Vincent looked through the hole in the bedroom wall and stated she could see almost the entire bathroom.

¶ 12 Vincent talked to R.R. and the minor told her she saw respondent look through the hole in the wall three or four times, all during the same time frame. R.R. stated respondent told her "not to tell mommy" but R.R. stated she told her mommy anyway. R.R. also told Vincent respondent tried to choke Hamm as a result of their argument.

¶ 13 Vincent interviewed A.W., who reported she did not know about the hole-peeking incident until the next day when respondent and Hamm argued and she saw him choking Hamm. A.W.'s friend ran outside and called the police. A.W. stated this was not the only instance of domestic violence she witnessed as she had previously seen respondent throw coffee on Hamm and hit her in the head. Vincent recommended services for respondent but he refused to participate.

¶ 14 Tricia Peoples, an investigator with DCFS, testified she spoke with respondent about his failure to complete a sex offender assessment and told him until he did so, he could not return to the home.

¶ 15 Hamm testified R.R. never told her respondent was looking at A.W. in the shower although Hamm admitted she saw the hole in the bedroom wall. Hamm stated she went into the bedroom and argued with respondent. She observed A.W. getting out of the shower. Hamm admitted when she initially went into the bedroom she "assumed" respondent was looking through the hole at A.W. in the shower because he was leaning down picking up stuffed animals.

Hamm denied telling Vincent that R.R. told her respondent was looking through the hole.

¶ 16 Respondent testified he was in the bedroom picking up toys on the night of the alleged hole-peeking incident. J.R. and C.P. were playing video games in the room and R.R. was getting in respondent's way. He told R.R. her mother wanted to see her to get R.R. out of his way so he could finish cleaning up. When Hamm entered the room, she accused respondent of looking through the hole in the wall at her daughter which respondent denied. They then argued. The argument spilled over to the next day with Hamm continuing to accuse respondent. He stated Hamm got in his face and yelled at him. Respondent pushed Hamm away in order to remove himself from the situation. Respondent also testified the criminal charges filed against him as a result of this incident were dropped.

¶ 17 The trial court found the State proved by a preponderance of the evidence the minors' environment was injurious to their welfare both for domestic violence and the sexual exploitation incident. The court found Hamm's testimony to be particularly interesting in that she stated, on an otherwise normal day at home, she walked into the bedroom where respondent was bending down, apparently picking up toys, and the first thought that came to her mind was he must be peeking through the hole in the wall. She denied anyone said anything to her prior to walking into the room, but she immediately thought respondent was looking through the hole. The court found the allegations of neglect were proved and gave temporary custody of the minors to DCFS.

¶ 18 At a December 2011 dispositional hearing, the DCFS report submitted stated respondent continued to deny the incident of sexual exploitation but was cooperative with the department. He was employed but had an extensive criminal history, including an arrest for

domestic battery in June 2010. He also had a drug conviction and two convictions for larceny. Respondent also had two incidents of domestic violence with Hamm. Respondent's residence met minimum standards for cleanliness with no safety hazards. He admitted drug and alcohol use and stated he believed he would benefit from treatment.

¶ 19 At the dispositional hearing, Hamm testified the minors were removed from her custody and were living with her brother due to a failed drug test immediately following the adjudicatory hearing in November. The trial court found the minors to be neglected and both parents unfit and unable to parent them. They were made wards of the court with DCFS given their custody and guardianship. This appeal followed.

¶ 20 II. ANALYSIS

¶ 21 All proceedings under the Juvenile Court Act of 1987 (Act) (705 ILCS 405/1-1 to 7-1 (West 2010)) are brought in the best interests of the child involved and should not be undertaken lightly. *In re C.M.*, 351 Ill. App. 3d 913, 916, 815 N.E.2d 49, 51 (2004). At an adjudicatory hearing, a trial court must determine whether a minor is abused, neglected, or dependent. *Id.* The State must prove its allegations by a preponderance of the evidence. 705 ILCS 405/2-18(1) (West 2010). A trial court's finding is afforded great deference and will not be disturbed unless it is contrary to the manifest weight of the evidence. *In re A.P.*, 179 Ill. 2d 184, 204, 688 N.E.2d 642, 652 (1997). "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).

¶ 22 The Act also 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 remained in the custody of the parent. 705 ILCS 405/2-27 (West Supp. 2010). The trial 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).

¶ 23 Neglect is generally viewed as a failure to exercise the regard circumstances demand and encompasses willful as well as unintentional disregard of parental duties. *In re S.D.*, 220 Ill. App. 3d 498, 502, 581 N.E.2d 158, 161 (1991). An "injurious environment" is an amorphous concept which cannot be defined with particularity; therefore, each case should be reviewed considering the specific circumstances of that case. *Id.* A parent's behavior toward one minor may be considered when deciding whether a sibling is exposed to an injurious environment. *C.M.*, 351 Ill. App. 3d at 916, 815 N.E.2d at 51. The Act provides "proof of the abuse, neglect or dependency of one minor shall be admissible evidence on the issue of the abuse, neglect or dependency of any other minor for whom the respondent is responsible." 705 ILCS 405/2-18(3) (West 2010). Further, evidence indicating a child witnessed sexual abuse of a sibling by a stepfather is *prima facie* evidence of neglect of the witnessing child based on injurious environment. *S.D.*, 220 Ill. App. 3d at 502-03, 581 N.E.2d at 161.

¶ 24 The testimony established R.R. saw respondent look through the hole in the wall of the bedroom into the bathroom shower area while her 13-year-old half-sister was taking a shower. Respondent told R.R. not to tell Hamm, but she stated she did so anyway. R.R. told the same story to several different people. She witnessed the sexual exploitation of her half-sister by her father and her half-sister's stepfather. R.R. and A.W. both told several witnesses they saw

respondent and Hamm arguing the next day and A.W. stated respondent had his hands around Hamm's neck at some point. A.W. also stated she had seen respondent throw coffee at Hamm and hit her in the head on prior occasions.

¶ 25 R.R. and J.R. lived with A.W. and respondent at the time of the exploitation and domestic violence alleged in this case. The trial court's finding the State proved by a preponderance of the evidence the minors were neglected based on injurious environment was not against the manifest weight of the evidence.

¶ 26 III. CONCLUSION

¶ 27 We affirm the trial court's judgment.

¶ 28 Affirmed.