

Nos. 1-13-1372, 1-13-1593 and 1-13-1691 (Consolidated)

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).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

No. 1-13-1372

<i>In re</i> RUBY S. and RICHARD S., Minors,)	Appeal from the
)	Circuit Court of
Respondents-Appellants)	Cook County.
)	
(The People of the State of Illinois,)	
)	
Petitioner-Appellee,)	Nos. 12 JA 603
)	12 JA 604
v.)	
)	
Monica S. and Richard S., Sr.,)	Honorable
)	Bernard J. Sarley,
Respondents-Appellees).)	Judge Presiding.

No. 1-13-1593

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PRESIDING JUSTICE ROCHFORD delivered the judgment of the court.
Justices Lampkin and Reyes concurred in the judgment.

ORDER

¶ 1 **Held:** Circuit court's dispositional orders returning minors to the custody of their parents are affirmed, and prior stay of those orders is vacated, where: (1) the circuit court's denial of a continuance of the disposition hearing was not an abuse of discretion, and (2) the dispositional orders themselves were not against the manifest weight of the evidence. Furthermore, in light of our ruling with respect to the dispositional orders, appeal from the circuit court's subsequent orders allowing parents unsupervised visitation is dismissed as moot, and prior stay of those orders is also vacated.

¶ 2 These consolidated appeals arise out of petitions for wardship filed by petitioner-appellee and appellant, the People of the State of Illinois (State), pursuant to Article II of the Juvenile Court Act of 1987 (Juvenile Court Act). 705 ILCS 405/2-1, *et seq.* (West 2010). The State filed those petitions with regard to respondents-appellants and appellees, minors Ruby S. and Richard S. (minors). The circuit court ultimately entered adjudicatory orders finding Richard S. to have been abused and both minors to have been neglected.

¶ 3 Thereafter, the circuit court denied a motion to continue the dispositional hearing and entered dispositional orders finding the minors' parents, respondents-appellees, Monica S and Richard S.,

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Sr., fit, willing and able to parent and that it was in the minors' best interests to return them to the care and custody of their parents. The minors filed an appeal (number 1-13-1372) challenging those orders, and this court entered an order staying the circuit court's dispositional orders pending resolution of that appeal. The State also filed an appeal (number 1-13-1691) from the dispositional orders.

¶ 4 Following the entry of this court's stay of the dispositional orders, the circuit court entered orders granting the parents unsupervised daytime visits with the minors at the discretion of the Department of Children and Family Services (DCFS). The minors filed a petition for leave to appeal, challenging both the circuit court's jurisdiction to enter the visitation orders and the propriety of those orders on the merits (number 1-13-1593). The minors also filed a motion requesting that the orders allowing unsupervised visits be stayed. This court granted both the minors' petition for leave to appeal and their request for a stay of the orders allowing unsupervised visits, and we thereafter consolidated the three appeals filed in this matter.

¶ 5 For the reasons that follow, we conclude that: (1) the circuit court did not abuse its discretion in denying the request for a continuance of the dispositional hearing; (2) the circuit court's dispositional orders were not against the manifest weight of the evidence; and (3) in light of these rulings, the appeal from the subsequent visitation orders should be dismissed as moot. We, therefore, affirm the circuit court's dispositional orders, vacate our prior stay of those dispositional orders, and remand this matter for further proceedings consistent with this order.

¶ 6

I. BACKGROUND

¶ 7 On June 4, 2012, the State filed petitions for an adjudication of wardship with respect to

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Ruby S. (12 JA 603) and Richard S. (12 JA 604).¹ Also filed on that date were motions requesting that temporary custody of each minor be granted to the DCFS guardianship administrator. The petitions, motions, and supporting affidavits made a number of factual and legal assertions in support of these requests.

¶ 8 Specifically, the State alleged that Ruby S. is a minor female born on March 12, 2008, and that Richard S. is a minor male born on September 11, 2011. The minors' mother is Monica S. and Richard S., Sr. is the minors' father. The minors had been taken into custody on May 31, 2012, following a hotline call received on April 25, 2012.

¶ 9 The petition filed with respect to Richard S. alleged that he was neglected because he was not receiving necessary care and because his environment was injurious to his welfare, pursuant to sections 2-3(1)(a) and 2-3(1)(b) of the Juvenile Court Act. 705 ILCS 405/2-3(1)(a), 2-3(1)(b) (West 2010). The petition also alleged that Richard S. was abused because he had suffered physical injury and was at a substantial risk of physical injury, pursuant to sections 2-3(2)(i) and 2-3(2)(ii) of the Juvenile Court Act. 705 ILCS 405/2-3(2)(i), 2-3(2)(ii) (West 2010). In support of these assertions, the petition contained the following factual allegations:

"On or about April 25, 2012, this minor was hospitalized and observed to have multiple bruises to various parts of his body. This minor was diagnosed with the following fractures: left tibia, left proximal humeral and right proximal humeral. Per medical personnel this minor's fractures were in different stages of healing. Mother and father have

¹ The State also filed a petition for wardship with respect to Julienna S., the eldest daughter of Monica S. and Richard S. (12 JA 602). While no underlying order regarding Julienna S. has been appealed, certain aspects of the proceedings with respect to her are relevant to these appeals and will, therefore, be discussed below.

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made inconsistent statements as to how this minor was injured. Mother delayed seeking medical treatment for this minor. Per medical personnel this minor's injuries were the result of physical abuse. Mother and father reside together."

¶ 10 The petition filed with respect to Ruby S. alleged that she was neglected because her environment was injurious to her welfare, pursuant to section 2-3(1)(b) of the Juvenile Court Act. 705 ILCS 405/2-3(1)(b) (West 2010). The petition also alleged that Ruby S. was abused because she was at a substantial risk of physical injury, pursuant to section 2-3(2)(ii) of the Juvenile Court Act. 705 ILCS 405/2-3(2)(ii) (West 2010). In support of these assertions, the petition contained the same factual allegations cited above regarding the injuries to Richard S. and the delay in seeking treatment for him.

¶ 11 Temporary custody hearings were held on June 4 and June 8, 2012. In connection with these hearings, the circuit court entered a host of written orders in which: (1) the Cook County public guardian was appointed to be the attorney and guardian *ad litem* of the minors; (2) Richard S., Sr. was found to be the father of the minors; (3) an attorney was appointed to represent Richard S., Sr.;² (4) the minors were placed in the temporary custody of the DCFS guardianship administrator; and (5) Monica S. and Richard S., Sr. were allowed to participate in supervised visits with the minors. Additionally, the circuit court entered orders directing that a number of service providers release the medical records of Richard S. to the State and to the public guardian. The record reflects that the minors had been placed with an aunt, but were subsequently placed with their paternal grandparents. The parents were allowed unsupervised visits with Julienna S.

² After the attorney representing Monica S. withdrew, an attorney was appointed to represent her on June 29, 2012.

