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2013 IL App (4th) 110540-U

NO. 4-11-0540

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
April 12, 2013
Carla Bender
4th District Appellate
Court, IL

In re: TYLER S., a Minor,)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,)	Circuit Court of
Petitioner-Appellee,)	Champaign County
v.)	No. 10JD229
TYLER S.,)	
Respondent-Appellant.)	
)	Honorable
)	Heidi N. Ladd,
)	Judge Presiding.

JUSTICE HOLDER WHITE delivered the judgment of the court.
Justices Turner and Harris concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court affirmed, concluding (1) the State's failure to notify the noncustodial father of pending juvenile proceedings did not constitute plain error; (2) the trial court's failure to appoint a guardian *ad litem* did not constitute plain error; and (3) the trial court's finding that respondent minor's statements to police were voluntary, resulting in the denial of respondent minor's motion to suppress statements, was not against the manifest weight of the evidence.

¶ 2 On September 30, 2010, the State filed a petition for adjudication of delinquency in the circuit court of Champaign County, Illinois, alleging respondent minor, Tyler S., committed two counts of aggravated criminal sexual abuse (720 ILCS 5/12-16(c)(2)(i) (West 2010)). Summons were served upon the custodial mother and respondent minor on October 5, 2010. No summons was issued for the noncustodial father, and the trial court did not appoint a

guardian *ad litem* (GAL) to represent the interests of the minor. Respondent minor filed a motion to suppress statements he made to police on April 6, 2010, and August 16, 2010, and the court denied that motion on February 1, 2011. The court adjudicated respondent minor delinquent after a bench trial on April 21, 2011. On June 9, 2011, the court denied respondent minor's timely posttrial motion and sentenced respondent minor to 30 months of probation with a condition that he serve 30 days in detention, with 19 of those days held in remission.

Respondent minor filed this notice of appeal June 24, 2011, granting this court jurisdiction.

¶ 3 On appeal, respondent minor argues (1) the State's failure to notify respondent father of the delinquency proceedings violated respondent minor's due process rights, (2) the trial court erred in failing to appoint a GAL for respondent minor, and (3) the trial court erred in denying respondent minor's motion to suppress his statements to police.

¶ 4 We affirm.

¶ 5 I. BACKGROUND

¶ 6 On April 6, 2010, respondent minor, age 16, and his mother were called to the Champaign County Sheriff's Department to respond to an allegation that he had sexually abused A.V., a neighbor. Police questioned respondent minor and released him. Respondent minor was again called to the Champaign Sheriff's Office on August 16, 2010, to respond to allegations of sexual abuse, but on this occasion the allegations had been made by V.S., respondent minor's half-sister. Respondent minor and V.S. shared a mother but had different fathers.

¶ 7 The August 16, 2010, interrogation lasted approximately one hour and took place around 9:30 in the morning. A detective placed respondent minor and his mother in an interview room, then proceeded to explain respondent minor's *Miranda* rights. *Miranda v. Arizona*, 384

U.S. 436 (1966). After reading respondent minor's rights, the detective asked respondent mother to step outside the interview room, and she complied with his request. During the interview, respondent minor at first denied the allegations, but he ultimately admitted he sexually abused his half-sister.

¶ 8 The State filed a petition for adjudication of delinquency and wardship on September 30, 2010, alleging criminal sexual abuse against both A.V. and V.S. The allegations involving A.V. were later dismissed. Respondent minor's mother and noncustodial father were listed in the petition as corespondents. The petition did not list an address for the father but did indicate he resided in North Carolina. Summons were served upon the custodial mother and the respondent minor on October 5, 2010, but at no time was a summons served or any notice sent to the noncustodial father in North Carolina.

¶ 9 Respondent minor appeared in court for the first time on November 4, 2010, at which time the trial court arraigned him on the petition. On that date, the court instructed respondent mother to provide the father's address to the prosecutor. The record does not reflect whether the mother ever gave the address to the prosecutor. When asked by the trial court, respondent mother indicated the father had "very little" contact with respondent minor.

¶ 10 Additionally on that date, the mother completed a financial affidavit in support of her request for the appointment of a public defender. Within the affidavit, she included she received child support in the amount of \$302/month. Department of Children and Family Services (DCFS) documents also reflect the father was paying child support. It is unclear whether the father was paying court-ordered child support or voluntarily making regular child support payments. The record does not show whether any of the parties followed up with the

mother to learn more about the nature of the child support obligation.

