

No. 1-13-0193

**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).

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IN THE INTEREST OF ASHLEY AND TARIK C.,	)	Appeal from the Circuit Court
	)	of Cook County
Minors-Respondents-Appellees,	)	
	)	
(The People of the State of Illinois,	)	
	)	
Petitioner-Appellee,	)	No. 12 JA 00234-235
	)	
v.	)	
	)	
Veronica C.,	)	Honorable
	)	Demetrios Kottaras,
Respondent-Appellant.)	)	Judge Presiding.

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JUSTICE PIERCE delivered the judgment of the court.  
Presiding Justice Neville and Justice Hyman concurred in the judgment.

**ORDER**

¶ 1 *Held:* The trial court's finding that the respondent-minors were dependent was not against the manifest weight of the evidence.

¶ 2 Respondent Veronica C. appeals from an order of the circuit court of Cook County adjudicating her minor children, A.C. and T.C., dependent minors. The sole issue on appeal is whether the trial court's finding of dependency was against the manifest weight of the evidence. For the following reasons, we affirm the judgment of the circuit court.

¶ 3

### BACKGROUND

¶ 4 A.C. was born on January 26, 1995, and T.C. was born on January 12, 2007. Their mother is Veronica C. Paternity was not established for either child but A.C.'s putative father is deceased and the whereabouts of T.C.'s putative father are unknown.

¶ 5 The State filed petitions for adjudication of wardship concerning A.C. and T.C. on March 2, 2012, alleging that A.C. and T.C. were dependent because of the physical or mental condition of their mother. The State alleged that on or about March 1, 2012, Veronica was psychiatrically hospitalized due to acute psychosis and was involuntarily committed due to auditory hallucinations and suicidal ideation and, according to medical personnel, Veronica was unable to make decisions regarding the minors due to her altered mental state. The court placed A.C. and T.C. under the temporary custody of the Illinois Department of Children and Family Services (DCFS) guardianship administrator.

¶ 6 Veronica filed a motion to vacate temporary custody on June 4, 2012. After a hearing on June 7, 2012, the court denied the motion. The court denied a subsequent motion to vacate temporary custody on November 7, 2012.

¶ 7 On December 17, 2012, the court held an adjudication hearing. At the hearing, the parties stipulated as follows:

"(1) T.C. is a male born January 12, 2007 and who resides or may be found in Cook County, Illinois;

(2) A.C. is a female born on January 26, 1995 and who resides or may be found in Cook County, Illinois;

(3) Veronica C. is these minor's mother; she was custodial at all relevant times to this proceeding;

(4) Tarik A. is T.C.'s putative father; his whereabouts are unknown and paternity has not been established;

(5) Pablo C. is A.C.'s putative father. He is deceased (DOD March 8, 1995). Paternity was never established;

(6) If called to testify under oath, Bari Brown would state:

(a) She is employed by DCFS as a DCP investigator;

(b) She was assigned to the A.C. and T.C. family on or about March 1, 2012 in response to a hotline call. The allegations were Inadequate Supervision, as mother became psychiatrically hospitalized and was unable to care for the minors;

(c) As part of her investigation, she obtained hospital documents related to the mother's admission, which included a Petition for Involuntary Admission;

(d) She also had the opportunity to speak with the mother on March 1, 2012. Mother was hospitalized at the time. Mother made the following statements: "demonic is out there," and "something is trying to capture me." Mother's voice was observed to change tones, and she was spitting and wailing her arms;

(e) Based on her investigation and the documents received, the decision

was made to take protective custody of the minors. Due to mother's mental state at the time, it appeared as though she was unable to safely provide for the minors, and she was unable to make a care-plan for their well-being;

(7) All parties further stipulate and agree that if called to testify under oath, Dr. Arham Hussain would state that he became familiar with mother when she was admitted to Resurrection Medical Center on March 1, 2012. She was presented in an active state of psychosis, exhibiting auditory hallucinations and ideation. Mother was clearly unable to make any appropriate decisions regarding her children, and a Petition for Involuntary Admission was signed requesting her immediate hospitalization."

¶ 8 In addition to the stipulated testimony, the court admitted several exhibits that were highlighted by the State including: Veronica's behavioral health and medical health records from Illinois Masonic, St. Mary of Nazareth hospital records and records from Resurrection Medical Center.

