

Brighton W. had been abused or neglected was not against the manifest weight of the evidence.

¶ 2 Appellant, Michelle R., appeals the trial court's order adjudicating Nyla R. (Nyla), Nikko R. (Nikko) and Brighton W. (Brighton) wards of the court. On appeal, Appellant argues: (1) the trial court abused its discretion in consolidating Appellant's children's case with the case of Nicholas J. (Nicholas), (2) the trial court abused its discretion in admitting into evidence the mental health records of Nicholas at the adjudication hearing, and (3) the trial court's findings that Nyla, Nikko and Brighton were abused or neglected within the meaning of the Juvenile Court Act was against the manifest weight of the evidence. For the reasons below, we affirm the trial court's judgment.

¶ 3 BACKGROUND

¶ 4 Nyla, Nikko and Brighton are siblings. Nyla and Nikko are 11-year-old twins. Brighton is four years old. The children's mother is Appellant. Appellant and her three children, Nyla, Nikko and Brighton, resided with Appellant's mother, Nettie R. The children's cousin, Nicholas, was also residing in the home of Nettie R. Nicholas was 13 years old, five feet and seven inches tall and weighed approximately 290 pounds during the time he resided with Nettie R.

¶ 5 In September 2011, Department of Child Protection (DCP)

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investigator Carolyn Armstrong was assigned to the case of Appellant's minor children. Her assignment to the case followed a hotline call indicating that Nikko had been traveling long distances alone, by bus and train, in order to get to and from school. After several failed attempts to get in touch with Appellant, Ms. Armstrong was able to set up a time to speak with Appellant and her children on November 17, 2011. At that meeting, Ms. Armstrong met Nicholas and learned that he was the children's cousin. Also at that meeting, Nikko verified the route he had been taking to and from school by himself. Nikko also informed Ms. Armstrong that he had not been in school for two weeks prior to their meeting.

¶ 6 Ms. Armstrong expressed concern to Appellant about Nikko traveling great distances by himself, not attending school and gave Appellant a list of resources in the community so that Nikko would no longer have to travel to and from school alone. Appellant was indicated for inadequate supervision.

¶ 7 On November 28, 2011, Ms. Armstrong received a second hotline call reporting that Nikko had been dropped off at school by himself and without a note. This was a problem because Nikko was no longer enrolled at the school due to excessive absence. The police took custody of Nikko because an adult responsible for him could not be located. Once Appellant was located, Appellant

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met Ms. Armstrong at the Department of Children and Family Services' (DCFS) office. Because this was Appellant's second indication for inadequate supervision, Ms. Armstrong and Appellant created a safety plan. According to the safety plan, Appellant's children were to live with Courtney R., Appellant's adult daughter, and not with Nettie R.

¶ 8 On October 12, 2011, DCP investigator Harriette Holmes was assigned to the case of Nyla and Nikko after receiving a hotline call that they were being sexually molested by their cousin, Nicholas. On October 13, 2011, Ms. Holmes found Nyla and Nikko at the home of Nettie R., who represented to Ms. Holmes that she was the guardian of these two children. Ms. Holmes did a cursory interview with the children that day and advised Nettie R. to file a police report, explaining to her that a sexual abuse investigation could not begin until a police report was filed.

¶ 9 After five or six failed attempts to get back in touch with Nettie R., Ms. Holmes received notice of the November 28, 2011 hotline call regarding Nikko that Ms. Armstrong had been investigating. At that time, Ms. Holmes learned that the mother of Nyla and Nikko was Appellant. Upon contacting Appellant, Ms. Holmes learned that Appellant was unaware of any sexual abuse investigation. Ms. Holmes then asked Appellant to file a police report, which she filed the following day.

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¶ 10 On December 14, 2011, after the police report was filed, Dr. Myra D. West conducted forensic interviews of Nyla and Nikko. Ms. Holmes was present for these interviews. On the same day, the DCFS took protective custody of Nyla, Nikko and Brighton after learning that Courtney R. had violated the safety plan by allowing the children to reside in Nettie R.'s home without Courtney R. present.

¶ 11 On December 16, 2011, the State filed its petition for adjudication of Nyla, Nikko and Brighton alleging inadequate supervision of Nikko, sexual abuse of Nikko and Nyla by Nicholas and a violation of the children's safety plan. The children were then placed in temporary custody of DCFS based on findings made at the temporary custody hearing.

¶ 12 Nicholas, the alleged sexual abuser of Nikko and Nyla, was admitted to the hospital for mental health treatment on December 15, 2011. When Nicholas was released from the hospital on January 30, 2012, his parents refused to pick him up and he was placed in the custody of DCFS. On February 1, 2012, the State filed a petition for adjudication of wardship concerning Nicholas alleging that he was a neglected child, was not receiving proper care and treatment and his current environment was injurious to his welfare.

¶ 13 On February 17, 2012, the State filed a motion to

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consolidate Nyla, Nikko and Brighton's case with Nicholas' case. Within its motion, the State argued that the cases should be consolidated pursuant to Section 5/2-1006 of the Illinois Code of Civil Procedure. 735 ILCS 5/2-1006 (West 2008). The State further argued that the cases should be consolidated based upon the Court's ruling in *Peck v. Peck*, 16 Ill. 2d 268, 275 (1959). *Peck* states that consolidation is within the trial court's discretion "where the separate causes are of the same nature, arise from the same act, event or transaction, involve the same or like issues, and depend largely or substantially upon the same evidence, and a joint trial will not give one party an undue advantage or prejudice the substantial rights of any party." *Peck*, 16 Ill. 2d at 275.