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¶ 12 On August 13, 2012, the circuit court held a court family conference, at which an Integrated Assessment (IA) was considered by the circuit court. That IA had been prepared by Cynthia Rodriguez of La Rabida Hospital and Cynthia Valentin of Association House of Chicago (Association House), the caseworker for the private agency assigned to this matter by DCFS. Therein, both parents were reported to believe that Richard S. was injured while at a daycare facility he attended. Both parents were also reported to have some difficulties in keeping Richard S. safe, and Monica S. was described as experiencing depressive symptoms that impacted her functioning.

¶ 13 At the conclusion of the court family conference, the circuit court entered an order directing that the service plan for the family be amended to include psychiatric evaluations and individual therapy for both parents. This matter was continued for consideration of the possibility of unsupervised visitation.

¶ 14 On September 20, 2012, a hearing was held on the parents' motion requesting unsupervised visits with Ruby S. At that hearing, the circuit court was presented with five exhibits. These exhibits included individual and couples therapy reports for both parents, a report from the therapist for Julienna S. and Ruby S., and counseling referral forms regarding Monica S.

¶ 15 In addition, the circuit court heard testimony from Ms. Marisol Hardaway, Monica S.'s therapist from Association House. Ms. Hardaway testified that she had reviewed the service plan, the integrated assessment, and a "Multi-Disciplinary Pediatric Education and Evaluation Consortium" (MPEEC) summary of Richard S.'s injuries and the investigation into this matter. She also testified that she had completed four sessions with Monica S., but the first three were preliminary assessment and planning sessions, so only one of those was actually a therapy session. Ms. Hardaway stated that she did not know how Richard S. was injured, and did not know if a court

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finding that he had been abused would necessarily change the nature of her therapy with Monica S. She did allow that a possible court finding that Monica S. was the perpetrator of abuse was a topic that had not yet been covered in Monica S.'s therapy. More sessions would be required before Ms. Hardaway could make a recommendation regarding visitation in the event such a finding was actually made. In the end, Ms. Hardaway testified that—at the time of the hearing and based upon her work with Monica S. thus far—there were no concerns and that unsupervised visits with Ruby S. were recommended.

¶ 16 Finally, the circuit court heard testimony from Ms. Valentin of Association House, the family's caseworker. Ms. Valentin testified that while Julienna S. had been having unsupervised visitation with the parents since June 2012, she had made no unannounced monitoring of their visitation during that time. Ms. Valentin also testified that Association House had held a clinical staffing, and she had personally discussed the matter with; (1) Ms. Hardaway; (2) Richard S., Sr.'s therapist, Ms. Nelida Oliveras; and (3) the therapist for Julienna S. and Ruby S., Ms. Rebecca Wise. All three indicated that they had no concerns with the parents having unsupervised visits with Ruby S., although due to the limited nature of her sessions with Richard S., Sr., Ms. Oliveras recommended that he only have visitation along with Monica S. While Ms. Valentin did not know how Richard S. was injured, she testified that in light of the staffing on the case, the opinions of the therapists, and her own interactions with the minors, the parents, and the foster parents, unsupervised visits were in Ruby S.'s best interest. She did allow that if Ms. Hardaway did not recommend unsupervised visitation, the agency's recommendation could change.

¶ 17 After the documentary evidence and testimony had been presented the circuit court explained that, because an adjudication hearing had not yet been completed, it would assume for purposes of

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the motion for unsupervised visitation that the allegations of abuse and neglect contained in the State's petitions for wardship were true. The circuit court found that, in light of that assumption and the testimony from Ms. Hardaway and Ms. Valentin that their recommendations would or could change in light of a finding of abuse, it would not be in the best interest of Ruby S. to allow unsupervised visits at that time. Therefore, the motion for such visits was denied.

¶ 18 In October 2012, the public guardian filed a motion to remove Association House as the agency assigned to provide services to the family. In the motion, the public guardian asserted, *inter alia*, that: (1) Ms. Valentin had indicated her belief that Richard S. was not abused; (2) no unannounced visits had taken place during the parents' unsupervised visits with Julienna S.; (3) Ms. Oliveras recommended that Richard S., Sr. have unsupervised visits with Ruby S., despite the fact that he had not yet begun individual therapy; and (4) Ms. Hardaway had recommended unsupervised visits after only a single therapy session. The motion further noted that DCFS had "indicated"³ both parents for the abuse of Richard S. and the circuit court had found probable cause to believe that abuse had occurred.

¶ 19 Thus, the public guardian argued that Association House should be replaced because its employees had not properly acknowledged the abuse of Richard S., had not offered services to the parents to properly address that abuse, and that, without such services, the parents would not make meaningful progress toward the reunification of the family. The public guardian also argued that Association House and its therapists had improperly recommended unsupervised visitation with Ruby S. without an appropriate basis in light of the limited nature of the parents' therapy sessions

³ An "indicated report" is made by DCFS "if an investigation determines that credible evidence of the alleged abuse or neglect exists." 325 ILCS 5/3 (West 2010).

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and the lack of unannounced observations of Julienna S.'s unsupervised visitation. DCFS filed a written response, asserting that the public guardian's motion was factually and legally insufficient.

¶ 20 A hearing on the motion to remove Association House was held on November 5, 2012. At the hearing, the circuit court took judicial notice of the testimony at the prior court family conference and the hearing on the parents' motion requesting unsupervised visits with Ruby S. The circuit court also heard testimony from both Ms. Valentin and her supervisor at Association House, Carlos McFarlane. Ms. Valentin testified that the same therapists identified at the prior hearing on the motion for unsupervised visitation were still providing services. Association House intended to continue to use these therapists, and believed that the services in place were appropriate.

¶ 21 Mr. McFarlane testified that he had participated in the clinical staffing that preceded the motion for unsupervised visitation. While Mr. McFarlane had offered a recommendation at that staffing, he did not read the MPEEC report until after the hearing on that motion.

¶ 22 After the matter was continued, the circuit court entered an order denying the motion to remove Association House on November 9, 2012.

¶ 23 An adjudication hearing was conducted on multiple dates between December 2012 and February 2013. At the adjudicatory hearing, the parties presented a great deal of documentary evidence and testimony regarding Richard S.'s medical history and the investigation into this matter. That evidence generally established that on April 19, 2012, Monica S. brought Richard S. to his primary care physician, Dr. Norma Westervelt, due to pain in his right arm. Dr. Westervelt's progress note from that visit indicated that pain and a lack of mobility in Richard S.'s right arm had been observed since April 16, 2012. In addition, the note indicated that Richard had two small bruises on his face. Monica S. informed the doctor that Richard S. was in daycare daily, and that

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Ruby S. threw a small toy in his face which caused the bruises. Dr. Westervelt wanted to rule out the possibility of a fracture and, therefore, provided a prescription for an x-ray of Richard S.'s right humerus. The record reflects that Monica S. took Richard S. for such an x-ray later that same day, but Monica S. and Richard S., Sr. indicated they never received the results from the x-ray.

¶ 24 Richard S. was next provided medical treatment for his right arm on April 25, 2012, when his parents took him to the emergency department at Children's Memorial Hospital. There, Richard S. was observed to have bruises on both sides of his forehead, in the center of his forehead, on his left cheek, and on his right arm. Further diagnostic testing led to Richard S. being diagnosed with fractures to his left and right humerus, as well as evidence of a healed or healing fracture to his left tibia.