¶ 11 On December 15, 2010, DCFS provided its records of this matter to the court pursuant to a subpoena *duces tecum*. The record reflects DCFS documented the address and working phone number for the father on October 5, 2010. The DCFS caseworker spoke to the noncustodial father over the phone on that date regarding his relationship with his son. The reports indicate the father stated he “doesn’t really have a relationship with his son.” He went on to describe three specific contacts with the minor: (1) personally meeting with respondent minor for about an hour within the last year, (2) respondent minor requesting money for a car the previous month, and (3) respondent minor sending a text message regarding a family tree project. According to the case note from that call, the father knew nothing about either pending investigation.

¶ 12 Respondent minor filed a motion to suppress statements he made to law enforcement during his two interviews in April and August 2010, alleging his statements were not voluntary. Following a February 1, 2011 hearing, the court denied the motion to suppress statements and granted the State’s motion to admit evidence pursuant to section 115-10 of the Code of Criminal Procedure of 1963 (Criminal Procedure Code)(725 ILCS 115-10 (West 2010)) with regard to V.S., respondent minor’s half-sister.

¶ 13 The trial court scheduled several status dates as the parties prepared for trial. In an April 8, 2011, e-mail, the court instructed the State to give notice, via both mail and phone, of an upcoming proceeding to both corespondent parents, but nothing in the record indicates the State notified the noncustodial father.

¶ 14 Respondent mother attended all court dates, and respondent minor’s maternal

grandmother attended several of the proceedings. The noncustodial father attended no proceedings, and neither party raised the issue of the noncustodial father's absence with the trial court. The court did not appoint a GAL to represent respondent minor's interests, and neither party raised that issue with the trial court.

¶ 15 The case ultimately proceeded to a bench trial, at which time the trial court adjudicated respondent minor delinquent regarding the petition alleging criminal sexual abuse against his half-sister. On June 9, 2011, the court denied respondent minor's timely filed posttrial motion and sentenced respondent minor to 30 months of probation with a requirement that he serve 30 days in juvenile detention, 19 days of which were held in remission. This appeal followed.

¶ 16 II. ANALYSIS

¶ 17 On appeal, respondent minor argues (1) the State's failure to notify respondent father of the delinquency proceedings violated respondent minor's due process rights, (2) the trial court erred in failing to appoint a GAL for respondent minor, and (3) the trial court erred in denying respondent minor's motion to suppress his statements to police. We address respondent minor's arguments in turn.

¶ 18 A. Notice to Noncustodial Father

¶ 19 Respondent minor asserts the State committed reversible error by failing to notify the noncustodial father of the juvenile proceedings. Statutory interpretations are subject to *de novo* review. *People v. Santiago*, 236 Ill. 2d 417, 428, 925 N.E.2d 1122, 1128 (2010) (citing *People v. Campbell*, 224 Ill. 2d 80, 84, 862 N.E.2d 933, 936 (2006)); see also *In re Estate of Rennick*, 181 Ill. 2d 395, 401, 692 N.E.2d 1150, 1154 (1998).

¶ 20 Because respondent minor failed to preserve this issue in the trial court, we review respondent minor's argument under the plain error doctrine. *In re M.W.*, 232 Ill. 2d 408, 430, 905 N.E.2d 757, 772-73 (2009). Pursuant to the plain error doctrine, respondent minor must first show the State's failure to provide notice to the noncustodial father was a clear or obvious error. *M.W.*, 232 Ill. 2d at 431, 905 N.E.2d at 773. If the reviewing court finds a clear or obvious error, the court will reverse only "(1) if 'the evidence is so closely balanced that the error alone threatened to tip the scales of justice against the defendant,' or (2) if the error is 'so serious that it affected the fairness of the defendant's trial and challenged the integrity of the judicial process, regardless of the closeness of the evidence.'" *M.W.*, 232 Ill. 2d at 431, 905 N.E.2d at 773 (quoting *People v. Piatkowski*, 225 Ill. 2d 551, 565, 870 N.E.2d 403, 410-11 (2007)).

¶ 21 After a careful review of the evidence, we conclude the State's failure to provide notice to the noncustodial father does not constitute plain error.

