



court entered an order of adjudication on February 25, 2008. A multitude of proceedings followed from March 24, 2009, to January 12, 2012. The relevant proceedings are detailed below. Throughout the course of this case, several efforts were made by both the initial trial judge and the Illinois Department of Children and Family Services (DCFS) to assist Misti and the father of her children, Kenneth C., with abiding by the terms of their service plans. The initial goal indicated in the permanency reports was for the family to remain intact, that is, to keep the children in the home with Misti and Kenneth. However, Misti and Kenneth failed to make any substantial progress with those goals over the course of nearly four years, despite the abundance of assistance provided to them. On August 28, 2009, the State filed a supplemental petition for adjudication of wardship, wherein the State alleged that the minor children were neglected pursuant to section 2-3(1)(a) of the Juvenile Act (705 ILCS 405/2-3(1)(a) (West 2008)).

¶ 5 The supplemental petition alleged the same information as the original petition regarding the truancies of S.E. and E.C. but added further allegations regarding S.E., E.C., and the other three children. Those allegations were that the children were not receiving proper medical or dental care, that the parents were not maintaining a stable home, and that the parents were not making substantial progress towards the goals set forth by the multiple service plans provided by DCFS. On that same day, DCFS took protective custody of the children. Shortly thereafter, the children were placed in two different foster homes. D.C., E.C., and S.E. were placed in one home and D.C. and C.C. were placed in another. An order of adjudication was filed on January 11, 2010. A dispositional order was entered on February 8, 2010. In that order, the court ordered that the children remain in the custody of DCFS. On December 17, 2010, the State filed a motion for termination of parental rights and for the appointment of a guardian with power to consent to adoption for each of the five children. In each motion, the State alleged that Misti and Kenneth were unfit parents. The

first-stage hearing for the termination of parental rights was held on September 12, 2011. The court found that Misti and Kenneth were unfit parents. The second-stage hearing was held on January 12, 2012. Misti was not present for that hearing and her counsel made a motion for a continuance which was filed on the same day as the hearing. In that motion, counsel stated that Misti could not be present because she was pregnant and was confined to bed rest per a physician's orders. The physician's order was not attached to the motion nor was the motion supplemented with any other medical information that would explain Misti's absence. The court, noting that the case had been going on for nearly four years and expressing frustration that Misti was pregnant yet again—this was her second pregnancy during the course of the proceedings and tenth pregnancy overall—denied the motion to continue. It should be further noted that from January 17, 2008, until January 12, 2012, Misti failed to attend a total of four proceedings. The denial of the January 12, 2012, motion to continue gives rise to this appeal.

¶ 6

#### ANALYSIS

¶ 7 We review the denial of a motion to continue for an abuse of discretion. *Merchants Bank v. Roberts*, 292 Ill. App. 3d 925, 927 (1997). The circuit court has broad discretion when deciding whether to grant or deny a motion to continue, but the court must not exercise that discretion arbitrarily. *Id.* "It is within the juvenile court's discretion whether to grant or deny a continuance motion, and the court's decision will not be disturbed absent manifest abuse or palpable injustice." *In re K.O.*, 336 Ill. App. 3d 98, 104 (2002). A litigant does not have an absolute right to a continuance. *Id.* Unless the complaining party has been prejudiced, the denial of a motion to continue is not grounds for reversal. *Id.*

¶ 8 The legislature has made it abundantly clear that "serious delay in the adjudication of abuse, neglect, or dependency cases can cause grave harm to the minor and the family and that it frustrates the health, safety and best interests of the minor and the effort to establish

permanent homes for children in need." 705 ILCS 405/2-14(a) (West 2010). Particularly in juvenile cases, "[t]he court may continue the hearing 'only if the continuance is consistent with the health, safety and best interests of the minor.'" *In re K.O.*, 336 Ill. App. 3d at 104 (quoting 705 ILCS 405/2-14(c) (West 2000)). Further, a motion for a continuance must be filed 10 days prior to the hearing, or "upon the court's own motion and only for good cause shown." 705 ILCS 405/2-14(c) (West 2010). In juvenile cases, "good cause" is strictly construed and must comply with Supreme Court Rule 231(a). Ill. S. Ct. R. 231(a) (eff. Jan. 1, 1970). Rule 231(a) states that a party moving for a continuance must attach an affidavit that shows: (1) that due diligence was used when attempting to obtain the evidence, (2) what facts are indicated within the evidence, (3) if the evidence consists of witness testimony, that witness's address, or if that information is unavailable, the due diligence used to find that information, and (4) that if a continuance is granted, the evidence will be located. Ill. S. Ct. R. 231(a) (eff. Jan. 1, 1970). Further, if the reason for a motion to continue is based upon the illness of the moving party, she must attach an affidavit to the motion which presents competent medical testimony as to why a motion to continue would be necessary. *In re Marriage of Gallagher*, 256 Ill. App. 3d 439, 442 (1993).

¶ 9 In this situation, the proceedings commenced in January of 2008 and a multitude of hearings followed, and the cause had dragged on for nearly four years. Misti failed to attend a total of four proceedings. There were five children depending on the outcome of the proceedings on January 12, 2012. According to the guardian *ad litem*, the children were extremely excited to be adopted by their foster families, but the process was consistently hampered by Misti and Kenneth to the point where the initial trial judge justifiably recused himself "in disgust." Further, Misti's counsel requested the continuance on the day of the proceeding and failed to present any medical testimony that would justify her claim that she was to remain on bed rest due to her pregnancy. Not only was there no medical testimony

given, but there was also no affidavit that comported with Rule 231(a).

¶ 10 Finally, Misti was not prejudiced by the denial of her motion to continue. At the best-interest hearing, the report by DCFS was full of information that showed that it was in the best interest of the children for them to be adopted by their respective foster families. Misti's counsel presented no evidence. Her counsel even stated that he did not know of any basis to question the information contained within the DCFS report. There is no indication that Misti's counsel would have called her to the witness stand, nor is there any information to indicate that the outcome of the hearing would have been different had Misti been in attendance. Therefore, Misti was not prejudiced by the court's denial of her motion to continue.

¶ 11 **CONCLUSION**

¶ 12 For the foregoing reasons, the judgment of the circuit court of Perry County is affirmed.

¶ 13 Affirmed.