¶ 14 With respect to this case, the State argued that the cases should be consolidated because both cases seek findings that the children were abused or neglected under the same statute; both cases arise from the allegations of sexual abuse in the home by Nicholas; both cases require a determination on the same issues relating to alleged sexual abuse by Nicholas; and both cases depend largely on the same evidence, namely the victim sensitive interviews of Nyla and Nikko, the children's testimony regarding the condition of the home, Nicholas' statements regarding sexual abuse, and the testimony of DCP investigator Harriette Holmes.

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The State further argued in its motion that consolidation would not prejudice any parties and would serve the interests of judicial economy because it would not require duplicative hearings on adjudication.

¶ 15 In response, Nicholas' guardian *ad litem* argued that the cases should not be consolidated pursuant to Section 2-1006 of the Code of Civil Procedure and objected to consolidation.¹ Nicholas' guardian *ad litem* argued that the cases do not arise from the same event, do not involve the same issues and do not involve the same evidence. This argument is based upon the assertions that Nicholas' case addressed whether Nicholas' parents failed to pick him up at the hospital or create an alternative care plan for him; the need for Nicholas' adjudication hearing arose from the fact that no one would pick him up from the hospital upon being discharged; there were no identical parties in both cases except the State; and the evidence necessary for Nicholas' adjudication hearing would not involve any of the other minor children. Nicholas' guardian *ad litem* further argued that consolidation would have delayed Nicholas' adjudication hearing because Nicholas' adjudication

¹Darren Westbrooks, father of Brighton, also filed a brief in objection to the People's motion to consolidate arguing that Nicholas' mental health records were inadmissible hearsay and consolidation did not comport with the *Peck* factors. Appellant did not file a written objection to the motion to consolidate.

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hearing would not require live testimony. He further argued that consolidation would prejudice Nicholas because it would violate his privacy rights under the Juvenile Court Act and the Mental Health Act.

¶ 16 In its reply, the State added that consolidation would be the least prejudicial ruling the trial court could make because it would prevent the need to have all of the minors, including Nicholas, testify in court about the alleged sexual abuse. The State further added that its request for consolidation was only for the adjudication hearing.

¶ 17 On March 23, 2012, the court heard preliminary arguments from all the parties regarding the State's motion to consolidate. Ultimately, the trial court requested that the parties file additional briefs regarding the admissibility of Nicholas' mental health records, and he took the issue under advisement.

¶ 18 On April 4, 2012, the parties reconvened for a ruling on the State's motion to consolidate. After reviewing all the briefs filed in connection with the State's motion to consolidate and hearing the parties' oral arguments, the trial court ordered that the cases be consolidated. The trial court judge stated throughout his oral ruling that he "read all of the pleadings that were filed" and "I've considered everything that's been submitted in terms of briefs and I've even gotten the transcript

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from the last court hearing and I have read it." Further, when asked whether the trial court judge had considered the *Peck* factors and any potential prejudice to the parties, the judge responded "I don't think there is any prejudice to the minors to consolidate the cases and, more importantly, I think it's in their best interest to consolidate because its obviates the need for them to testify individually."

¶ 19 On April 23, 2012, the trial court judge ordered that unredacted copies of Nicholas' mental health records be produced to all the attorneys in the consolidated case. In ordering that the records be disclosed, the trial court judge noted "[j]ust so the record is clear it's my intention in any event when this case proceeds to trial, I'm going to seal whatever records are admitted anyway." There were no objections to this order regarding the disclosure of the mental health records being entered, and the mental health records were disclosed in accordance with the order.

¶ 20 On July 2, 2012, the adjudication proceeding commenced as a consolidated case. The first witness the State called to testify was Dr. Myra West. Dr. West testified she is the primary forensic interviewer at La Rabida Children's Hospital Advocacy Center. She holds a bachelor's degree in psychology, a master's degree of science in child development, a master's degree of arts

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in clinical psychology and a doctorate of psychology in clinical psychology. While obtaining her doctorate of psychology, Dr. West specialized in child assessment and treatment, with a focus on child abuse. Dr. West has conducted approximately one thousand forensic interviews, with approximately 500 of those being sexual abuse interviews. After admission of Dr. West's curriculum vitae into evidence, the trial court qualified Dr. West as an expert in the field of psychology, with a speciality in interviewing child witnesses.

¶ 23 Dr. West testified that the purpose of a forensic interview, commonly referred to as a victim sensitive interview, is to:

"*** provide a child an opportunity to share information about what did or did not happen to them. The interview is conducted in a child-friendly manner and the child is asked questions in a non-leading manner so as to not put words in the child's mouth. The primary focus of the forensic interview is to gather facts, not to provide therapy."