¶ 25 In interviews with treating physicians, a hospital social worker, the police, and DCFS investigators, Monica S. indicated that Richard S. had been cared for by a daycare provider, Rocio De La Torre, and his maternal grandmother in the days preceding his visit to Dr. Westervelt. In addition, Monica S., Richard S., Sr., the maternal grandmother, and Ms. De La Torre provided inconsistent statements regarding when a problem with Richard S.'s arm was first observed, when his various bruises were first observed, and how his injuries might have been caused.

¶ 26 For example, while Dr. Westervelt indicated that Monica S. told him that a problem with Richard S.'s right arm was first noticed on April 16, 2012, Richard S., Sr. and the maternal grandmother later said the injury was first noticed on April 17, 2012, and Monica S. indicated that she first noticed it on April 18, 2012. Additionally, while Monica S. said that she first noticed swelling on Richard S.'s right arm on the day before he was taken to Children's Memorial Hospital, Richard S., Sr. said that such swelling was observed prior to the initial x-rays ordered by Dr.

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Westervelt.

¶ 27 Finally, Monica S. provided an explanation to Dr. Westervelt of the bruises observed at the April 19, 2012, visit. However, she later told doctors at Children's Memorial Hospital that she had never noticed any other bruises on Richard S., other than the two forehead bruises first noticed on April 24, 2012. She later told DCFS investigators that the third forehead bruise was caused by an incident that occurred at daycare two weeks prior to April 25, 2012. Ms. De La Torre provided an incident report to DCFS reflecting that this incident actually occurred on March 12, 2012. Neither of the parents ever provided a definitive explanation for how the fractures occurred.

¶ 28 The medical records from Children's Memorial Hospital reflect that after all of the diagnostic results were obtained and the parents were interviewed, a conclusion was made that "the constellation of injuries that Richard has sustained are highly concerning for abusive injury." This conclusion was based upon the fact that: (1) no explanation for the fractures had been provided, and the explanation provided for the bruising would not account for the injuries to Richard S., a non-ambulatory seven-month-old infant; (2) bruising to the cheek and upper arm is "rare and always concerning" in non-ambulatory infants; and (3) the two humerus fractures were "highly specific for inflicted injury."

¶ 29 The circuit court was also presented with a June 1, 2012, MPEEC summary report which was completed by two of the doctors that treated Richard S. at Children's Memorial Hospital. That report was based upon a review of all of Richard S.'s relevant medical records and DCFS notes, an examination of Richard S., and discussions and interviews with Monica S., Richard S., Sr., Ms. De La Torre, hospital emergency room staff, a hospital social worker, Dr. Westervelt, DCFS staff, and the police. After summarizing the information obtained from all of these sources, the report

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concluded that "Richard's constellation of injuries is the result of physical abuse."

¶ 30 Finally, the circuit court was provided with expert opinion testimony regarding the nature of Richard S.'s injuries, including testimony of three doctors that treated Richard S. at Children's Memorial Hospital and a doctor retained on behalf of Monica S. The treating doctors all generally testified consistently with the earlier findings; *i.e.*, that Richard S. had suffered two recent humerus fractures, a fracture of the left tibia that was less recent and had healed or was healing, and multiple bruises. These injuries were consistent with abuse. Monica S.'s expert witness, in turn, opined that Richard S. only suffered a single right humerus fracture and a possible fracture of the left tibia that was not recent. In his written report and testimony, Monica S.'s expert opined that none of Richard S.'s injuries were indicative of abuse.

¶ 31 At the conclusion of the final adjudication hearing, the circuit court continued the matter to April 22, 2013 for a ruling. The circuit court noted that if it made an adjudicatory ruling on that date, "we will do the disposition hearing at that time as well."

¶ 32 On April 22, 2012, the circuit court announced its adjudicatory ruling. The circuit court first noted that all of the expert witnesses agreed that Richard S. had sustained a fracture of the right humerus. While the experts disagreed as to whether this fracture was caused by child abuse, the circuit court found the State's witnesses more credible and persuasive on this issue. The circuit court, therefore, found that the State had established that Richard S. was abused, with that finding based solely on the evidence of the fracture to his right humerus. Indeed, after acknowledging the disputed evidence regarding the other alleged fractures, the circuit court indicated that it would not make a finding as to those allegations.

¶ 33 With respect to the allegations of abuse, the circuit court further concluded that it was

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"unable to name a perpetrator of the physical abuse" because there were a number of people who had custody of Richard S. during the relevant period. Thus, the circuit court could not determine if Richard S. was injured while in the care of Monica S., Richard S., Sr., his maternal grandmother, or the daycare facility. As a result, the circuit court concluded that the State had not established that any of the minors were abused due to a substantial risk of physical injury.

¶ 34 Regarding the allegations of neglect, the circuit court initially concluded that Monica S. first noticed a problem with Richard S.'s right arm on April 16, 2012, and not on April 18, 2012, as she later maintained. Monica S., thus, waited three days, until April 19, 2012, to seek treatment for that injury, and the circuit court found that this evidence established Richard S. was neglected because he did not receive necessary care. The circuit court finally concluded that, in light of this finding with respect to Richard S., "it also follows" that Richard S., Ruby S., and Julienna S. were all neglected because their environment was injurious to their welfare.

¶ 35 After the circuit court made its adjudicatory findings and conclusions, the public guardian requested that any dispositional hearing be continued so that those findings and conclusions could be processed by the parents and their therapists. Counsel for both parents objected to any such continuance, and the circuit court asked the parents' therapists if more time was needed before they would be ready to make any recommendations. Ms. Oliveras, Richard S.'s therapist, responded that "I think we can make a clinical staffing and discuss progress in the case, and we can continue forward. That's my opinion." A person who is not specifically identified in the transcript agreed with Ms. Oliveras.⁴ The circuit court thereafter denied the request for a continuance and proceeded

⁴ It seems apparent from the transcript, however, that this person was Erica Negrete, who had previously identified herself to the circuit court for the record as Monica S.'s new therapist.

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to hold the dispositional hearing immediately.

¶ 36 At that hearing, the circuit court took judicial notice of the exhibits entered into evidence at the adjudicatory hearing, as well as the November 5, 2012, hearing on the first motion to remove Association House. The circuit court also received into evidence additional documentary evidence, including: (1) a DCFS service plan for the family; (2) a report drafted by Ms. Valentin; and (3) various therapy reports from Monica S.'s new therapist, Ms. Negrete, as well as Ms. Oliveras and Ms. Wise. The circuit court then heard testimony from Ms. Valentin, Ms. Negrete, Ms. Oliveras, and Ms. Wise.