¶ 9 Included in the Resurrection records was the Norwood Park Fire Department Emergency Medical Technician's (EMT) report. The report indicates that on February 29, 2012, the EMTs responded to a 911 call regarding a "behavioral/psychiatric" emergency at Veronica's home. Upon arrival, the EMTs found Veronica "sitting on [her] bed stating that demons were around." Family members who were present indicated that Veronica had a history of bipolar disorder and depression and was "acting differently today." Veronica was transported to Resurrection hospital for treatment.

¶ 10 A.C., Veronica's 17-year-old daughter had placed the call to 911. A.C. and T.C. were

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present at the hospital. Veronica's oldest sister arrived at the hospital to take A.C. and T.C. after she was cleared by DCFS.

¶ 11 Veronica was evaluated by nurse Jillian DelDotto upon her arrival at Resurrection hospital. Nurse DelDotto reported that Veronica was alert, but was talking to herself and reading her bible. Veronica stated, "I have Veronica, you know who I am. I'm Satan." Veronica alternated between speaking as Veronica and Satan. Veronica also met with crisis worker Jennifer Burohacki who reported that during her conversation with Veronica, Veronica reported hearing voices and explained, " ' but I know what they are, they're the lord telling me it's my time to join the lord.' " Veronica appeared to be having visual hallucinations because she pointed to the curtains in the room and stated that spies were watching her. Burohacki believed Veronica needed inpatient treatment to stabilize her psychotic symptoms. Dr. Nicole Colucci diagnosed Veronica with acute psychosis and bipolar disorder and determined that Veronica required psychiatric admission because she was unsafe to return home.

¶ 12 Based upon their examination, nurse DelDotto and Dr. Hussain prepared a Petition for Involuntary Admission requesting emergency inpatient admission because Veronica suffered from mental illness and was a risk of harm to herself and others rendering her unable to provide for her own basic needs or to protect herself from serious harm. The petition listed the bizarre behavior Veronica exhibited when she arrived at the hospital. Attached to the petition was an Inpatient Certificate prepared by Dr. Hussain. In the certificate, Dr. Hussain stated that Veronica required immediate hospitalization because she was in full psychosis, was having auditory and visual hallucinations, had stopped taking her medication and was talking about the devil trying to

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capture and kill her. Veronica was ordered to be transferred to St. Mary's hospital via ambulance for inpatient psychiatric treatment.

¶ 13 Records from St. Mary's hospital reflect that when Veronica was admitted, she was "delusional, disorganized, talking to self, acting bizarre, unable to hold logical conversation" and had "manic speech activity, excessive motor activity, wandering, repeated grandiose behavior, inability to make day to day decisions on an independent basis, disordered thinking, delusions, uncontrolled destructive acts that interferes significantly with daily activities." On March 2, 2012, a Psycho social assessment indicated that Veronica denied substance abuse, but that her "tox screen" was positive for marijuana. The assessment also indicated that Veronica "attempted to cooperate for the interview but was actively psychotic" and had "religious preoccupations and delusions that she is both God and the devil."

¶ 14 The discharge summary for her seven day stay at Resurrection/St. Mary's hospitals from March 1, 2012 to March 8, 2012, indicates that she was admitted with the chief complaint of being psychotic and delusional and was treated with various medications and was clinically stabilized. Her final diagnosis was "[c]hronic paranoid schizophrenia with acute exacerbation." Veronica was instructed to follow-up with St. Mary's outpatient services.

¶ 15 Veronica completed a Psycho social assessment and began outpatient treatment at St. Mary's on March 12, 2012. Veronica indicated that she didn't believe she needed therapy and was only following the doctor's instructions.