¶ 24 On December 14, 2011, Dr. West interviewed Nyla and Nikko separately. Dr. West had no concern about Nyla's development or cognitive abilities, and Nyla indicated that she understood the difference between the truth and a lie. Nyla also stated it was

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her understanding that she was being interviewed because of something that had happened between her brother and Nicholas. Specifically, Nyla stated that her brother and Nicholas had done something they were not supposed to do. When Dr. West inquired what Nyla meant by "they did something they were not supposed to do," Nyla said they were kissing. Nyla further stated that Nicholas had Nikko "suck his stuff." When asked to elaborate, Nyla stated that Nicholas' "stuff" was his penis. Nyla further defined Nicholas' "stuff" as what he would use in the bathroom to go pee. Nyla stated that Nikko told her about these incidents, and told her that he did not want to do it but Nicholas made him. Nyla did not personally see the incidents between Nicholas and Nikko, but stated that the incidents happened three times. Nyla stated that she had told her mother, sister and cousin about what happened had between Nikko and Nicholas.

¶ 25 Nyla further stated that Nicholas "kissed her and everything." When Dr. West asked Nyla what "everything" meant, she did not reply. Nyla also said that she had seen Nicholas hit her grandmother, Nettie R., with a belt and that Nicholas was hurtful to Nettie R. Nyla stated that she wanted Nicholas out of their house.

¶ 26 Dr. West testified that Nyla's demeanor was anxious and concerned, and she appeared to be worried about her statements.

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Nyla also appeared "embarrassed and shameful" when Dr. West asked her questions about what had happened to her. Dr. West testified that these are emotions that children tend to exhibit when they have been abused or have witnessed abuse.

¶ 27 Dr. West then interviewed Nikko. Dr. West had no concerns about Nikko's ability to answer questions and felt he understood the difference between the truth and a lie. Nikko agreed to tell the truth.

¶ 28 Overall, Dr. West noted that Nikko seemed a little resistant to talking. When asked if he knew why he was being questioned that day, Nikko stated he did not know. Dr. West informed Nikko that he was there to talk to her about something. Dr. West told Nikko that she typically talks with children about the following topics: (1) kids who are sick, (2) kids who have worries, (3) kids who have problems in their family, (4) different kinds of touching, (5) secrets, and (6) something bad that has happened. Dr. West then asked Nikko if there was anything he wanted to talk with her about that day. Nikko responded maybe something with his cousin.

¶ 29 Nikko stated that Nicholas would make the girls' room dirty, meaning he would pee on the floor. Nikko stated that Nicholas had done stuff to Nyla, that he "touched her butt" and "messed with Nyla." He stated that Nyla was screaming when this

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occurred.

¶ 30 Dr. West indicated that Nikko seemed anxious and reserved, and when Dr. West asked if Nicholas had done anything to him, Nikko became even more hesitant to talk and instead told Dr. West to "ask Nyla." Nikko went on to state that Nicholas kissed Nyla with his mouth. When Dr. West asked if there was anything else about Nicholas' mouth he wanted to tell her, Nikko replied that "he did it to Nyla too." Based on these answers, Dr. West concluded that Nikko was implying that something had happened to him and Nyla and that it involved Nicholas' mouth.

¶ 31 In concluding her interview with Nikko, Dr. West asked Nikko if there was anything else he wanted to say before leaving. Nikko replied, "I'm scared," but would not elaborate on his comment. Dr. West testified that Nikko seemed to be worried about the questions she was asking him and that her questions made him very uncomfortable.

¶ 32 Next, the State called Ms. Carol Armstrong to testify. Ms. Armstrong testified she had been a DCP investigator with the DCFS for eight years. In September 2011, a call came into DCFS' hotline stating that Nikko had been traveling long distances alone to and from school, by train and bus. Ms. Armstrong was assigned to Nikko's case for further investigation of the hotline allegations.

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¶ 34 After some difficulty locating Appellant, Ms. Armstrong was able to contact Appellant at the home of Nettie R., Appellant's mother, on November 17, 2011. Because Nettie R. did not want DCFS at her home, Ms. Armstrong met with Appellant, her three minor children and Nicholas at a local restaurant. At that meeting, Ms. Armstrong learned that Nicholas was the minor children's cousin.

¶ 35 Appellant indicated to Ms. Armstrong that she had told Nikko how to get to and from school. Nikko stated that on one particular day, he could not remember how he was supposed to get home. Nikko stated that there were times when his mother would accompany him home from school, but other times when he was expected to get home by himself. Ms. Armstrong testified that she had concerns about Nikko traveling such a long distance to and from school and concerns that he was making these trips alone. Ms. Armstrong informed Appellant that it was important that Nikko go to school and provided her with a list of resources in the community, which included resources for transportation. Appellant assured Ms. Armstrong she would look into the resources and that Nikko would no longer travel to school alone. Ms. Armstrong indicated Appellant for inadequate supervision.

¶ 36 On November 28, 2011, another hotline call came in reporting that Nikko had been dropped off at school without a parent or a

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note. At the time Nikko was dropped off, he had been removed from the school's roster due to a lack of attendance. The hotline caller indicated that the police had taken Nikko into protective custody because no adult could be located to take care of him. Ms. Armstrong met Nikko at the juvenile court, where Nikko indicated to her that today had been his first day back to school since the last time he met with her. Nikko did not have a telephone number for his mother, so Ms. Armstrong took him to the DCFS office in Harvey, Illinois.