¶ 37 The documentary evidence and the testimony presented at the dispositional hearing reflected that, in the opinion of Ms. Valentin and each of the therapists involved in this matter, there were no safety concerns and that it was in the minors' best interests to be returned to the custody of their parents under an order of protection. This recommendation was based upon: (1) the results of a recent clinical staffing; (2) the significant progress the parents had made in their individual and couples therapy, as well as in their parenting coaching; (3) observations of the parents' visits with the minors, including monthly unannounced observations of their daily unsupervised visits with Julienna S., (4) discussions with Julienna S., Ruby S., and the minors' paternal grandparents, who were providing foster care, and (5) the fact that there had been no unusual incidents involving the minors since they had been taken into temporary custody.

¶ 38 More specifically, Ms. Valentin testified that the parents had engaged in daily visits with the minors and that no unusual or unexplained incidents had occurred. The foster parents' reports about the parents' visitation were all positive and they had no concerns about the minors returning home. Ms. Valentin's own observations of the parents' visitation with the minors also indicated that the

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parents had appropriate interactions with the minors and that there was a clear bond between the parents and the minors. Julienna S. and Ruby S. repeatedly indicated that they wanted to go home to their parents. Additionally, the parents had completed parenting classes, were both fully compliant with all of their other services, and had made substantial progress in those services. Ms. Valentin did recommend that, if the minors were returned home, it should be under an order of protective supervision.

¶ 39 Ms. Negrete testified that she had taken over Monica S.'s therapy from Ms. Hardaway in October 2012. Ms. Negrete was a master's degree student and an intern at Association House, and she was providing individual and couples therapy, as well as parenting coaching, under the supervision of Ms. Oliveras. Ms. Negrete indicated that she had observed a clear bond between the minors and the parents during parenting coaching sessions, that the parents met minimum parenting standards, and that there would be no risk of harm if the minors were returned home.

¶ 40 Ms. Oliveras testified that Richard S., Sr. had made substantial progress in his therapy and that there was no risk of harm if the minors were returned home. She also testified that she had observed the parents and the minors interact, and that they appeared to have a loving, affectionate relationship and that the minors always seemed very happy to see their parents.

¶ 41 Ms. Wise testified that she had observed the parents with Julienna S., that they were safe and appropriate with her, the parents and Julienna S. were bonded, and that it was in Julienna S.'s best interest to return home as soon as possible.

¶ 42 However, the documentary evidence and testimony also revealed the following. While Ms. Valentin testified that Association House had conducted a clinical staffing with respect to this matter a few weeks prior to the circuit court's adjudicatory findings, and while the possibility of

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adjudicatory findings of abuse and/or neglect were considered at that staffing, Ms. Valentin did acknowledge that there had not been an opportunity to hold a staffing to consider the circuit court's actual adjudicatory findings. Ms. Valentin also acknowledged that it was typical for parents and minors involved in juvenile cases to proceed from supervised visits to unsupervised day visits, and then to unsupervised overnight visits before the minors would be returned home. Ms. Valentin did not recommend such a progression in this matter, however, because it was in the minors' best interests to return home due to the progress the parents and minors had made. Ms. Valentin's recommendation was based in significant part on the underlying recommendations of the therapists.

¶ 43 Ms. Negrete testified that Monica S. had completed the therapy goal of addressing why DCFS had become involved with the family and Monica S.'s role in that involvement. However, Ms. Negrete had not received any medical documentation in this case, had only received and reviewed the MPEEC report in February or March 2013, and Ms. Negrete's understanding was that this matter came into court due to bruises on Richard S.'s temples and swelling in this arm. She could not recall any other injuries.

¶ 44 Moreover, Ms. Negrete alternately testified that Monica S. believed that she acted appropriately in obtaining care for Richard S. and that Monica S. took responsibility for the delay and would act differently in the future. Ms. Negrete's testimony was also somewhat inconsistent as to whether Monica S. actually acknowledged that Richard S. had been abused. Ultimately, under questioning by the circuit court, Ms. Negrete testified that Monica S. speculated that Richard S. had been injured while at daycare but she could not say if those injuries were caused intentionally or not.

¶ 45 Finally, Ms. Negrete testified that she would not need to further address the circuit court's adjudicatory findings, as the various possible adjudicatory findings had already been addressed as

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part of the therapeutic goal of addressing why DCFS had become involved with the family and Monica S.'s role in that involvement.

¶ 46 Ms. Oliveras testified that she had only reviewed the MPEEC report two weeks prior to the hearing, and had not discussed it with Richard S., Sr. Ms. Oliveras also discussed the fact that she had generally addressed the allegations of abuse and neglect with Richard S., Sr., and repeatedly stated that she had addressed the circuit court's ultimate adjudicatory findings. However, the testimony of Ms. Oliveras also reflected that Richard S., Sr. continued to believe that Richard S. was injured accidentally, likely at daycare, and believed that he and Monica S. had acted responsibly in obtaining medical treatment for those injuries. Ms. Oliveras acknowledged that she obviously did not have an opportunity to discuss with Richard S., Sr. the circuit court's finding that the delay in obtaining medical care constituted neglect, because that finding had only been made immediately prior to the dispositional hearing. Thus, she indicated that she would need to process that finding with Richard S., Sr., and would amend her treatment plan accordingly. Ms. Oliveras did not indicate that she would need to amend her treatment plan with respect to finding that Richard S. was abused, nor did she indicate that her treatment plan would need to be amended with respect to that finding.

¶ 47 After all of the evidence was presented at the dispositional hearing, the circuit court heard arguments from the parties. Both the State and the public guardian asked that: (1) the minors be made wards of the court; (2) the parents be found to be unable to care for the minors; (3) the minors be placed under DCFS guardianship; and (4) a permanency goal be entered with the goal of returning the minors home within 12 months. In the course of making its argument, the public guardian also made an oral motion to remove Association House as the agency assigned to this case, specifically renewing the arguments it made at the previous hearing on its prior motion to remove

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Association House.

¶ 48 The parents each asked that they be found fit, willing and able to parent and that the minors be returned to their custody under an order of protective supervision pursuant to section 2-24 of the Juvenile Court Act. See 705 ILCS 405/2-23(2) (West 2010) ("Any order of disposition may provide for protective supervision under Section 2-24 ***."). Finally, the record reflects that counsel for DCFS objected to the public guardian's oral motion to remove Association House, requesting that any such motion be made in writing with an opportunity to respond. The circuit court thereafter continued the matter to May 1, 2013, for the entry of a dispositional ruling and to allow the public guardian an opportunity to file a written motion to remove the Association House.⁵

¶ 49 On May 1, 2013, the public guardian filed its written motion to remove Association House. Therein, the public guardian again argued that Association House was not providing meaningful therapy to the parents, supported by reference to the same arguments contained in the first motion to remove and additional arguments based upon purported therapeutic deficiencies revealed in the evidence produced at the dispositional hearing. The record reflects that the circuit court elected to handle this motion after it made its dispositional ruling, and the motion was ultimately entered and continued to May 9, 2013, and then continued again to May 21, 2013.