¶ 16 Veronica was treated at Illinois Masonic hospital on April 14, 2012. There, she reported worsening anxiety symptoms. She also sought treatment there on April 18, 2012, for "near

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constant anxiety." Also contained in the Illinois Masonic records is an August 30, 2012, Psychiatric Progress Note by Dr. Ashwin Jayachandran. In that note, Dr. Jayachandran states that he diagnosed Veronica with general anxiety disorder, and indicates that he:

"Discussed with DCFS worker past ER psychiatric records as well as past medical records. Given description of report more likely patient underwent benzodiazepine withdrawal which precipitated psychotic features such as hallucinations. Given poor reaction to antipsychotics, self-limited presentation of episode, less likely non-organic psychotic process. Given presentation of current symptoms, patient does not evidence symptoms that would warrant a diagnosis of schizophrenia or chronic mood disorder with psychotic features. Patient does not evidence either persistent active psychotic symptoms (delusional ideation, paranoia, or AVH), disordered thought process, negative/residual feature, or decline in previous level of functioning. Does not evidence persistent mood lability, sleep disturbance, grandiose thinking, or increased activation that would suggest a persistent mood disorder. Will require prior psychiatrist's records to rule out definitively any other mental illness besides anxiety disorder, but okay from my standpoint to continue with current medication."

¶ 17 After hearing the evidence and argument from the parties and reviewing the documents submitted, the court found that the State had proven by a preponderance of the evidence that A.C. and T.C. were dependent minors. A dispositional hearing occurred immediately thereafter. Given that Veronica only appeals from the finding of dependency at the adjudication hearing, we need not discuss the evidence presented at the dispositional hearing but note that after hearing the

evidence presented the court found Veronica fit, willing and able and adjudged the children wards of the court and, with all parties in agreement, entered dispositional orders returning them to Veronica under an order of protective supervision.

¶ 18

#### ANALYSIS

¶ 19 Advancing a single issue on appeal, Veronica argues that the evidence presented at the adjudication hearing did not show that she had a mental disability that rendered her children dependent. Veronica urges that despite her March 1, 2012, hospitalization, the evidence admitted at the hearing shows that the first diagnosis of schizophrenia and bipolar disorder were incorrect. She also argues that the State did not show that she had a mental disability at the time of the adjudication and even if there was a disability, the State did not show that her disability significantly impaired her ability to care for and parent A.C. and T.C. so that they were without proper care.

¶ 20 Respondent is incorrectly applying the evidence submitted at both hearings with the purpose and function of two separate proceedings. At an adjudicatory hearing, the circuit court must determine whether the minor is abused, neglected, or dependent before conducting a dispositional hearing on wardship. 705 ILCS 405/2-21 (West 2010); 705 ILCS 405/2-18(1) (West 2010) ("At the adjudicatory hearing, the court shall first consider only the question whether the minor is abused, neglected, or dependent."); *In re Arthur H.*, 212 Ill. 2d 441, 462 (2004). A dependent minor includes any minor under 18 years of age: "who is without proper care because of the physical or mental disability of his parent, guardian or custodian." 705 ILCS 405/2-4(1)(b) (West 2009). The court must consider the status of the minors at the time the adjudication

petition was filed and not on their status at the time of the hearing. *In re C.W.*, 199 Ill. 2d 198, 217 (2002); *In re Kenneth D.*, 364 Ill. App. 3d 797, 804 (2006).

¶ 21 Unlike a determination of neglect, the determination of whether a minor is a dependent child focuses on the parent rather than the child. *In re J.J.*, 246 Ill. App. 3d 143, 151 (1993). The State must prove by a preponderance of the evidence that the parent's disability significantly impairs the abilities necessary to the care and parenting of a child. *Id.* A preponderance of the evidence is "proof that makes the condition more probable than not." *In re N.B.*, 191 Ill. 2d 338, 343 (2000). The paramount consideration in adjudicatory proceedings is the best interest of the child. *Id.*

¶ 22 Cases involving an adjudication of abuse, neglect, dependency and wardship are in effect *sui generis*, and each case must be decided on its own particular facts. *In re Brooks*, 63 Ill. App. 3d 328, 337 (1978). A court of review will not overturn a trial court's determination regarding dependency unless it is manifestly erroneous. *J.J.*, 246 Ill. App. 3d at 151. "[A] judgment is against the manifest weight of the evidence if it is clearly evident a conclusion opposite to that reached by the trial court was the proper disposition." *Id.* The fact that this court might have ruled otherwise does not render a judgment manifestly erroneous. *Id.* "The delicacy and difficulty of child-custody and child-neglect cases justify the burden of responsibility placed on the trial court and the ensuing deference which must be given to the trial court." *In re Stilley*, 66 Ill. 2d 515, 520 (1977).