¶ 37 Once at the DCFS office, Ms. Armstrong was able to contact Nikko's grandmother, Nettie R., who in turn contacted Appellant. Appellant came to the DCFS office by four o'clock p.m.

¶ 38 Appellant admitted that Nikko had not been in school for a month, that she had dropped him off without a note that morning, and that she learned he was in DCFS' custody when she went to pick him up at the end of the day. She stated she was unaware that Nikko had been removed from the school's roster.

¶ 39 Because this was the second time Nikko's mother was indicated for inadequate supervision, Ms. Armstrong and Appellant created a safety plan that required Appellant's children to stay with Appellant's older daughter, Courtney R. On the same day the safety plan was created, Ms. Armstrong learned that another investigator, Ms. Harriette Holmes, was conducting a separate

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investigation into Nikko and his family.

¶ 40 A few weeks later, on December 14, 2011, Ms. Armstrong learned that the safety plan had been violated when Ms. Holmes relayed to her that the children had been back living at their grandmother's house, without Courtney R. present, for at least a week. Upon learning that the safety plan had been violated, Ms. Holmes brought the children to Ms. Armstrong's office.

¶ 41 At Ms. Armstrong's office, Nyla and Nikko stated that Nicholas was living with them and that they had been in their grandmother's home without Courtney R. being present. Nikko indicated that they had only stayed with Courtney R. for a week before returning to their grandmother's home. Nikko also reported that he had been in a fight with Nicholas while they were in his grandmother's car and that Nicholas caused bruising on his ear. Ms. Armstrong observed a scar behind Nikko's ear. Nyla stated that there were no adults in the car when this fight occurred. Brighton told Ms. Armstrong that the day before, the children were only fed toast, while their mother had a gyro to eat. Brighton stated that the children had begged their mother for more food, but she would not give them any.

¶ 42 On December 14, 2011, DCFS took protective custody of Nyla, Nikko and Brighton due to the violation of the safety plan and the bruise on Nikko's ear.

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¶ 43 The State next called Ms. Harriette Holmes to testify. Ms. Holmes testified she was a DCP investigator for twelve years. She has investigated more than one thousand sex abuse cases. In October 2011, she was assigned to the case of Nikko and Nyla when a hotline call came in reporting that the children were being sexually abused by their cousin, Nicholas. On October 13, 2011, Ms. Holmes contacted Nettie R., who indicated that she was the guardian for the children. After conducting a cursory interview with the children, Ms. Holmes asked Nettie R. to file a police report and explained to her that a police report was necessary in order to initiate the sexual abuse investigation and schedule forensic interviews.

¶ 45 Ms. Holmes testified that she followed up with the police department and was told no police report had been filed. For the next month, Ms. Holmes attempted to get in touch with Nettie R., but was unsuccessful.

¶ 46 On November 28, 2011, Ms. Holmes discovered that there was another investigation being conducted by Ms. Armstrong regarding Nyla, Nikko and Brighton. Upon speaking with Ms. Armstrong, Ms. Holmes learned that Appellant was Nyla and Nikko's mother and that Appellant claimed to have no knowledge of the sexual abuse investigation involving her children. Ms. Holmes advised Appellant to file a police report, which she did by the following

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day. The children's forensic interviews were then scheduled for December 14, 2011. Ms. Holmes observed those interviews.

¶ 47 Based upon her observation of the forensic interviews, Ms. Holmes stated that Nikko would not disclose any sexual abuse regarding himself. Nikko did state that Nicholas had done something to his sister in the mouth. When he was questioned about himself, Nikko would "put his head down on the desk, say he didn't want to talk about it, cover up his ears." Nikko also stated that he was no longer going to school.

¶ 48 Ms. Holmes testified that during the forensic interview of Nyla, Nyla stated that her brother and Nicholas kissed on the mouth. Nyla further stated that Nicholas and Nikko were sucking on each others' privates, but Nyla could not give exact dates when this would occur. Nyla stated that when it would occur, Nikko would say five, four, three, two, one, just do it now, and then Nicholas would penetrate him. Nyla stated that both Nicholas and Nikko told her about these incidents. She never saw the incidents personally.

¶ 49 Nyla also stated that she slept with her siblings and her grandmother in the same room at night. They would lock the door to keep Nicholas out of the room. Nyla stated that Nicholas is physically abusive to her grandmother and that he hits her, pushes her and calls her his "test dummy." She stated that her

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grandmother is afraid of Nicholas.

¶ 50 After observing these interviews, Ms. Holmes told Appellant that she would be taking protective custody of the children that day. During the ride to the DCFS office, Brighton told Ms. Holmes that the condition of their home was horrible and that Nicholas pees on the floor in his room. All three of the children expressed to Ms. Holmes that they were afraid of Nicholas.

¶ 51 Back at Ms. Holmes' office, Appellant conceded that the children had returned back to Nettie R.'s home, that the children and her grandmother shared a bedroom and that she had witnessed Nicholas beating on their bedroom door in an effort to gain access. Ms. Holmes then asked the children whether they felt safe around Nicholas. Nyla answered that she did not and that Nicholas was a pervert.