¶ 50 With respect to the dispositional ruling made on May 1, 2013, the circuit court first noted that it had considered all of the evidence presented at both the adjudicatory and dispositional hearings, and further reiterated that it had not named a perpetrator of Richard S.'s abuse in its

⁵ The circuit court also entered a number of orders regarding yet another petition for wardship filed with respect to the parents' youngest son, Anthony S., born on February 14, 2013 (13 JA 381). Just as in the case of Julienna S., those proceedings are not at issue in these consolidated appeals.

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adjudicatory findings. It also noted that there had been no prior indicated reports with respect to the minors. The court then found that there appeared to be a bond between the minors and the parents, that there had been no unusual incidents involving the minors, and that reasonable services had been provided to the parents and that the parents had made substantial progress in those services. While the court acknowledged that the public guardian had raised questions about both the services provided by the Association House employees involved in this matter and the credibility of their testimony, and that a motion to remove Association House as the private agency assigned to this case was pending, the court also noted that all of the witnesses recommended that the minors be returned home and no contrary opinions or evidence had been presented.

¶ 51 The circuit court, therefore, said that it would "concur with the recommendation of the witnesses," and it, therefore, found the parents fit, willing and able to care for, protect, train, and discipline the minors and that it was in the minors' best interests to be returned home. The court did order that the minors be returned home under an order of protective supervision requiring, *inter alia*, that the parents: (1) cooperate with DCFS; (2) attend all their required services; (3) ensure that the minors participated in their services; (4) provide all necessary care for the minors and avoid the use of corporal punishment; and (5) notify DCFS of any injuries to the minors within 24 hours. The circuit court also entered a separate order requiring a caseworker to visit the parents' home within 24 hours of the minors' return, then weekly for the first month, and at least monthly thereafter.

¶ 52 The State and the public guardian both requested that the dispositional orders with respect to the minors be stayed, and those requests were denied by the trial court. The public guardian then filed an immediate notice of appeal from the circuit court's May 1, 2013, dispositional orders and

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related orders (number 1-13-1372).⁶ The next day, May 2, 2013, the public guardian filed a emergency motion in this court seeking a stay of those same orders which was granted on May 8, 2013. We also ordered that the minors were to be returned to the temporary custody of DCFS pending resolution of the public guardian's appeal. The State filed its own appeal from the dispositional orders on May 30, 2013 (number 1-13-1691).

¶ 53 In light of the appeals from and stays of the dispositional orders, both parents filed motions in the circuit court seeking unsupervised day and overnight visitation with the minors. On May 20, 2013, the public guardian filed a memorandum of law asserting that the circuit court lacked jurisdiction to allow such motions because unsupervised visitation would improperly interfere with the appeal of the dispositional orders and this court's stay of those orders.

¶ 54 On May 21, 2013, this matter was before the circuit court for a hearing on both the public guardian's motion to remove Association House as the assigned agency and the parents' motions for unsupervised visitation. However, the public guardian withdrew its motion based upon the fact that, in the interim, Association House had indicated that a new service provider had been identified and the parents would begin receiving individual therapy from that new service provider.

¶ 55 With respect to the motions for visitation, the parties first debated the circuit court's jurisdiction to even consider such requests. The circuit court ultimately concluded that it did have jurisdiction to consider the motions for unsupervised visitation, reasoning that it had continuing jurisdiction over this matter despite the appeal from its dispositional orders.

¶ 56 With respect to the merits of the visitation motions, the parents asked the circuit court to take

⁶ While the circuit court returned Julienna S. to the custody of her parents, we once again note that no party has appealed from the circuit court's decisions with respect to her.

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judicial notice of the evidence presented at the dispositional hearing and called no further witnesses.

In response, the public guardian called Ms. Valentin, who testified that Association House did not oppose the parents' motions as unsupervised visitation would be in the minors' best interests and would represent a natural progression toward the goal of returning the minors home in light of this court's stay of the dispositional orders. However, she did recommend that the parents only be allowed unsupervised daytime visitation, first in a public location and then at the parents' home.

¶ 57 The circuit court granted the parents' motions, to the extent that the parents were allowed unsupervised daytime visitation at the discretion of DCFS. The circuit court noted that all of the witnesses at the dispositional hearing recommended that the minors be returned home, and concluded that unsupervised visits were both a natural progression toward that goal and in the minors' best interests. The circuit court also ordered that DCFS ensure that a minimum of two unannounced visits with the minors take place each month, and that the parties were to be notified if any of the therapists recommended that visitation should be modified.

¶ 58 Oral motions for a stay of the visitation orders were denied by the circuit court. The following day, the public guardian filed a petition for leave to appeal the visitation orders (number 1-13-1593), pursuant to Illinois Supreme Court Rule 306(a)(5) (Ill. S. Ct. R. 306(a)(5) (eff. Feb. 16, 2011)), as well as an emergency motion to stay those orders. On June 7, 2013, this court granted both the petition for leave to appeal and the motion for a stay of the orders granting unsupervised visitation. In the order granting the stay, we indicated that we were not basing our decision on any argument that the circuit court lacked jurisdiction and that the stay did not apply to "any treatment plan or therapy plan" for the parents or the minors. On June 21, 2013, this court granted the public guardian's motion to consolidate all three of the appeals filed in this matter.

¶ 59

II. ANALYSIS

¶ 60 In their separate appeals from the circuit court's dispositional orders, both the State and the public guardian argue that the circuit court abused its discretion in finding: (1) the parents to be fit, willing and able to care for the minors; and (2) that it was in the minors' best interests to be returned to the parents' custody under an order of protection. They each contend that the recommendations of the Association House employees were based upon incomplete and insufficient information and that the evidence presented established that the parents did not have time to engage in meaningful therapy because the dispositional hearing was held immediately following the circuit court's adjudicatory findings of abuse and neglect. In addition, the State specifically asserts that the circuit court's dispositional orders should be reversed because it was entered only after the public guardian's motion for a continuance of the dispositional hearing was improperly denied.

¶ 61 With respect to the circuit court's subsequent orders allowing the parents unsupervised daytime visitation, both the State and the public guardian assert that: (1) the circuit court lacked jurisdiction to enter such orders in light of the pending appeal from the circuit court's prior dispositional orders and this court's stay of those orders; and (2) the visitation orders were against the manifest weight of the evidence because they were based upon the same insufficient evidence presented at the dispositional hearing.⁷

¶ 62

A. Dispositional Orders

¶ 63 We first consider the State's argument that the circuit court improperly denied the public guardian's motion to continue the dispositional hearing, before considering the propriety of the

⁷ While only the public guardian actually filed a petition for leave to appeal from the visitation orders, the State has specifically adopted the public guardian's arguments on this issue.

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circuit court's dispositional orders on the merits.

¶ 64 1. Motion for Continuance

¶ 65 a. Forfeiture

¶ 66 As an initial matter, we note that it was the public guardian that moved for a continuance of the dispositional hearing in the circuit court, while it is the State that specifically challenges the denial of such a continuance on appeal. In her brief on appeal, Monica S. contends that any such challenge has been forfeited because the State itself never asked for a continuance in the circuit court. See *In re Rico L.*, 2012 IL App (1st) 113028, ¶ 65 (arguments made for the first time on appeal are forfeited).

