

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).

2012 IL App (4th) 120004-U

Filed 5/23/12

NO. 4-12-0004

IN THE APPELLATE COURT
OF ILLINOIS

FOURTH DISTRICT

In re: An. C., Ke. C., Jo. T., Jm. T., and Ja. T., Minors,)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,)	Circuit Court of
Petitioner-Appellee,)	Champaign County
v.)	No. 11JA47
TAKEYA JOHNSON,)	
Respondent-Appellant.)	Honorable
)	John R. Kennedy,
)	Judge Presiding.

JUSTICE POPE delivered the judgment of the court.
Justices McCullough and Knecht concurred in the judgment.

ORDER

¶ 1 *Held:* (1) The State offered a proper factual basis in conjunction with respondent's admission to the allegations in its petition for abuse and neglect.

(2) Respondent has forfeited her argument the trial court's admonition was confusing by not objecting in the trial court or preserving the issue in a posttrial motion.

¶ 2 In November 2011, the State filed an amended petition for adjudication of abuse and neglect against respondent mother, Takeya Johnson, as to her minor children, An. C. (born November 26, 2002), Ke. C. (born April 28, 2004), Jo. T. (born October 21, 2007), Jm. T. (born June 2, 2009), and Ja. T. (born June 5, 2011). During the adjudicatory hearing, respondent admitted one count of abuse of An. C., Ke. C., and Jm. T., and one count of neglect as to Jo. T., and Ja. T.

¶ 3 Respondent appeals the abuse and neglect adjudications, arguing her admission was not knowing and voluntary where (1) the State did not offer a factual basis prior to her admission, and (2) the trial court's admonition was confusing. We affirm.

¶ 4 I. BACKGROUND

¶ 5 As the parties are familiar with the facts, we mention them here only as necessary for the resolution of the issues raised on appeal.

¶ 6 On November 2, 2011, the State filed an amended petition for adjudication of abuse and neglect. Count I alleged An. C., Ke. C., and Jm. T. were abused pursuant to section 2-3(2)(v) of the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/2-3(2)(v) (West 2008)) in that respondent and Joshua Thomas, the putative father of Ja. T., inflicted excessive corporal punishment upon the minors. Count II alleged Jo. T. and Ja. T. were neglected pursuant to section 2-3(1)(b) of the Juvenile Court Act because their environment was injurious to their welfare in that they were exposed to the risk of excessive corporal punishment. We note Joshua Thomas is not a party to this appeal; nor is Marshan Carr, putative father of An. C. and Ke. C.

¶ 7 On November 9, 2011, the trial court held an adjudicatory hearing on the State's amended petition. Respondent was present personally and accompanied by her attorney. At the beginning of the hearing, respondent's attorney told the court respondent "will stipulate to both Counts I and Count II" of the State's amended petition. The court then admonished respondent as follows:

“THE COURT: Ms. Johnson, an Amended Petition has been filed. In this Petition[,] the State's Attorney is asking that the children be declared abused and/or neglected and named wards of the court.

You should understand that if they are named wards of the court the Court then has the authority to enter orders in the children's best interest. The children could be wards of the court up to as old as 21 years[,] and if they're wards of the Court[,] the Court has the authority to enter other orders in their best interest[,] including requiring you as a parent to cooperate with the Department of Children and Family Services [(DCFS)] and to comply with terms of a court order. And, Ms. Johnson, the order could include appointing a custodian and guardian for the children.

Do you understand what I've said so far?

[RESPONDENT]: Yes.

THE COURT: Now the claims or allegations of the State's Attorney[:] the claims are that the children are neglected and abused [as] in Counts I and II of this Amended Petition.

It's alleged in Count I that [An. C., Ke. C., and Jm. T.] are abused pursuant to Illinois law by reason of being minors under 18 years of age whose parents, [respondent] and/or Joshua Thomas, inflict[ed] excessive corporal punishment upon said minors.

In Count II, it's alleged that the minors [Jo. T., and Ja. T.] are neglected by reason of being minors under 18 years of age whose environment is injurious to their welfare when residing with you and/or Joshua Thomas. It alleges said environment exposes the

minors to risk of excess corporal punishment.

Do you understand what Counts I and II say?

[RESPONDENT]: Yes.

THE COURT: You have the right to a hearing on these allegations. At such a hearing[,] the State's Attorney would have to prove allegations of abuse or neglect by a preponderance of the evidence. You would have the right to be at the hearing. You would have the right to the assistance of your lawyer, the right to confront and cross-examine witnesses who testify, [and] the right to present witnesses and evidence on your behalf. You could have witnesses subpoenaed to come to court to testify. You could testify yourself. You could examine court files and records that relate to this and present relevant evidence.

Do you understand your right to a hearing?

[RESPONDENT]: Yes.