¶ 52 Ms. Holmes stated that she was never able to gain access to the grandmother's home, so she could not speak to the condition of the home. She placed the children in protective custody based on the allegation of sexual abuse, the violated safety plan and the unsafe sleeping conditions.

¶ 53 With respect to her investigation into Nicholas, Ms. Holmes asked Nettie R. to take Nicholas to Ingalls Hospital. Ingalls Hospital later contacted Ms. Holmes and informed her that there

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was a recommendation that Nicholas be admitted to Hartgrove Hospital. Nicholas spent a month and a half at Hartgrove Hospital. Upon discharge, Nicholas' mother, Karen I., would not travel from Las Vegas to get him, and Nicholas' father, Clyde R., could not take custody of Nicholas due to the nature of his job. Therefore, the DCFS took the protective custody of Nicholas.

¶ 54 Following the examination of Ms. Armstrong, the State sought to admit into evidence Nicholas' certified and delegated mental health records from Hartgrove Hospital. The attorneys for Nicholas' mother and Appellant objected to the admission of these records. However, the trial court judge allowed the mental health records be admitted into evidence over their objections. In doing so, the court stated:

"[b]ased on what I have previously ruled, I do think that the records are admissible. I will admit them over the objections. I find that they do relate back to the extent that they contain statements that may have been made by other children regarding any sexual abuse that occurred before temporary custody of Nyla, Nikko or Brighton, and to the extent that they may contain other things regarding Nicholas' treatment after temporary custody."

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The court further stated that because the records were certified and delegated, he would not consider any information within the records that was not relevant to the issues presented in the adjudication hearing.

¶ 55 The mental health records from Hartgrove Hospital included the following statements:

"The patient [Nicholas] alleges that he confessed to his aunt that he had been sexually abused and that his 9 year old cousin 'overheard' the conversation. He stated that ever since that time, the 9 year old was begging for sex. The patient finally decided to give in and perform oral sex on the boy. He states that he was disgusted and subsequently reported it to his aunt."

The Hartgrove Hospital records further indicate that Nicholas' aunt reported that Nicholas had told her that he had been engaging in oral sex with his nine-year-old cousin.

¶ 56 The Hartgrove Hospital records indicate that Nicholas had been arrested for domestic violence against his mother, that he had been hospitalized in Las Vegas 18 months earlier for behavioral issues and that he was sexually abused multiple times

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by a teenage boy in the neighborhood when he was seven years old. Upon discharge, the Hartgrove Hospital records indicate that Nicholas was diagnosed with bipolar disorder, attention deficit disorder and severe psychosocial and environmental problems.

¶ 57 Once Nicholas' mental health records were admitted, the parties rested. Based upon all the testimony heard over the two days of trial and all the exhibits that were entered into evidence, the trial court found that the State had proven by a preponderance of the evidence that Nikko was neglected, subject to sexual abuse and in an injurious environment. The court also found that Nyla, Brighton and Nicholas were neglected or abused and in an injurious environment.

¶ 58 On November 27, 2012, the court held the dispositional phase of the hearing concerning Nyla, Nikko, Brighton and Nicholas. At the dispositional hearing, the evidence reflected that Nyla, Nikko and Brighton had all been placed in a relative foster home. Appellant had been assessed and referred for parenting classes and individual therapy. Appellant was having supervised weekly visits with her children. The caseworker for the children recommended that they be adjudicated wards of the court due to the fact that Appellant still needed additional services. The trial court found that it was in the best interest of all the children to be adjudicated wards of the court. Upon completion

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of the adjudication hearing, the trial court unconsolidated the cases.

¶ 59 ANALYSIS

¶ 60 I. Consolidation of Cases

¶ 61 Appellant contends that the trial court abused its discretion when it consolidated Nicholas' case with Nyla, Nikko and Brighton's case for the purpose of their adjudication hearing. A trial court abuses its discretion when no reasonable person would agree with its decision. *In re M.P.*, 408 Ill. App. 3d 1070, 1073 (2011).

¶ 62 Except in delinquency proceedings when a minor's liberty is at stake, proceedings under the Juvenile Court Act of 1987 employ the general rules of civil practice and the provisions of the Code of Civil Procedure unless the provisions of the Act specifically governs the procedure at issue. *In re Darnell J.*, 196 Ill. App. 3d 510, 513 (1990). The Juvenile Court Act does not have any provisions regarding the consolidation of cases of multiple minors. See 705 ILCS 405/1 *et seq.* (West 2008). Therefore, the Illinois rules of civil procedure apply when determining whether two cases should be consolidated.

¶ 63 Section 5/2-1006 of the Illinois Code of Civil Procedure states "[a]n action may be severed, and actions pending in the same court may be consolidated, as an aid to convenience,

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whenever it can be done without prejudice to a substantial right." 735 ILCS 5/2-1006 (West 2008). The purpose of consolidating cases is to expedite the resolution of lawsuits, conserve the court's time, avoid duplicating efforts, and avoid unnecessary expenses. *Peck v. Peck*, 16 Ill. 2d 268, 276 (1959). Consolidation is proper where the cases are of the same nature, arise from the same acts, involve the same issue or like issues and depend largely upon the same evidence. *LaSalle Nat'l Bank v. Helry Corp.*, 136 Ill. App. 3d 897, 905 (1985). Illinois courts favor consolidation of causes where the same can be done as a matter of judicial economy. *Lake County Forest Preserve Dist. v. Keefe*, 53 Ill. App. 3d 736, 739 (1977).