¶ 67 This assertion of forfeiture has some merit. However, we also note that—unlike in the usual case of forfeiture—the issue raised by the State on appeal was in fact raised below, albeit by another party. Moreover, while it is the State that has directly challenged the denial of the continuance on appeal, the public guardian has at least indirectly raised the issue. Specifically, the public guardian argues that the circuit court's dispositional orders themselves were an abuse of discretion, in part, upon the contention that the parents "did not have time to engage in meaningful therapy because the court's physical abuse and neglect findings were entered on the same day as the dispositional hearing." Thus, it is not entirely apparent that the traditional rule of forfeiture should apply in this case.

¶ 68 In any case, even if this issue has not been properly preserved for appellate review, "the forfeiture rule is a limitation on the parties and not on this court's jurisdiction." *In re C.J.*, 2011 IL App (4th) 110476, ¶ 22. Therefore, we will address the denial of the continuance on the merits.

¶ 69 b. Legal Framework

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¶ 70 The Juvenile Court Act specifically provides, with respect to dispositional hearings:

"On its own motion or that of the State's Attorney, a parent, guardian, custodian, responsible relative or counsel, the court may adjourn the hearing for a reasonable period to receive reports or other evidence, if the adjournment is consistent with the health, safety and best interests of the minor, but in no event shall continuances be granted so that the dispositional hearing occurs more than 6 months after the initial removal of a minor from his or her home. In scheduling investigations and hearings, the court shall give priority to proceedings in which a minor has been removed from his or her home before an order of disposition has been made." 705 ILCS 405/2-22(4) (West 2010).

Moreover, Illinois Supreme Court Rule 901(a) (Ill. S. Ct. R. 901(a) (eff. Feb. 26, 2010)), one of a series of rules concerning child custody cases, specifically provides: "Child custody proceedings shall be scheduled and heard on an expedited basis. Hearings in child custody proceedings shall be held in strict compliance with applicable deadlines established by statute or by this article."⁸ With respect to continuances in child custody proceedings, Illinois Supreme Court Rule 901(c) (Ill. S. Ct. R. 901(c) (eff. Feb. 26, 2010)), further provides: "Parties, witnesses and counsel shall be held accountable for attending hearings in child custody proceedings. Continuances shall not be granted in child custody proceedings except for good cause shown and may be granted if the continuance is consistent with the health, safety and best interests of the child. The party requesting the continuance and the reasons for the continuance shall be documented in the record."

⁸ Illinois Supreme Court Rules 900(b)(1), (2) (Ill. S. Ct. R. 900 (b)(1), (2) (eff. July 1, 2006)), indicate that the provisions of Rule 901 apply to proceedings initiated under the Juvenile Court Act which affect "child custody or visitation."

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¶ 71 Nevertheless, section 2-22(4) of the Juvenile Court Act "does not contain any language identifying a penalty for failure to comply with the six-month time period" and this "appears to be a deliberate exclusion." *In re John C.M.*, 382 Ill. App. 3d 553, 567 (2008). The failure to hold a dispositional hearing within the six-month time period is, thus, not a jurisdictional defect, and the time period may in fact be tolled where the parties agree to waive the statutory time period to hold the earlier adjudicatory hearing. *Id.* at 569-70. Moreover, Illinois Supreme Court Rule 183 (Ill. S. Ct. R. 183 (eff. Feb. 16, 2011)), also provides that the circuit court, "for good cause shown on motion after notice to the opposite party, may extend the time for filing any pleading or the doing of any act which is required by the rules to be done within a limited period, either before or after the expiration of the time."

¶ 72 Ultimately, it is generally recognized that no absolute right to a continuance exists in proceedings pursuant to the Juvenile Court Act, and the circuit court has discretion whether to grant or deny a motion for a continuance. *In re A.F.*, 2012 IL App (2d) 111079, ¶ 36 (citing *In re K.O.*, 336 Ill. App. 3d 98, 104 (2002)). The circuit court's decision will not be disturbed absent manifest abuse or palpable injustice, and the denial of a request for continuance is not grounds for a reversal unless prejudice results from such denial. *In re Stephen K.*, 373 Ill. App. 3d 7, 27 (2007).

¶ 73 c. Discussion

¶ 74 The dispositional hearing in this matter was held on April 22, 2013, immediately following the circuit court's announcement of its adjudicatory findings. The scheduled date was already well over six months after the minors were removed from the parents' home on May 31, 2012. This was likely due to a June 29, 2012, court order approving the parties' waiver of the statutory time limit for an adjudicatory hearing, entered pursuant to section 2-14(d) of the Juvenile Court Act. 705 ILCS

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405/2-14(d) (West 2010). As noted above, the statutory deadline for a dispositional hearing has been held to be non-jurisdictional, the parties toll that deadline by waiving the adjudicatory hearing deadline, and both Rule 901 and Rule 183 grant the circuit court authority to extend the time for such a hearing upon a showing of good cause.

¶ 75 Moreover, the circuit court should ensure not only that child custody proceedings are completed in a timely fashion, but also that they are just and fundamentally fair. *In re John C.M.*, 382 Ill. App. 3d at 570. This court has previously recognized that "by the very nature of a custody determination, a trial court makes decisions that have far reaching effects. Therefore, it is crucial that the fact finder have an abundance of information at his or her disposal to make a proper and reasoned 'best interest' determination. If a trial court feels that there is insufficient evidence from which it may make a reasoned decision regarding the custody and guardianship of a child, the trial court should seek additional information before reaching a decision." *In re C.B.*, 248 Ill. App. 3d 168, 176 (1993).

¶ 76 Nevertheless, it remains the fact that our supreme court has clearly indicated, through Illinois Supreme Court Rule 901(a) (Ill. S. Ct. R. 901(a) (eff. Feb. 26, 2010)), that "[c]hild custody proceedings shall be scheduled and heard on an expedited basis," and that the minors had already been removed from the parents' home for well over six months at the time of the April 22, 2013, dispositional hearing. Moreover, at the last date upon which it heard adjudicatory evidence—February 13, 2013—the circuit court indicated to all the parties that it would hold a dispositional hearing immediately following the entry of any adjudicatory findings on April 22, 2013. Illinois Supreme Court Rule 901(c) (Ill. S. Ct. R. 901(c) (eff. Feb. 26, 2010)), provides that the State and the public guardian were to be held accountable for attending the dispositional hearing

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and that a continuances thereof should not have been granted except for good cause shown. The same good cause requirement is contained in Rule 183.

¶ 77 Here, the minors' request for a continuance was based upon the notion that the therapists should be able to process the circuit court's actual findings of abuse and neglect with the parents before any recommendations were made, any dispositional orders were entered, or custody of the minors was returned to the parents. In response to the request for a continuance, however, the circuit court specifically asked the parents' therapists if they needed more time before they could make any recommendations at the dispositional hearing. Ms. Oliveras and Ms. Negrete both indicated that no further time would be needed. While Ms. Oliveras's comments curiously appeared to indicate that her recommendation was predicated on the possibility of a future clinical staffing or future discussion of the progress of the case, and the relevance of such a future staffing or discussion to the possibility of holding an immediate dispositional hearing seems somewhat unclear, the fact remains that neither indicated more time would be needed. Thus, while it seems clear that the public guardian's request for a continuance was made in good faith and based upon its continuing concerns as to the efficacy of the parents' therapy, there was no evidence (as opposed to mere argument) introduced in support of the motion for a continuance.

