

No. 1-13-1064

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(3)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

IN THE INTEREST OF MALCOME L., Minor,)	Appeal from the
Minor-Respondent-Appellee,)	Circuit Court of
)	Cook County.
(THE PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Petitioner-Appellee,)	11 JA 863
v.)	
)	
NEIDRA L.,)	Honorable
)	Peter Vilkelis,
Respondent-Appellant).)	Judge Presiding.

PRESIDING JUSTICE NEVILLE delivered the judgment of the court.
Justices Hyman and Pierce concurred in the judgment.

ORDER

- ¶ 1 *Held:* The appellate court will not reverse an order closing a Juvenile Court case due to the lack of written findings unless the appellant shows the lack of findings had prejudicial effect. Because the evidence supported a finding that the child's father could provide a suitable home for the child, the decision to close the case was not against the manifest weight of the evidence.
- ¶ 2 In 2011, the Department of Children and Family Services took M.L. into custody due to

incidents of domestic violence in the home where M.L. lived with his mother, Neidra L., and his father, Samuel H. After Samuel completed the services DCFS recommended and showed that he could provide a suitable home for M.L., the trial court awarded Samuel custody of M.L. and closed the case. In her appeal, Neidra argues for reversal based on the lack of factual findings in the written order closing the case, and she contends that the manifest weight of the evidence requires the court to keep the case open. Because the lack of written factual findings had no prejudicial effect, and the evidence in the record does not contradict the trial court's oral findings, we affirm the trial court's judgment.

¶ 3

BACKGROUND

¶ 4 In 2004, a court found Neidra unable to care for her daughter, L.L. Neidra later consented to L.L.'s adoption. Neidra met Samuel in 2005. Their relationship led to incidents of domestic violence starting in 2008. A court entered an order of protection for Neidra, against Samuel, in 2009. Neidra gave birth to a son, J.L., in 2008, and to another son, M.L., on April 2, 2011. Samuel is M.L.'s biological father, but he is not J.L.'s biological father.

¶ 5 Neidra moved into Samuel's home a few months after M.L.'s birth. On October 26, 2011, Samuel and Neidra got into an argument. Neidra hit a door in the house hard enough to crack the frame. Samuel called police to report the incident. Police arrested Neidra but later dropped all charges.

¶ 6 The incident came to the attention of DCFS. On November 9, 2011, an investigator for DCFS interviewed Samuel, Neidra and J.L. Neidra told the investigator that she participated in a methadone program to help her recover from heroin addiction. DCFS decided to take custody of

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M.L. and J.L. On November 14, 2011, DCFS filed a petition to adjudicate M.L. a ward of the court. DCFS placed J.L. in the care of Neidra's mother, D.L.

¶ 7 At the adjudicatory hearing concerning M.L., Neidra and witnesses for DCFS testified about the October incident and the progress Samuel and Neidra made with DCFS services. DCFS introduced into evidence service plans and progress reports for Samuel and Neidra, records of Neidra's urine drops, and some documents concerning incidents that led to L.L's adoption. The trial court found that domestic violence made M.L's environment injurious, so the court gave DCFS custody of M.L. DCFS placed M.L. in D.L.'s care.

¶ 8 Both Samuel and Neidra participated in services DCFS recommended. Neidra successfully completed detoxification, parenting classes and domestic violence counseling, and she participated in psychotherapy. Samuel successfully completed all recommended services. Both Neidra and Samuel took advantage of visitation with M.L., and their interactions with M.L. went very well.

¶ 9 At the dispositional hearing, a DCFS caseworker testified that despite Neidra's progress, she still needed further services. Samuel presented evidence that his family would willingly help him take care of M.L. when he could not. DCFS recommended returning M.L. to Samuel's care, while allowing Neidra visitation. The trial court made M.L. a ward of the court and found Neidra unable to care for M.L. The court also found Samuel fit to care for M.L. The court ordered D.L. to return M.L. to Samuel's custody.

¶ 10 Samuel filed a motion to close the case. At the hearing on the motion, held on February 28, 2013, the caseworker testified that she had visited Samuel's home repeatedly, often without notice, and she found no signs of neglect or abuse. Samuel did not need further services. The agency

recommended closing the case. The caseworker admitted that Samuel and Neidra had a strained relationship, and they had difficulty agreeing to arrangements for Neidra's visits with M.L. Mediation between Neidra and Samuel proved unfruitful.

¶ 11 The court said:

"We're all about permanency here. ***

If these folks – sounds like their relationship comes and goes.

*** It has high points. It has low points. But [M.L.] has been living with his dad for a period of time now. About six months he's had custody.

*** [F]or me to keep [M.L.] a ward of the Court to facilitate visits between [M.L.] and [J.L.] I don't think is enough to keep that child involved in the court system.

* * *

And, the Court finds that with regard to the minor [M.L.] it is in the best interest of [M.L.] that the case be closed."

¶ 12 Neidra now appeals. The record on appeal does not include the exhibits presented to the trial court. In particular, the record does not include the DCFS service plans and progress reports.

¶ 13 ANALYSIS

¶ 14 Neidra first argues on appeal that the court did not comply with section 2-31(2) of the Juvenile Court Act (705 ILCS 405/2-31(2) (West 2010)), which requires written findings in support

of any order terminating a wardship and closing a case. Neidra forfeited the issue by failing to raise it in the trial court. *In re K.S.*, 317 Ill. App. 3d 830, 833 (2000). Moreover, Neidra has not shown any prejudice from the lack of factual findings in the written order closing the case. In a similar case, *In re Z.Z.*, 312 Ill. App. 3d 800, 804 (2000), the court said:

"[T]he trial court made explicit oral findings on the record. Respondent neither contends that the oral findings are inadequate nor claims prejudice from not having the findings in writing. Under these circumstances, we agree with the State that it would be a waste of judicial resources to remand this cause solely to allow the trial court to reiterate its findings in a written order."

¶ 15 We find the reasoning of *Z.Z.* persuasive. We will not reverse the judgment here due to the lack of factual findings in the written order closing the case.

¶ 16 Next, Neidra contends that the trial court's order is against the manifest weight of the evidence. See *In re Aaron L.*, 2013 IL App (1st) 122808, ¶ 28. The record on appeal does not include the exhibits the trial court admitted into evidence during the hearing on the motion to close the case, or at the adjudication and dispositional hearings. We will resolve any doubts arising from the incomplete record against Neidra. See *U.S. Minerals & Mining, Inc. v. Licensed Processors, Ltd.*, 194 Ill. App. 3d 428, 434 (1990). The evidence in the record shows that Samuel completed all recommended services and has provided a suitable home for M.L., with no indications of any problems. The parties have some difficulty arranging visitation time for Neidra and M.L., but both parents seem committed to caring for M.L. and helping him grow. We cannot say that the trial

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court's finding that M.L.'s best interest lies in closing the case is against the manifest weight of the evidence. Accordingly, we affirm the trial court's judgment.

¶ 17 Affirmed.