¶ 64 A trial court has broad discretion in determining the propriety of consolidation, *Horn v. Rincker*, 84 Ill. 2d 139, 147 (1981), and its decision will not be overturned on review absent a finding of an abuse of discretion. *Wehmeier v. UNR Industries, Inc.*, 213 Ill. App. 3d 6, 36 (1991). A trial court abuses its discretion when no reasonable person would agree with its decision. *In re M.P.*, 408 Ill. App. 3d at 1073. The Illinois Supreme Court has stated "the consolidation of separate causes for trial is discretionary with the trial court and our courts have found no abuse of discretion where the separate causes are of the same nature, arise from the same act, event or

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transaction, involve the same or like issues, and depend largely or substantially upon the same evidence, and when a joint trial will not give one party an undue advantage or prejudice the substantial rights of any party." *Peck*, 16 Ill. 2d at 275.

¶ 65 Here, Appellant contends that the trial court abused its discretion when consolidating Nicholas' case with Nyla, Nikko and Brighton's case because it failed to consider the *Peck* factors and considered the best interests of the children, which Appellant argues is not a factor to be considered under *Peck*. However, we find that the trial court did consider the *Peck* factors in its ruling on consolidation.

¶ 66 The issue of consolidation was extensively briefed by the parties in this matter. The trial court judge reviewed these briefs and even requested additional briefs from the parties following his initial review. Within the parties' briefs, the *Peck* factors were thoroughly discussed. The State argued that the *Peck* factors were met because both cases seek findings that the children were abused or neglected under the same statute; both cases arise from the allegations of sexual abuse in the home by Nicholas; both cases require a determination on the same issues relating to alleged sexual abuse by Nicholas; and both cases depend largely on the same evidence, namely the victim sensitive interviews of Nyla and Nikko, the children's testimony

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regarding the condition of the home, Nicholas' statements regarding sexual abuse, and the testimony of DCP investigator Harriette Holmes.

¶ 67 Furthermore, the trial court judge made it clear that he considered all the arguments made in the parties' briefs prior to ruling. The trial court judge stated throughout his oral ruling that he "read all of the pleadings that were filed" and "I've considered everything that's been submitted in terms of briefs and I've even gotten the transcript from the last court hearing and I have read it." Further, when asked whether the trial court considered the *Peck* factors and potential prejudice to the parties in his decision to consolidate the cases, the judge responded "I don't think there is any prejudice to the minors to consolidate the cases and, more importantly, I think it's in their best interest to consolidate because its obviates the need for them to testify individually."

¶ 68 Because the trial court made it clear that he considered all the briefs filed by the parties, which thoroughly addressed the *Peck* factors, and found there was no prejudice to any of the parties if the cases were to be consolidated, we cannot find that no other reasonable person would have come to the same conclusion as the trial court. As such, we find that the trial court did not abuse its discretion in consolidating Nicholas' case with

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Nyla, Nikko and Brighton's case.

¶ 69 II. Admissibility of Nicholas' Mental Health Records

¶ 70 Appellant contends that the trial court abused its discretion when it admitted Nicholas' mental health records into evidence at the adjudication hearing. We disagree.

¶ 71 Whether evidence is admissible is within the discretion of the circuit court, and its ruling will not be reversed absent an abuse of that discretion. *In re Kenneth D.*, 364 Ill. App 3d 797, 803 (2006). A trial court abuses its discretion when no reasonable person would agree with its decision. *In re M.P.*, 408 Ill. App. 3d at 1073.

¶ 72 Section 2-18(4)(a) of the Juvenile Court Act states:

"Any writing, record, photograph or x-ray of any hospital or public or private agency, whether in the form of an entry in a book or otherwise, made as a memorandum or record of any condition, act, transaction, occurrence or event relating to a minor in an abuse, neglect or dependency proceeding, shall be admissible in evidence as proof of that condition, act, transaction, occurrence or event, if the court finds that the document was made in the regular course of the

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business of the hospital or agency and that it was in the regular course of such business to make it, at the time of the act, transaction, occurrence or event, or within a reasonable time thereafter." 705 ILCS 405/2-18(4) (a) (West 2008).

¶ 73 Here, Appellant does not contest that Nicholas' mental health records were made in the regular course of business. Therefore, the only question regarding the admissibility of Nicholas' mental health records is whether the records refer to a condition, act, transaction, occurrence or event relating to a minor in an abuse, neglect or dependency hearing. 705 ILCS 405/2-18(4) (a).

¶ 74 Nicholas' mental health records contain admissions regarding his sexual abuse of Nikko, specifically that he engaged in sexual activities with Nikko. As such, the records contain information about an act or occurrence (the sexual abuse) relating to a minor in an abuse or neglect proceeding (Nikko) and clearly fall within the plain language of Section 2-18(4) (a) of the Juvenile Court Act. See 705 ILCS 405/2-18(4) (a) (West 2008); see also *In re Precious W.*, 333 Ill. App. 3d 893, 901 (2002) (holding that the health care records of the minor's older sibling were admissible because they concerned the condition that brought about the

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minor's removal from the appellant's home). Therefore, because the mental health records of Nicholas, a party to this matter, relate to sexual abuse of Nikko, we cannot find that the trial court abused its discretion by admitting Nicholas' mental health records into evidence at the adjudication hearing.