¶ 78 Ultimately, we recognize that the circuit court had an obligation to ensure that these child custody proceedings were just and fundamentally fair and that its ultimate dispositional findings would be based upon sufficient evidence. However, we also recognize the considerable discretion afforded to the trial court to grant or deny a motion for a continuance and the clear directive contained in the Juvenile Court Act and the Illinois Supreme Court Rules for swift resolution of child custody proceedings. In light of the entirety of the above discussion, we cannot conclude that

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discipline the minor or are unwilling to do so, and that the health, safety, and best interest of the minor will be jeopardized if the minor remains in the custody of his or her parents." 705 ILCS 405/2-27(1) (West 2010); *In re A.P.*, 2013 IL App (3d) 120672, ¶ 15. The Juvenile Court Act further provides:

"Whenever a 'best interest' determination is required, the following factors shall be considered in the context of the child's age and developmental needs:

(a) the physical safety and welfare of the child, including food, shelter, health, and clothing;

(b) the development of the child's identity;

(c) the child's background and ties, including familial, cultural, and religious;

(d) the child's sense of attachments, including:

(i) where the child actually feels love, attachment, and a sense of being valued (as opposed to where adults believe the child should feel such love, attachment, and a sense of being valued);

(ii) the child's sense of security;

(iii) the child's sense of familiarity;

(iv) continuity of affection for the child;

(v) the least disruptive placement alternative for the child;

(e) the child's wishes and long-term goals;

(f) the child's community ties, including church, school, and friends;

(g) the child's need for permanence which includes the child's need for stability and continuity of relationships with parent figures and with siblings and

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other relatives;

(h) the uniqueness of every family and child;

(i) the risks attendant to entering and being in substitute care; and

(j) the preferences of the persons available to care for the child." 705 ILCS

405/1-3(4.05) (West 2010).

¶ 84 In making a dispositional determination, the circuit court must also "consider the permanency goal set for the minor, the nature of the service plan for the minor and the services delivered and to be delivered under the plan." 705 ILCS 405/2-22(1) (West 2010). "The health, safety and interests of the minor remain the guiding principles when issuing an order of disposition regarding the custody and guardianship of a minor ward." *In re Kamesha J.*, 364 Ill. App. 3d at 795. At the dispositional stage, the standard of proof for a circuit court's finding is a preponderance of the evidence. *In re Christopher S.*, 364 Ill. App. 3d 76, 89 (2006).

¶ 85 A dispositional order is generally considered final for the purposes of appeal. *In re Faith B.*, 216 Ill. 2d 1, 3 (2005); *In re Austin W.*, 214 Ill. 2d 31, 44 (2005). A reviewing court will reverse the juvenile court's dispositional determination "only if the factual findings at the dispositional hearing are against the manifest weight of the evidence or if the court abused its discretion by selecting an inappropriate dispositional order." *In re Gabriel E.*, 372 Ill. App. 3d 817, 829 (2007). A finding is against the manifest weight of the evidence "if the opposite conclusion is clearly evident or if the determination is unreasonable, arbitrary, and not based on the evidence." *In re Tiffany M.*, 353 Ill. App. 3d 883, 890 (2004).

¶ 86 In addition, under a manifest weight of the evidence standard "we give deference to the trial court as the finder of fact because it is in the best position to observe the conduct and demeanor of

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the parties and the witnesses and has a degree of familiarity with the evidence that a reviewing court cannot possibly obtain. A reviewing court, therefore, must not substitute its judgment for that of the trial court regarding the credibility of witnesses, the weight to be given to the evidence, or the inferences to be drawn." *In re D.F.*, 201 Ill. 2d 476, 498-99 (2002). Thus, a "reviewing court will not overturn a trial court's findings merely because the reviewing court would have reached a different result." *In re A.P.*, 2013 IL App (3d) 120672, ¶ 17.

¶ 87

b. Discussion

¶ 88 Here, it is undisputed that all of the witnesses at the dispositional hearing, including the caseworker and the therapists, recommended that the minors be returned to the custody of the parents and that no witness had provided a contrary recommendation. Furthermore, the testimony and the evidence produced at the dispositional hearing—including the previously introduced evidence of which the circuit court took judicial notice—indicated that: (1) the parents exhibited appropriate and safe interactions with the minors; and that the minors would be safe at their parents' home; (2) the minors were attached to their parents and enjoyed a loving, affectionate relationship with them, (3) the minors wanted to return home; (4) the parents and foster parents also wanted the minors to return home; and (5) the parents had been fully compliant with the services recommended to them and had made significant progress in those services. All of this evidence corresponds directly to the factors the circuit court was to consider in determining an appropriate disposition for the minors (see 705 ILCS 405/2-22(1) (West 2010); 705 ILCS 405/2-27(1) (West 2010)), and all of it weighs in favor of the circuit court's ultimate decision to return the minors to their parents' custody.

¶ 89 Nevertheless, the record also reflects that the recommendations offered at the dispositional hearing were belied by some of the other testimony and evidence produced at that hearing.

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Specifically, while Ms. Valentin testified that Association House was recommending that the minors return home following a clinical staffing that anticipated possible adjudicatory findings, she acknowledged that the circuit court's actual findings could not be discussed because they had just been made. Furthermore, Ms. Valentin testified that she was not recommending that this case follow the normal progression from supervised visits to unsupervised visits, which would in turn be followed by the return of the minors to the parents' custody. But this recommendation was itself supported in large part upon the recommendations and opinions of the Association House therapists. The testimony of those therapists, however, revealed some questions about the basis and reasoning behind those recommendations and opinions.

¶ 90 Ms. Negrete testified that part of the significant progress Monica S. had made was that Monica S. had completed the therapy goal of addressing why DCFS had become involved with the family and her role in that involvement. However, Ms. Negrete could not recall that Richard S. had been alleged to have suffered any fractures, and her testimony revealed that Monica S. still believed that she had acted properly in obtaining treatment for Richard S. and did not know whether Richard S. was intentionally injured. Nevertheless, Ms. Negrete opined that those adjudicatory findings of abuse and neglect would not need to be further addressed in therapy.

¶ 91 Similarly, while Ms. Oliveras testified that she and Richard S., Sr. had addressed the allegations of abuse and neglect and the circuit court's possible adjudicatory findings "in a way," her testimony also showed that Richard S., Sr. still believed that Richard S. was injured accidentally and that he and Monica S. had responsibly obtained medical treatment for those injuries. Moreover, while even Ms. Oliveras indicated that she would need to further process the circuit court's neglect finding with Richard S., Sr. because he viewed himself as a responsible father, she did not indicate

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that she would need to amend her treatment plan with respect to the circuit court's abuse finding in light of the fact that Richard S., Sr. believed that Richard S. was injured accidentally.