¶ 22 1. *Failure To Serve the Noncustodial Father Was Clear or Obvious Error*

¶ 23 The relevant portion of the notice requirement of the Juvenile Court Act of 1987 (705 ILCS 405/1-1 to 7-1 (West 2010)) reads as follows:

"Upon commencement of a delinquency prosecution, the clerk of the court shall issue a summons with a copy of the petition attached. The summons shall be directed to the minor's parent, guardian or legal custodian and to each person named as a respondent in the petition, except that summons need not be directed * * * to a parent who does not reside with the minor, does not make regular child support payments to the minor, to the

minor's other parent, or to the minor's legal guardian or custodian pursuant to a support order, and has not communicated with the minor on a regular basis." 705 ILCS 405/5-525(1)(a) (West 2010).

¶ 24 The statute does not have an absolute requirement that noncustodial parents be served. 705 ILCS 405/5-525 (West 2010). Rather, exceptions are stated within the law that allow the State to forgo notice when a noncustodial parent does not pay child support pursuant to a court order and does not have regular contact with the minor. 705 ILCS 405/5-525(1)(a)(ii)(West 2010).

¶ 25 Citing *In re C.H.*, 277 Ill. App. 3d 32, 35, 660 N.E.2d 545-547 (1995), respondent minor asserts the State is required to exercise diligence in notifying the minor's parents, and failure to do so is a violation of the minor's due process rights. The court in *C.H.* reasoned, "the lack of a significant relationship may excuse the failure to notify a parent whose address is unknown and not readily obtainable, [but] it does not absolve the State of its responsibility to act diligently in serving notice upon a noncustodial parent whose address may be easily discovered." *C.H.*, 277 Ill. App. 3d at 36, 660 N.E.2d at 548. The court ultimately found a violation of the minor's due process rights where the State failed to make a diligent attempt to provide notice to a noncustodial parent who paid child support and had held the same job for 18 years. *C.H.*, 277 Ill. App. 3d at 35, 660 N.E.2d at 547.

¶ 26 In citing to *C.H.*, respondent minor misses the intricacies of the court's holding in that case. The *C.H.* court found the failure to provide notice violated the minor's due process rights and deprived the court of jurisdiction, making the court's judgment void. *C.H.*, 277 Ill. App. 3d at 35, 660 N.E.2d at 547. The Illinois Supreme Court later addressed the issue of

jurisdiction when the State fails to send notice and held that once a trial court has obtained jurisdiction over the subject of the petition, subject-matter jurisdiction has been satisfied. *M.W.*, 232 Ill. 2d at 417, 423, 905 N.E.2d at 765, 768 (2009). Therefore, the only jurisdictional question would be whether the court has personal jurisdiction over the parties, and the court in *M.W.* held *only* the noncustodial father who was not provided proper notice could challenge the trial court's jurisdiction on appeal. *M.W.*, 232 Ill. 2d at 429, 905 N.E.2d at 772. Thus, we find the analysis and holding in *M.W.* more applicable to this case.

¶ 27 In this matter, the State, without question, failed to provide notice to the noncustodial father. DCFS was involved throughout the investigation and petitioning of respondent minor, and the caseworker had the father's address and phone number noted quite clearly in the files. The State possessed the DCFS records for over a month before any substantive proceedings occurred in the case but still did not make any attempt to provide notice to the father.

¶ 28 The State claims it was not required to provide notice because the father did not have regular contact with his son or pay court-ordered child support. At arraignment, respondent mother indicated that the father had "very little" contact with his son, but the mother's subjective statement was never further defined. The DCFS caseworker spoke personally to the noncustodial father over the phone in October 2010. During the conversation, the father indicated he really did not have a relationship with respondent minor. However, he did mention three distinct contacts with the minor: a conversation within the last month in which respondent minor asked his father for money to buy a car, a face-to-face visit within the last year, and a third recent contact via text message. The notice statute references communication on a regular basis,

not a relationship. 705 ILCS 405/5-525(1)(a)(ii) (West 2010).