¶ 75 It is noted that Appellant raised the argument that Nicholas' mental health records should not have been disclosed to the State and guardian *ad litem* for Nyla, Nikko and Brighton pursuant to the Mental Health and Developmental Disabilities Confidentiality Act (the Mental Health Act). However, not only is the issue of disclosure a matter separate and distinct from the issue of admissibility,² see *Kim v. St. Elizabeth's Hosp. Sisters of Third Order of St. Francis*, 395 Ill. App. 3d 1086, 1095 (2009), but Appellant's argument regarding disclosure is made upon the assumption that the cases were improperly consolidated.³ Given that we have found that the trial court did not abuse its discretion in consolidating Nicholas' case with Nyla, Nikko and Brighton's case, Nicholas' mental health records

²On appeal, Appellant appeals the trial court's decision to admit mental health records into evidence at the adjudication hearing, not the trial court's order that the mental health records be disclosed to all parties in the consolidated case.

³Appellant agrees that Nicholas' mental health records may be disclosed in his own case under Section 110/10(a)(11) of the Mental Health Act.

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were properly disclosed under the Mental Health Act because he is a party to this matter. Under the Mental Health Act, "[a]ll records and communications shall be confidential and shall not be disclosed except as provided in this Act." 740 ILCS 110/3(a) (West 2008). Section 10(a)(11) contains the following exception to the general rule:

"Records and communications of a recipient shall be disclosed in a proceeding where a petition is filed under the Juvenile Court Act of 1987 and the recipient is named as a parent, guardian, or legal custodian of a minor who is the subject of the petition for wardship as described in Section 2-3 of the Act or a minor who is the subject of a petition for wardship as described in Section 2-4 of that Act alleging the minor is abused, neglected, or dependant or the recipient is named as a parent of a child who is the subject of a petition, supplemental petition, or motion to appoint a guardian with the power to consent to adoption under Section 2-29 of the Juvenile Court Act of 1987." 740 ILCS 110/10(a)(11) (West 2008).

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As a party to the consolidated case, disclosure of Nicholas' records in his own case was proper pursuant to Section 110/10(a)(11) of the Mental Health Act.

¶ 76 III. Adjudication Findings

¶ 77 Appellant contends the trial court's finding that Nikko was an abused or neglected child was against the manifest weight of the evidence. Appellant further contends that because the finding of abuse or neglect as to Nikko was against the manifest weight of the evidence, the findings of abuse or neglect as to her other minor children, Nyla and Brighton, were also against the manifest weight of the evidence. We disagree.

¶ 78 Section 2-3(1)(b) of the Juvenile Court Act defines neglected minors as "any minor under 18 years of age whose environment is injurious to his or her welfare." 705 ILCS 405/2-3(1)(b) (West 2008). Although the term "injurious environment" does not have a fixed meaning, it has been interpreted to include the breach of a parent's duty to ensure a safe and nurturing environment. *In re K.T.*, 361 Ill. App. 3d 187, 200-01 (2005). Where a child is in an environment where he or she is being sexually abused, such circumstances have been held to create an injurious environment. *See In the Interest of Carlenn H.*, 186 Ill. App. 3d 535, 540 (1989).

¶ 79 Section 2-3(2)(iii) of the Juvenile Court Act defines abused

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minors as any child:

*** whose parent or immediate family member, or any person responsible for the minor's welfare, or any person who is in the same family as the minor, or any individual residing in the same home as the minor, or a paramour of the minor's parent:

* * *

(iii) commits or allows to be committed any sex offense against such a minor***." 705
ILCS 405/2-3(2)(iii) (West 2008).

¶ 80 The State bears the burden of proving neglect, dependence or abuse by a preponderance of the evidence, meaning proof that makes the condition more probable than not. *In re N.B.*, 191 Ill. 2d 338, 343 (2000). In any proceeding initiated pursuant to the Juvenile Court Act of 1987, including an adjudication of wardship, the "paramount consideration" is the best interest of the child. *Id.*

¶ 81 We will not disturb a circuit court's findings of abuse or neglect unless they are against the manifest weight of the evidence. *In re K.T.*, 361 Ill. App. 3d 187, 201 (2005); *In re D.M.*, 258 Ill. App. 3d 669, 672 (1994). A factual finding is only against the manifest weight of the evidence if the opposite

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conclusion is clearly evident, or if the determination is arbitrary, unreasonable, and not based on the evidence. *In re G.W.*, 357 Ill. App. 3d 1058, 1059 (2005).

¶ 82 A circuit court's findings warrant great deference based on its superior position to observe the witnesses' testimony, assess credibility, and weigh the evidence. *In re E.S.*, 324 Ill. App. 3d 661, 667 (2001). Our function on review is not to reweigh the evidence or reassess the credibility of the witnesses, and we will not overturn the trial court's findings merely because we would have reached a different conclusion. *In re Edward T.*, 343 Ill. App. 3d 778, 795 (2003). In cases involving the credibility of children who testify as to sexual abuse, the trial court must have broad discretion to reach a just determination, and a finding of abuse by the trial court is entitled to great deference. *In the Interest of Carlenn H.*, 186 Ill. App. 3d at 539-40.