¶ 92 Finally, we note that the circuit court chose to deliver its dispositional order, one that significantly relied upon the testimony and recommendations of the Association House caseworker and therapists, despite the fact that there was a pending motion to remove Association House on the basis of many of the above noted deficiencies in the parents' past and anticipated future therapeutic services. While the motion was ultimately withdrawn, the public guardian only did so after Association House agreed to procure new therapists for the parents from another provider.

¶ 93 We absolutely acknowledge the questions that the State and the public guardian have raised regarding the services provided and to be provided to the parents, and the impact that these questions may have had upon the foundations for the recommendations offered by the caseworker and the therapists involved in this matter. However, we must also note that the services delivered and to be delivered are but one of the many factors the circuit court had to consider in making its best interest determination and in choosing an appropriate disposition. As discussed above, the evidence with respect to the other factors weigh in favor of the circuit court's decision to return the minors to their parents.

¶ 94 Moreover, all of the arguments presented by the State and the public guardian essentially ask this court to substitute our judgment for that of the trial court regarding the credibility of the witnesses, the weight to be given to the evidence, and the inferences to be drawn. These are things we are not permitted to do. *In re D.F.*, 201 Ill. 2d at 498-99. Indeed, the deference granted to the circuit court's findings results from the notion that it "was in the best position to observe the conduct and demeanor of the parties and the witnesses and has a degree of familiarity with the evidence that

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a reviewing court cannot possibly obtain." *Id.* Here, the record establishes that the circuit court interacted with the parents, the caseworker, and the therapists on multiple occasions throughout the proceedings in this matter, having heard testimony from some of the witnesses three separate times. In addition, the record reflects that the very arguments presented to this court as to the weight and credibility of the testimony and evidence were presented to, considered by, and ultimately rejected by the circuit court.

¶ 95 Lastly, we note that the circuit court did not simply return the minors to the care and custody of the parents and close these proceedings. Rather, the minors were returned under an order of protective supervision and the caseworker was ordered to maintain a rigorous home visitation schedule. In addition, the parents and the minors were to continue with their services. To the extent that the State and the public guardian had concerns about the nature of the future services that would be provided to the parents by Association House, the record reflects that they were actually going to begin receiving therapeutic services from a new service provider.

¶ 96 In light of the entirety of the record presented, we ultimately conclude that the circuit court's dispositional orders, which found the parents fit, willing and able to care for, protect, train, and discipline the minors and that it was in the minors' best interests to be returned home, were not against the manifest weight of the evidence. The opposite conclusion is not clearly evident from the record and the circuit court's determination was not unreasonable, arbitrary, and without a basis in the evidence. *In re Tiffany M.*, 353 Ill. App. 3d at 890. We, therefore, affirm the circuit court's dispositional orders and vacate our previous stay of those orders.

¶ 97 Having come to this conclusion, we feel compelled to reiterate our acknowledgment of the serious nature of the abuse and neglect findings in this matter and the significant questions raised

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by the State and the public guardian with respect to the services provided to the parents. While the dispositional orders entered in this matter some five months ago are affirmed, we note that unless "the order of disposition expressly so provides, it does not operate to close proceedings on the pending petition, but is subject to modification, not inconsistent with Section 2-28, until final closing and discharge of the proceedings under Section 2-31." 705 ILCS 405/2-23(2) (West 2010). Thus, our supreme court has recognized that "once a child has been made a ward of the court and a dispositional order has been entered, the court may, at any time, vacate the original dispositional order and enter any other dispositional order that it could have entered under section 2-23(a) of the Act." *In re Austin W.*, 214 Ill. 2d at 44. In addition, section 2-28(4) of the Juvenile Court Act provides: "The minor or any person interested in the minor may apply to the court for a change in custody of the minor and the appointment of a new custodian or guardian of the person or for the restoration of the minor to the custody of his parents or former guardian or custodian." 705 ILCS 405/2-28(4) (West 2010). In all such cases, "it is the health, safety and interests of the minor which remains the guiding principle when issuing an order of disposition regarding the custody and guardianship of a minor ward." *In re Austin W.*, 214 Ill. 2d at 44.

¶ 98 Thus, to the extent that the State or the public guardian believe that the best interests of the minors would not be served by the prior dispositional orders, they are free to apply to the circuit court for a modification of those orders and a change in the custody of the minors. We obviously express no opinion on the merits of such a possible request.

¶ 99 B. Unsupervised Visitation Orders

¶ 100 The final issues on appeal relate to the circuit court's orders for unsupervised visitation. Specifically, we are presented with questions related to both the circuit court's jurisdiction to enter

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such orders in light of the appeals from and stay of its prior dispositional orders, and the ultimate propriety of those visitation orders on the merits.

¶ 101 However, in light of our decision to affirm the circuit court's dispositional orders returning the minors to their parents' custody and our decision to vacate the stay of those dispositional orders, any issues related to the circuit court's subsequent visitation orders have been rendered moot. *In re Jonathan P.*, 399 Ill. App. 3d 396, 400 (2010) (" 'An appeal is considered moot where it presents no actual controversy or where the issues involved in the trial court no longer exist because intervening events have rendered it impossible for the reviewing court to grant effectual relief to the complaining party.' [Citation.] Generally, courts of review do not decide moot questions, render advisory opinions, or consider issues where the result will not be affected regardless of how those issues are decided. [Citation.]"). We, therefore, dismiss the public guardian's separate appeal from the orders for unsupervised visitation as moot. *Rivera v. City of Chicago Electoral Board*, 2011 IL App (1st) 110283, ¶ 15 ("Where the issue before the court is moot, the pending appeal is generally dismissed."). On the same grounds, we also vacate our prior stay of those visitation orders.

¶ 102 We finally note that while this appeal was pending, the public guardian filed a motion in this court requesting that we revest limited jurisdiction in the circuit court for the purposes of conducting a new hearing on the possibility of unsupervised visitation with the minors. The motion indicated that such visitation might be in the minors' best interests in light of the current circumstances. We granted the public guardian's motion on October 22, 2013.

¶ 103 However, in the same way that our decision to affirm the circuit court's dispositional orders rendered the appeal from the circuit court's prior visitation orders and our prior stay of those orders moot, it seems likely that any additional proceedings with respect to the possibility of unsupervised

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visitation has also now been rendered moot. We, therefore, vacate our October 22, 2013, order revesting the circuit court with only limited jurisdiction, and remand this entire matter to the circuit court for further proceedings consistent with this order.

¶ 104

III. CONCLUSION

¶ 105 For the foregoing reasons, we affirm the circuit court's dispositional orders, vacate the stays previously entered by this court, vacate the order revesting the circuit court with only limited jurisdiction, and remand this matter to the circuit court for further proceedings consistent with this order. The public guardian's appeal from the visitation orders is dismissed as moot.

¶ 106 Appeal numbers 1-13-1372 and 1-13-1691, affirmed and remanded.

¶ 107 Appeal number 1-13-1593, appeal dismissed. Cause remanded.