¶ 29 In addition, the record clearly reflects the father was paying child support. Respondent mother noted in her affidavit requesting the appointment of a public defender that she receives \$302 in monthly child support, and DCFS verified the father was paying child support. The record is silent as to whether that child support is court ordered. The State has failed to provide any reference to the record that supports the bare assertion that the child support was not court-ordered. The State had knowledge the father was, at the very least, playing a role in his son's life by paying child support and engaging in some regular communication with his son. When the State has actual knowledge of the noncustodial parent's address during the pendency of a juvenile proceeding, it must exercise due diligence in contacting that parent. The State's failure to contact the noncustodial parent when the trial court instructed the State to send "the parents" notice of upcoming proceedings is inexplicable given the State had the father's phone number and address.

¶ 30 After a review of the arguments and relevant case law, we find that where, as here, (1) a noncustodial parent's address is known at the onset of proceedings, (2) the State is aware the parent is paying child support but the record is unclear as to whether the child support is court-ordered, and (3) evidence shows that the parent has some regular communication with the minor, the State commits clear or obvious error by failing to provide notice to the noncustodial parent. Our inquiry now turns to whether the State's failure to provide notice to the father amounted to plain error. *M.W.*, 232 Ill. 2d at 431, 905 N.E.2d at 773.

¶ 31 2. *The State's Failure To Send Notice Did Not Constitute Plain Error*

¶ 32 Having found the State's failure to provide notice to the noncustodial father was clear or obvious error, we must now determine "(1) if 'the evidence is so closely balanced that the error alone threatened to tip the scales of justice against the defendant,' or (2) if the error is 'so serious that it affected the fairness of the defendant's trial and challenged the integrity of the judicial process, regardless of the closeness of the evidence.'" *M.W.*, 232 Ill. 2d at 431, 905 N.E.2d at 773 (quoting *Piatkowski*, 225 Ill. 2d at 565, 870 N.E.2d at 410-11).

¶ 33 If we find the evidence in the case was closely balanced, we must remand the case in the interest of fairness. *People v. Herron*, 215 Ill. 2d 167, 193, 830 N.E.2d 467, 483 (2005). However, after a careful review of the evidence adduced at trial, we find the evidence in this case was not so closely balanced that the State's failure to give notice tipped the scales of justice. The victim in the case reported clear, detailed allegations of sexual abuse against respondent minor, and respondent minor's statements to police corroborated the victim's statement. At trial, no evidence was offered to contradict either the victim's statement or respondent minor's confession, and the trial court ultimately found the victim's statement and respondent minor's confession to be sufficient evidence upon which to adjudicate respondent minor delinquent. We agree. Moreover, the noncustodial father's presence would not have changed the evidence presented by the State at trial, which was overwhelmingly in favor of the State. Based on the foregoing, we conclude the evidence in this matter was not so closely balanced that the State's failure to notify the noncustodial father of the proceedings threatened to tip the scales of justice.

¶ 34 Likewise, we conclude the State's failure to send notice did not rise to a level such

that it affected the fairness of respondent minor's trial and challenged the integrity of the judicial process.

¶ 35 Respondent minor contends the mother's divided loyalties amounted to a conflict which rendered her incapable of protecting respondent minor's best interests; therefore, the absence of the noncustodial father affected the fairness of the respondent minor's trial and challenged the integrity of the judicial process. We disagree.

¶ 36 Respondent minor likens this case to *In re Marcus W.*, 389 Ill. App. 3d 1113, 907 N.E.2d 949 (2009), a case in which *no* concerned parent received notice of the minor's proceeding. Respondent minor asserts that in the case at bar, like *In re Marcus W.*, no concerned adult attended solely to the respondent minor's best interests. He therefore argues the cause should be reversed. See *People v. Austin M.*, 2012 IL 111194, ¶ 73, 975 N.E.2d 22 (minor's attorney cannot assume both the role of attorney and concerned parent).

¶ 37 The State correctly notes it was evident from the record in *Marcus W.* that a lack of supervision played a significant role in the court's sentencing determination, which the minor could not defend since the co-respondents were not given notice of the proceedings. *Marcus W.*, 389 Ill. App. 3d at 1128, 907 N.E.2d at 960. Nothing indicates a lack of supervision played any significant role in the trial court's findings in the case at bar, or that the court thought the mother acted as anything less than a concerned parent for respondent minor. There is also no evidence the father's absence impacted the fundamental fairness of the proceedings or challenged the integrity of the judicial process.