THE COURT: If you admit or stipulate that these allegations are true, you would be giving up your right to such a hearing.

Do you understand, Ms. Johnson?

[RESPONDENT]: Yes.

THE COURT: Please ask your lawyer before you answer my question[,] but the question is do you admit that the allegations in Count I and [II] are true?

[RESPONDENT]: Yes.

THE COURT: Has anyone forced or coerced or threatened you to make this admission?

[RESPONDENT]: No.

* * *

THE COURT: The offer of Respondent mother to admit Count I and II is knowing and voluntary.

What would be your factual support there, Ms. Rietz?"

¶ 8 The State then recited a lengthy factual basis, which included the following. On September 24, 2011, An. C. and Ke. C. were visiting their paternal grandmother when An. C. showed her grandmother an injury to her neck. An. C. told her grandmother An. C.'s mother had whipped her with an extension cord. An. C.'s grandmother contacted the police, who interviewed the minor. During the interview, An. C. reported she had been whipped with a flatiron cord and a cell phone charger cord. Photographs were taken of extensive injuries to An. C.'s back, arms, legs, and abdomen. Police then went to respondent's residence, recovered the flatiron, and arrested respondent. An. C.'s medical records showed An. C. had "extensive healed and recent bruises on her extremities, chest, back, abdomen, left neck, [and] forearms consistent with an extension or an electrical cord or a belt."

¶ 9 Police later learned Ke. C. had injuries as well. Ke. C. was interviewed and photographs were taken of her injuries. Ke. C. also reported she had been hit with a phone charger cord and a flatiron cord and said it was "because she was bad." Ke. C.'s medical records indicated she had "extensive healed and recent bruises on the left side of her forehead, face,

extremities, chest, back, [and] abdomen consistent with extension or electrical cords or a belt."

¶ 10 When the other children were brought to the police department and interviewed, police and DCFS observed Jm. T. also had injuries on his back and shoulders, which were consistent with being struck by a cord. Jm. T.'s medical records indicated he had "several linear marks on his back mostly to the right of the midline two to three centimeters wide by several centimeters long and that at least a couple of those have superficial skin abrasions possibly from superficial burn versus belt marks."

¶ 11 While Jo. T.'s medical records did not reveal any injuries, he reported being subjected to similar corporal punishment as the other children.

¶ 12 When the State finished offering its factual basis, the trial court asked respondent's attorney, "from your analysis of the case, could the State's Attorney present witnesses to give testimony as set forth here?" Respondent's attorney replied in the affirmative and the court found a sufficient factual basis existed to find in favor of the State and against respondent as to counts I and II of the amended petition.

¶ 13 On November 29, 2011, the trial court entered an adjudicatory order, finding the minors had been abused and neglected as alleged in counts I and II of the State's amended petition.

¶ 14 This appeal followed.

¶ 15 II. ANALYSIS

¶ 16 On appeal, respondent argues the trial court erred in accepting her admission because it was not knowing and voluntary where (1) the State did not offer a factual basis *prior* to her admission, and (2) the trial court's admonition was confusing. We disagree.

¶ 17

A. Factual-Basis Argument

¶ 18 Respondent argues her admission was not knowing and voluntary where the State did not offer a factual basis prior to her admission.

¶ 19 "Admissions under the Juvenile Court Act must be voluntarily and intelligently made." *In re April C.*, 326 Ill. App. 3d 225, 242, 760 N.E.2d 85, 99 (2001) (citing *In re M.H.*, 196 Ill. 2d 356, 366, 751 N.E.2d 1134, 1142 (2001)). "This knowing and voluntary requirement protects a parent from admitting to neglect or abuse when their conduct does not fall within the State's allegations." *M.H.*, 196 Ill. 2d at 366, 751 N.E.2d at 1142.

¶ 20 While respondent argues the factual basis should have preceded her admission, this court has recently found the factual basis may be provided at any time before the trial court accepts an admission, even after the admission has been made. *In re C.J.*, 2011 IL App (4th) 110476, ¶ 30, 960 N.E.2d 694, 699. In *C.J.*, this court rejected the respondent's argument *M.H.* stood for the proposition the State must provide its factual basis prior to a respondent's admission to abuse or neglect allegations at an adjudicatory hearing. Instead, this court found "*M.H.* stands for the proposition that 'due process requires a [trial] court to determine whether a factual basis exists for an admission of parental unfitness *before it accepts the admission.*' " (Emphasis in the original.) *C.J.*, 2011 IL App (4th) 110476, ¶ 30, 960 N.E.2d at 699 (quoting *M.H.*, 196 Ill. 2d at 368, 751 N.E.2d at 1142-43). We note respondent has not cited a case to the contrary.