¶ 83 Here, the trial court heard extensive evidence regarding sexual abuse of Nikko through the statements of Nyla, statements of Nikko, the admissions by Nicholas in his mental health records and the expert testimony and opinions of Dr. West.

¶ 84 During her forensic interview, Nyla stated that both Nikko and Nicholas would kiss each other and that Nicholas had Nikko "suck his stuff." She stated that when she referred to "stuff"

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she meant his penis or what he would use in the bathroom to go pee. While Nyla did not see the incidents she described, she stated that Nikko told her about the incidents and told her that he did not want to do it but Nicholas made him. Nyla stated that she told her mother, sister and cousin about what happened between Nikko and Nicholas.

¶ 85 Nikko, although more hesitant in answering Dr. West's questions during the forensic interview, stated that Nicholas would pee on the floor of the girls' room. He stated that Nicholas had done stuff to Nyla, that he "touched her butt" and "messed with Nyla." He stated that Nyla was screaming when this occurred.

¶ 86 When Dr. West asked if Nicholas had done anything to him, Nikko became more hesitant to talk and told Dr. West to "ask Nyla." Nikko stated that Nicholas kissed Nyla with his mouth. When Dr. West asked if there was anything else about Nicholas' mouth that he wanted to tell her, Nikko replied that "he did it to Nyla too." At the conclusion of the interview, Nikko told Dr. West "I'm scared," but would not elaborate on his comment.

¶ 87 Dr. West, a qualified expert in psychology and a witness who the trial court judge found to be very credible, testified that during her forensic interview with Nyla, Nyla's demeanor was anxious and concerned and she appeared to be worried about her

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statements. Dr. West also testified that Nyla appeared "embarrassed and shameful" when she was asked questions about what had happened to her. Dr. West testified that these are emotions that children tend to exhibit when they have been abused or witnessed abuse.

¶ 88 Dr. West indicated that Nikko seemed anxious, reserved and uncomfortable during the interview and seemed to be worried about the questions she was asking him. Dr. West concluded that although Nikko did not directly admit to sexual abuse, Nikko implied that something had happened to him and Nyla and that it involved Nicholas' mouth.

¶ 89 Nicholas' mental health records also contained admissions by Nicholas that he had engaged in sexual activities with his nine-year-old cousin that he lived with. The records also indicated that Nicholas' aunt has been made aware of the sexual activities occurring between the children.

¶ 90 Based upon the evidence of sexual abuse that was presented at the adjudication hearing, which included the statements of Nikko, the statements of Nyla, the opinions and testimony of Dr. West and the admissions within Nicholas' mental health records, it was not against the manifest weight of the evidence for the trial court to find that Nikko had been sexually abused by Nicholas and, therefore, was a neglected or abused child.

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¶ 91 Section 2-18(3) of the Juvenile Court Act states that "proof of the abuse, neglect or dependency of one minor shall be admissible evidence on the issues of abuse, neglect or dependency of any other minor for whom respondent is responsible." 705 ILCS 405/2-18(3) (West 2008); see also *In re S.D.*, 220 Ill. App. 3d 498 (1991) (holding that evidence of abuse of a sibling is sufficient to establish a *prima facie* case of neglect based upon an injurious environment.). Because it was not against the manifest weight of the evidence to find that Nikko had been sexually abused and, therefore, an abused or neglected child within the meaning of the Juvenile Court Act, it was not against the manifest weight of the evidence to find that Nyla and Brighton, Appellant's other two children, were also abused or neglected children within the meaning of the Juvenile Court Act.

¶ 92 Moreover, aside from the evidence regarding sexual abuse of Nikko, the trial court also heard evidence that Appellant had been indicated on two prior occasions for inadequate supervision. The first indication occurred after it was reported and found that Nikko was traveling long distances to and from school alone. The second indication occurred when Appellant dropped Nikko off at school when he was no longer enrolled, ultimately resulting in Nikko being taken into protective custody of the police when no one could locate or contact Appellant.

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¶ 93 The trial court also heard evidence that the safety plan created after Appellant's second indication, which required Nyla, Nikko and Brighton to live with Courtney R. and not in the home of Nettie R., had been violated when the children were found to be living back in the home of Nettie R. without Courtney R. being present. Further, the trial court heard evidence from Brighton and Appellant that all the children had been sleeping in same room with Nettie R. with the door locked because they had feared Nicholas gaining access. Further, on at least one occasion, Appellant admitting to seeing Nicholas banging at the bedroom door trying to gain access.

¶ 94 Based upon the above evidence presented at the adjudicatory hearing, specifically the evidence of sexual abuse of Nikko by Nicholas, Appellant's two prior indications for inadequate supervision, the violated safety plan and the unsafe sleeping conditions the children had been subjected to, we find that it was not against the manifest weight of the evidence to adjudicate Nyla, Nikko and Brighton wards of the court.

¶ 95 For the foregoing reasons, we affirm the trial court's findings.

¶ 96 Affirmed.