¶ 38 Respondent mother was in the unusual position of having to protect the best interests of the respondent minor, the alleged victim, and herself. The trial court itself noted,

“She has certainly been put in an almost inconceivable position of having to protect the younger daughter while still being a mother to her son.” Nevertheless, we do not agree with respondent minor's argument that the mother's unusual position is comparable to a legal conflict of interest, nor do we find applicable the attorney-client conflict principle, “No man can serve two masters.” See *People v. Spreitzer*, 123 Ill. 2d 1, 13, 525 N.E.2d 30, 34 (1988). We find the reference to the attorney-client conflict a poor analogy. Respondent mother was not expected to and did not, in the legal sense, represent V.S. or respondent minor. A legal conflict of interest is defined as a situation in which (1) "the representation of one client [is] directly adverse to another client" or (2) "there is a significant risk that the representation of one of more clients will be materially limited by the lawyer's responsibilities to another client." Illinois Rules of Prof. Conduct R.1.7 (eff. Jan. 1, 2010).

¶ 39 As the State points out, respondent mother served as a concerned parent throughout the proceedings. She attended every court appearance, made arrangements for respondent minor to live with a relative during the pendency of the case, and testified on his behalf as needed. The trial court noted during sentencing that she was “a very supportive mother.” Even if we were so inclined to interpret the mother's position as comparable to an attorney-client conflict, we hold nothing in the record indicates the mother's loyalties to herself or her daughter were directly adverse to or limited her ability to protect respondent minor's best interests.

¶ 40 Though we have determined the State committed clear or obvious error in its failure to send notice to the noncustodial father, we conclude this failure did not affect the fairness of the proceedings or undermined the integrity of the judicial process. Thus, we hold

respondent minor has not established the State's failure to provide notice to the noncustodial father constituted plain error.

¶ 41 B. Appointment of Guardian *Ad Litem*

¶ 42 Respondent minor next argues the trial court should have appointed a GAL to represent respondent minor due to the mother's conflict of interest. Statutory interpretation of the GAL provision is subject to *de novo* review. *Santiago*, 236 Ill. 2d at 428, 925 N.E.2d at 1128. Because no objection was raised at the trial court regarding this issue, we review the trial court's decision for plain error. *M.W.*, 232 Ill. 2d at 430, 905 N.E.2d at 772-73. Respondent minor must first show the trial court's failure to appoint a GAL was a clear or obvious error. *M.W.*, 232 Ill. 2d at 431, 905 N.E.2d at 773. After reviewing the evidence, we conclude the trial court's failure to appoint a GAL was not a clear or obvious error.

¶ 43 The best interest of the minor is an important consideration in juvenile proceedings. 705 ILCS 405/5-705(1)(West 2010); *In re Rodney H.*, 223 Ill. 2d 510, 519, 861 N.E.2d 623, 629 (2006). The statute governing the appointment of a GAL in delinquency cases states as follows:

"(1) The court *may* appoint a guardian ad litem for the minor whenever it finds that there may be a conflict of interest between the minor and his or her parent, guardian or legal custodian or that it is otherwise in the minor's interest to do so.

* * *

(4) If, during the court proceedings, the parents, guardian, or legal custodian prove that he or she has an *actual conflict of*

interest with the minor in that delinquency proceeding and that the parents, guardian, or legal custodian are indigent, the court *shall* appoint a separate attorney for that parent, guardian, or legal custodian." (Emphases added.) 705 ILCS 405/5-610 (West 2010).

¶ 44 In support of his argument that the trial court should have appointed a GAL, respondent minor outlines several types of cases in which GALs are regularly appointed: marital, juvenile abuse or neglect, and paternity cases. Respondent minor asks us to apply the same reasoning to juvenile delinquency cases.

¶ 45 We find it unnecessary to look at other categories of cases to determine whether a GAL must be appointed when we can look directly to the statute governing delinquency cases. The statute itself grants the trial court discretion in determining whether it is appropriate to appoint a GAL by using the word "may." 705 ILCS 405/5-610(1) (West 2010). The statute only mandates the appointment of a GAL if the parents, guardian, or legal custodian proves an *actual conflict*. 705 ILCS 405/5-610(4) (West 2010). We have already determined above that, while the mother was the only parent of respondent minor present throughout the proceedings, nothing in the record supports a finding that she had a conflict of interest or that the absence of a GAL jeopardized respondent minor's due process rights or the fairness of the proceedings. Certainly, respondent minor raised no concerns throughout the proceedings to make the trial court aware of an "actual conflict." Moreover, nothing in the record supports the contention that the presence of a GAL would have altered the outcome of the proceedings in any way. We therefore conclude the trial court did not err by failing to appoint a GAL for respondent minor.