¶ 21 In this case, respondent's attorney advised the trial court respondent was willing to admit the allegations contained in the State's amended petition at the beginning of the adjudicatory hearing. The court then admonished respondent as to those allegations. The court noted the *offer* of respondent to admit to count I and II was knowing and voluntary, but did not,

at that point, accept respondent's admission. See *M.H.*, 196 Ill. 2d at 368, 751 N.E.2d at 1142-43 (trial court is required to elicit a factual basis prior to *accepting* a respondent's admission). The court then asked the State for its factual basis. While respondent does not challenge the sufficiency of the factual basis, we note the relevant burden is on the court, not the parent, to satisfy itself that a factual basis exists before it accepts the parent's admission. *C.J.*, 2011 IL App (4th) 110476, ¶¶ 29-30, 960 N.E.2d at 698-99.

¶ 22 The State then detailed a lengthy factual basis for the allegations in its petition. When the State concluded, the trial court addressed respondent and asked if she had any objection to the State's basis. Respondent had no objection. The court then entered judgment in favor of the State and against respondent, *i.e.*, the court accepted respondent's admission. Under the circumstances of this case, the trial court did not err in accepting respondent's admission.

¶ 23 B. Trial Court's Admonition

¶ 24 Respondent next argues her admission was not knowing and voluntary where the trial court's admonition was "confusing." Specifically, respondent contends based on the admonishment given, she could not have understood the consequences of her admission.

¶ 25 The State argues respondent has forfeited her argument because she did not object in the trial court, attempt to withdraw her admission, or otherwise preserve the issue in a posttrial motion. In the alternative, the State contends the record rebuts respondent's claims. We agree with the State.

¶ 26 Where a party fails to make an appropriate objection in the court below, he or she has failed to preserve the question for review and the issue is forfeited. *In re Lakita B.*, 297 Ill. App. 3d 985, 991, 697 N.E.2d 830, 834 (1988). "The principles of forfeiture apply to

proceedings conducted pursuant to the Juvenile Court Act." *In re H.D.*, 343 Ill. App. 3d 483, 489, 797 N.E.2d 1112, 1118 (2003).

¶ 27 In this case, respondent did not object to the trial court's admonishment, attempt to withdraw her admission, or otherwise preserve the issue in a posttrial motion. As a result, respondent has forfeited review of the issue on appeal.

¶ 28 Forfeiture aside, the record shows the trial court adequately admonished respondent such that she was aware of the consequences of her actions.

¶ 29 Respondent maintains the record does not show (1) respondent comprehended the possibility she could lose any of her parental rights and (2) the court explained the legal meaning of words "custodian" or "guardian." In support of her argument, respondent cites *In re Johnson*, 102 Ill. App. 3d 1005, 1012-13, 429 N.E.2d 1364, 1371 (1981), for the following proposition:

"To be valid, an admission in a Juvenile Court Act proceeding must be intelligently and voluntarily made; that is, it must be apparent from the record that the party making the admission was aware of the consequences of his admission. [Citation.] Thus, for the admission of a parent to be valid in the adjudicatory phase of a neglect proceeding, it must be apparent from the record that the parent making the admission understood the consequences of his admission—that a finding of neglect gives the court jurisdiction of the minor who then becomes subject to the dispositional powers of the court. [Citation]."

¶ 30 However, the record shows the trial court specifically explained the State's

allegations to respondent. The record also shows the court also explained the consequences of her admission as follows:

"In this Petition[,] the State's Attorney is asking that the children be declared abused and/or neglected and named wards of the court.

You should understand that if they are named wards of the court the Court then has the authority to enter orders in the children's best interest. The children could be wards of the court up to as old as 21 years[,] and if they're wards of the Court[,] the Court has the authority to enter other orders in their best interest[,] including requiring you as a parent to cooperate with [DCFS] and to comply with terms of a court order. And, Ms. Johnson, the order could include appointing a custodian and guardian for the children."

¶ 31 Thus, the trial court advised respondent as to the nature of the proceedings and the fact it could make her children wards of the court. The court also advised respondent it could appoint a custodian and guardian for the minors. When the court finished its admonishment, it asked respondent if she understood what it had said, and respondent replied, "Yes." While respondent argues the court did not provide her with the "legal meaning" for the terms "custodian" or "guardian," respondent did not indicate to the trial court she did not understand the meaning of those words. Instead, she indicated she understood what the trial court said. We note respondent was also represented by counsel, who was present throughout the adjudicatory hearing. On appeal, respondent does not argue her counsel was ineffective. More important,

respondent never objected nor attempted to withdraw her admission. See *April C.*, 326 Ill. App. 3d at 243-44, 760 N.E.2d at 100. Following our review of the record, we conclude respondent was sufficiently aware of the consequences of her admission. Accordingly, the trial court did not err in its admonishment of respondent.

¶ 32

III. CONCLUSION

¶ 33

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

¶ 34

Affirmed.