¶ 23 In the instant case, after hearing all of the evidence presented at the adjudication hearing, the court found the State proved by a preponderance of the evidence that Veronica's children

were dependent. The court stated that its decision was not based on "any diagnosis, per se" and went on to explain that although there was some evidence that suggested Veronica was incorrectly diagnosed with schizophrenia and bipolar disorder when the proper diagnosis may have been generalized anxiety disorder, the fact remained that at the time the petitions for adjudication of wardship concerning A.C. and T.C. were filed on March 2, 2012, Veronica was involuntarily hospitalized and was unable to properly care for her children.

¶ 24 Veronica disputes the trial court's finding and argues that the State failed to prove that her minor children were without proper care because of her mental or physical disability. Veronica's argument is based on her psychiatrist's opinion developed in August 2012, months after the petition for adjudication was filed. In the Psychiatric Progress note dated August 30, 2012, Dr. Jayachandran, after discussing Veronica's past "ER psychiatric records as well as past medical records" with a DCFS worker, opined that it was "more likely" that Veronica's admission to Resurrection hospital in March 2012 was the result of "benzodiazepine withdrawal which precipitated psychotic features such as hallucinations" and that given her symptoms she did "not evidence symptoms that would warrant a diagnosis of schizophrenia or chronic mood disorder with psychotic features." Dr. Jayachandran also diagnosed Veronica with generalized anxiety disorder on that date.

¶ 25 We are not in the position to second-guess either diagnosis and note that the trial court did not focus on "any diagnosis, per se" rather the court noted it viewed "the actual condition of mom and the ability to be able to take care of the children." Although the initial clinical diagnosis of schizophrenia and bipolar disorder may have been incorrect, at the time the

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adjudication petition was filed the stipulated facts clearly indicated that Veronica was unable to properly care for her children due to her mental and/or physical condition. If in fact Dr. Jayachandran's statement is correct, then Veronica would have been suffering from a physical condition, i.e., benzodiazepine withdrawal, that would render her unable to properly care for her minor children at the time the petitions were filed. The evidence presented at the adjudication hearing established that Veronica came into the emergency room at Resurrection hospital in a psychotic state, experiencing visual and auditory hallucinations and talking in different tones and claiming that she was Satan. We therefore cannot say that the trial court's finding of dependency was against the manifest weight of the evidence.

¶ 26 Veronica also argues that the court's finding that the children were without proper care is erroneous because "the only evidence regarding any type of care plan is positive and is only related to the March 1, 2012 hospitalization where it shows A.C. did all the right things."

¶ 27 Contrary to Veronica's argument, A.C.'s age and ability to call 911 do not show that the minors had proper care. In fact, at the adjudication hearing the parties stipulated that both medical professionals and DCFS believed that Veronica was unable to care for her children due to the mental disability she presented with on March 1, 2012. The medical and mental health records in evidence also establish that Veronica's children were without proper care. Veronica arrived at the hospital in a psychotic state and objective observations were that she was experiencing visual and auditory hallucinations. The records show that Veronica required emergency inpatient treatment because she was a risk to herself and others. It necessarily follows then that if Veronica was unable to provide for her own basic needs and protect herself

from serious harm, she could not provide for the basic needs of her children or protect them from harm. It is irrelevant that no harm actually came to A.C. and T.C. during this time. *In re Powers*, 94 Ill. App. 3d 646, 649-50 (1981).

¶ 28 We similarly reject Veronica's argument that it was erroneous for the court to enter a finding of dependency because the State did not present evidence that Veronica had a mental disability at the time of the adjudication hearing. The medical records admittedly present two different conclusions about her psychiatric condition when presented to the hospital without any further explanation or discussion. However, no credible argument can be advanced that refutes her objective physical condition at the time of the filing of the petitions which the trial court correctly found to be sufficient for a finding of dependency. While it may be accurate that petitioner's physical and mental condition on the date the petitions were filed was an aberration that has been addressed and corrected at the time of the adjudicatory hearing held several months later, established case law required the trial court to rule as of the date the petition was filed. In light of the long established pronouncement by our supreme court, whether the trial court should be allowed to consider post-petition circumstances in situations similar to this factual setting is a matter left to the medical profession, child-welfare experts and the considered judgment of the legislature.

¶ 29 **CONCLUSION**

¶ 30 For the foregoing reasons, we affirm the judgment of the circuit court.

¶ 31 Affirmed.