¶ 46

C. Voluntariness of Respondent Minor's Confession

¶ 47

In the final issue raised on appeal, respondent minor contends his statements to police should have been suppressed as involuntary because respondent minor's confession arose from the coercive and suggestive circumstances of the interrogation, respondent minor's inability to leave, and the lack of the presence of an interested adult. Because respondent minor was adjudicated delinquent regarding only the count with respect to V.S., we will address solely the voluntariness of respondent minor's statement to police on August 16, 2010.

¶ 48

The voluntariness of a minor's incriminating statement is subject to bifurcated standards of review. *In re G.O.*, 191 Ill. 2d 37, 50, 727 N.E.2d 1003, 1010 (2000). Findings by the trial court will only be overturned if they are against the manifest weight of the evidence, but the ultimate question of the voluntariness of the statement is subject to *de novo* review. *G.O.*, 191 Ill. 2d at 50, 727 N.E.2d at 1010. After reviewing the evidence, we hold the trial court's findings related to the motion to suppress were not against the manifest weight of the evidence. Moreover, a fresh review of the ultimate question of voluntariness reveals the confession was voluntary and not subject to suppression.

¶ 49

In re G.O. explains, in detail, the factors a court may consider in determining whether a confession is voluntary, including "the respondent's age, intelligence, background, experience, mental capacity, education, and physical condition at the time of questioning; the legality and duration of the detention; the duration of the questioning; and any physical or mental abuse by police, including the existence of threats or promises." *G.O.*, 191 Ill. 2d at 54, 727 N.E.2d at 1012; see also *People v. Gilliam*, 172 Ill. 2d 484, 500-01, 670 N.E.2d 606, 614 (1996). No single factor is dispositive as to voluntariness of a confession, and the test of voluntariness is

whether the respondent “made the statement freely, voluntarily, and without compulsion or inducement of any sort, or whether the [respondent's] will was overcome at the time he or she confessed.” *Gilliam*, 172 Ill. 2d at 500, 670 N.E.2d at 613. The determination is based entirely on the totality of the circumstances, which includes the respondent minor's personal characteristics and the conduct of the officer. *People v. Westmorland*, 372 Ill. App. 3d 868, 876, 866 N.E.2d 608, 615 (2007); *People v. Bernasco*, 138 Ill. 2d 349, 368, 562 N.E.2d 958, 966 (1990).

¶ 50 The relevant facts are as follows. Respondent minor was 16 years old at the time he was questioned regarding these allegations. He had no police contact prior to his April 2010 interview. On August 16, 2010, respondent mother drove respondent minor to the police station without telling him where they were going or why. Respondent mother was also the mother of the alleged victim, V.S., and she was aware police wanted to interview her son with regard to her daughter’s allegations. Respondent mother remained in the interview room with respondent minor while he was read his *Miranda* rights, and neither she nor respondent minor asked for any explanation or clarification of rights. The detective then asked respondent mother to step outside, and she complied. Respondent minor was told that he could ask for his mother to return at any time. The mother remained outside the room for the duration of the interview, even though she testified at the suppression hearing that she heard yelling and/or raised voices within. During the hour-long interview, respondent minor initially denied the allegations, but he finally admitted, "I did it," then went on to tell the detective that he sexually abused his half-sister in the family's dining room.

¶ 51 Throughout the interview, the doors to the interrogation room were shut but

unlocked, with one of those doors located directly behind the respondent minor. Respondent minor was told he was free to leave at any time. Four individuals were present within the room: respondent minor, the detective, a DCFS caseworker, and another officer to assist the detective. The interrogation, which commenced around 9:30 a.m., lasted for approximately one hour.

¶ 52 Respondent minor first argues the detective, by yelling at respondent minor, promising leniency, and refusing to accept respondent minor's denial of the allegations, used coercive and suggestive methods to obtain his confession. He compares his situation to *In the Interest of C.L.*, 714 A.2d 1074 (Pa. Super. Ct. 1998), a case from Pennsylvania in which a juvenile's confession was deemed involuntary based on the officer's misconduct, which included yelling, threatening incarceration, and showing the juvenile a jail cell. The court took the officer's misconduct into consideration in conjunction with the juvenile's young age, lack of experience with the juvenile system, and absence of an interested adult. *C.L.*, 714 A.2d at 1075.

¶ 53 In this case, the detective's testimony at the suppression hearing differed from that of respondent minor. Specifically, the detective denied that he ever yelled at respondent minor but stated he did use a "very direct tone of voice" when respondent minor denied the allegations of sexual abuse. Even respondent mother testified it was possible the detective was raising his voice and not yelling. After the suppression hearing, the trial court noted respondent minor was vague in his testimony, qualifying his answers by saying he was "maybe a little scared" when the detective yelled or raised his voice, but he could not explain why that led him to confess. Respondent minor was also unsure of some details and unable to explain how he felt during the interrogation. On the other hand, the court noted the detective was able to recount almost all of the interview, finding him "very open, very accurate, very direct." The court did not find the

detective's comments coercive or suggestive, particularly because respondent minor was unable to articulate how he had been coerced into making a detailed statement.

¶ 54 Additionally, respondent minor states the detective used coercive means by promising leniency to obtain a confession because he told respondent minor his punishment would be less severe if he took responsibility. See *People v. Ruegger*, 32 Ill. App. 3d 765, 771, 336 N.E.2d 50, 54-55 (1975) (suppressing statement as involuntary when police officers conveyed to the minor the impression that they would 'go to bat' for him in exchange for a confession). However, respondent minor's assertion is countered by the detective's testimony that he told respondent minor to take responsibility for his actions, which does not reflect an offer of leniency. The trial judge, who had the opportunity to view the live testimony of the witnesses, believed the detective's statement in ruling the detective did not use coercive measures to obtain a confession. The trial court's finding was not against the manifest weight of the evidence.

¶ 55 Second, respondent minor contends the detective used suggestive methods of interrogation to obtain a confession. Specifically, respondent minor asserts the detective used leading questions and repeated accusations to obtain an incriminating statement. The trial court disagreed, ruling the questions, other than those which focused respondent minor's attention on details, were open-ended. The undisputed testimony in this case reflects that when the respondent minor was questioned with regard to this case, he eventually told the detective, "I did it," then went on to corroborate the alleged victim's statement without further prompting or facts, thus rendering that statement more reliable. We agree with the trial court's finding that the detective did not engage in improper tactics to obtain a confession.

¶ 56 Third, respondent minor asks us to find his statement involuntary based on his

personal characteristics. Respondent minor was a 16-year-old boy with no prior encounters with law enforcement, so he clearly lacked a sophisticated understanding of the juvenile justice system. During his first interview in April 2010, he was permitted to go home with no immediate repercussions after making a semiincriminating statement. Therefore, respondent minor suggests that he made an incriminating statement during the August 2010 interview only to make the questions stop so he could leave, just like before. He cites *In re J.J.C.*, 294 Ill. App. 3d 227, 238, 689 N.E.2d 1172, 1181 (1998), for the proposition that a minor's prior station adjustments would lead a minor to believe this occasion was no different from the other times he was brought in for questioning and released. However, in *J.J.C.*, the court also considered the juvenile's parents were denied access to the juvenile, who had documented mental illnesses that left him unable to understand his rights, which distinguishes *J.J.C.* from the case at bar. *J.J.C.*, 294 Ill. App. 3d at 238, 689 N.E.2d at 1181.

¶ 57 Additionally, respondent minor contends his mental vulnerability rendered his confession involuntary, directing this court to review (1) a sentencing recommendation for mental health screening for Asperger's and pervasive developmental disorders and (2) the trial court's statement that respondent minor would be a vulnerable target if incarcerated. The recommendation for mental health screening was made in preparation for sentencing. At sentencing, a factor the court clearly considered in imposing a community-based sentence was that respondent minor's potential mental health issues could render him vulnerable if incarcerated. We are mindful that under Illinois law, a confession may be deemed involuntary in the absence of police misconduct, based entirely on the defendant's personal characteristics. *Bernasco*, 138 Ill. 2d at 368, 562 N.E.2d at 966. Nevertheless, no evidence indicates respondent

minor, at the time of the confession, was suffering from a mental illness or that any such illness rendered him more susceptible to coercion by the detective. Respondent minor's mental condition is but one aspect of the personal characteristics factor used to determine, based on the totality of the circumstances, whether his confession was voluntary. We do not find respondent minor's mental condition to be of a nature that would overcome respondent minor's voluntariness.

¶ 58 Respondent minor cites to numerous law journal articles and United States Supreme Court cases to support his argument that juveniles are more susceptible to outside influences and pressures than adults, and their confessions should be viewed with some mistrust. See, e.g., *In re Gault*, 387 U.S. 1, 87 S. Ct. 1428 (1967); *Haley v. Ohio*, 332 U.S. 596, 68 S. Ct. 302 (1948); *J.D.B. v. North Carolina*, 564 U.S. ___, 131 S. Ct. 2394 (2011); Steven A. Drizin & Richard A. Leo, *The Problem of False Confessions in a Post-DNA World*, 82 N.C. L. Rev. 891 (2004); Kenneth J. King, *Waiving Childhood Goodbye: How Juvenile Courts Fail to Protect Children from Unknowing, Unintelligent, and Involuntary Waivers of Miranda Rights*, 2006 Wis. L. Rev. 431 (2006). We are sensitive to issues regarding interrogation of juveniles, particularly because statistics show juveniles are consistently overrepresented in studies of false confessions. Kenneth J. King, *Waiving Childhood Goodbye*, 2006 Wis. L. Rev. At 433 n.10. At the same time, this court must still consider the totality of the circumstances under which the confession was made.

¶ 59 In this case, respondent minor was read his *Miranda* rights with his mother present in the room. This was done in spite of the fact that this was not a custodial interview—respondent minor was free to leave at any time and the officer clearly stated he had

no intention of arresting respondent minor after the interview. Respondent minor and his mother were given the opportunity to ask any questions regarding respondent minor's rights, but refrained from doing so. The trial court found respondent minor to be intelligent, displaying “a level of sophistication and insight about the purpose of that interview.” In considering these factors along with the duration of the interview, we conclude the record shows no personal characteristics that would render respondent minor’s statement involuntary.

¶ 60 Fourth, respondent minor argues he was denied access to an “interested adult,” using the following examples: respondent mother did not tell him that she was taking him to meet with police, she remained outside the interrogation room even though she heard the detective raise his voice, and she was also the mother of the alleged victim. In a juvenile case, parents' absence during questioning does not automatically render a confession inadmissible but constitutes another factor to be considered in determining voluntariness. *People v. Giacomo*, 239 Ill. App. 3d 247, 255, 607 N.E.2d 329, 334 (1993); see also *G.O.*, 191 Ill. 2d at 65-67, 727 N.E.2d at 1018 (McMorrow, J. dissenting). The absence of a parent during interrogation is a particularly important consideration when the juvenile has demonstrated difficulty understanding the interrogation process or when he is denied access to a parent or other concerned adult. *G.O.*, 191 Ill. 2d at 54-55, 727 N.E.2d at 1012-13.

¶ 61 We have already discussed the mother’s role in this case at length above; however, we emphasize that although respondent mother was also the mother of the alleged victim, she remained a concerned parent at the interrogation. She did not attempt to coerce her son into confessing or abandon him to the detective; in fact, nothing in the record indicates that she was engaging in anything but a supportive role for her son during the interrogation process.

¶ 62 Although respondent mother did not tell him she was taking him for further interrogation, respondent minor never expressed concern or surprise that he was being taken to the police station, nor did he raise any objection to his mother leaving the room once the interrogation began. While respondent mother remained outside even after hearing raised voices in the interview room, that is not indicative of a lack of interest in her son. Respondent minor never asked for his mother to return to the room, despite his acknowledgment that the detective told him he could do so at any time.

¶ 63 Thus, we conclude respondent minor's confession was voluntary, and the trial court's findings were not against the manifest weight of the evidence.

¶ 64 III. CONCLUSION

¶ 65 For the reasons stated, we affirm the trial court's judgment.

¶ 66 Affirmed.