

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).

2013 IL App (4th) 120978-U
NO. 4-12-0978
IN THE APPELLATE COURT
OF ILLINOIS
FOURTH DISTRICT

FILED
March 15, 2013
Carla Bender
4th District Appellate
Court, IL

In re: Lu. N., a Minor,)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,)	Circuit Court of
Petitioner-Appellee,)	Macon County
v.)	No. 11JA94
PRECIOUS WOODLAND,)	
Respondent-Appellant.)	Honorable
)	Thomas E. Little,
)	Judge Presiding.

PRESIDING JUSTICE STEIGMANN delivered the judgment of the court.
Justices Turner and Harris concurred in the judgment.

ORDER

- ¶ 1 *Held:* The trial court's adjudicatory and dispositional orders, which adjudicated respondent's child abused and neglected, named the child a ward of the court, removed the child from respondent's custody, and appointed the Illinois Department of Children and Family Services as the child's guardian were not against the manifest weight of the evidence.
- ¶ 2 On September 21, 2011, the State filed a petition for adjudication of wardship as to Lu. N. (born September 15, 2011), the child of respondent, Precious Woodland. Following a June 2012 hearing, the trial court entered an order adjudicating Lu. N. a neglected minor. In October 2012, the court entered a dispositional order, adjudicating Lu. N. a ward of the court and appointing the Illinois Department of Children and Family Services (DCFS) as Lu. N.'s guardian.
- ¶ 3 Respondent appeals, arguing that the trial court's (1) finding that Lu. N. was an abused and neglected minor and (2) adjudication of Lu. N. as a ward of the court and appoint-

ment of DCFS as Lu. N.'s guardian were against the manifest weight of the evidence. We disagree and affirm.

¶ 4

I. BACKGROUND

¶ 5

A. The State's Petition for Adjudication of Wardship and the Evidence Presented at the Shelter-Care Hearing

¶ 6

On September 21, 2011, the State filed a petition for adjudication of wardship, alleging that Lu. N. was an abused and neglected minor under the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/1-1 to 1-18 (West 2010)). Specifically, the State alleged that because the trial court had previously adjudicated respondent's twin daughters (born April 16, 2006) neglected and respondent had yet to correct the substance-abuse and domestic-violence issues that brought those children into DCFS's care, Lu. N. was living in an environment that (1) was injurious to her welfare (705 ILCS 405/2-3(1)(b) (West 2010)) and (2) created a substantial risk of physical injuries (705 ILCS 405/2-3(2)(ii) (West 2010)). At a shelter-care hearing conducted that same day, the trial court removed Lu. N. from respondent's care and appointed DCFS as Lu. N.'s temporary guardian. The court based its determination on a shelter-care report that supported the State's allegations.

¶ 7

B. The Pertinent Evidence Presented at Respondent's Adjudicatory Hearings

¶ 8

1. *The March 2012 Adjudicatory Hearing*

¶ 9

a. The State's Evidence

¶ 10

At a March 2012 adjudicatory hearing, the trial court took judicial notice of the pleadings, orders, and docket entries in Macon County case Nos. 10-JA-139 and 10-JA-140, which concerned respondent's twin daughters. The State explained that in those cases, (1)

ter, respondent confirmed that domestic violence had occurred between her and Nietupski. Taylor noted that respondent's mental-health and her substance-abuse problems were of significant concern. Taylor also noted that prior to her assignment, DCFS had made the following indicated findings of abuse and neglect against respondent: (1) April 2006, "physical injury, environment injurious to the health and welfare" of her twin daughters; (2) October 2010, physical injury, environment injurious to the health and welfare of her twin daughters; (3) October 2010, "burns by neglect" to her twin daughters; (4) January 2011, medical neglect to her twin daughters; (5) January 2011, burns to her twin daughters; (6) June 2011, inadequate supervision of a relative's child; and (7) September 2011, physical injury, environment injurious to the health and welfare of Lu. N.

¶ 17 In November 2010, Taylor created a client-service plan for respondent that required her, in pertinent part, to (1) attend parenting classes and domestic-violence counseling, (2) complete a substance-abuse assessment and participate in treatment, and (3) resume consuming her psychotropic medication that had been previously prescribed for her psychological issues. In April 2011, Taylor evaluated respondent's progress in completing her domestic-violence goal as unsatisfactory because, although she had not been scheduled for counseling, she admitted continued contact with Nietupski. Taylor also rated respondent's substance-abuse goal as unsatisfactory based on a positive drug screen for cannabis while she was pregnant with Lu. N. Respondent's progress on her remaining goals were unsatisfactory not because she failed to comply, but, instead, because of scarce resources, scheduling issues, and difficulty securing the services of a sign-language interpreter. (Respondent was hearing impaired and required a sign-language interpreter to assist her understanding.)

¶ 18 In September 2011, the trial court appointed DCFS as Lu. N.'s temporary guardian. Taylor noted that respondent's overall goal of having her children returned to her care by complying with her client-service-plan goals remained unchanged but now applied to Lu. N. as well as to her twin daughters.

¶ 19 In October 2011, Taylor rated respondent's overall progress on her assigned goals as unsatisfactory because (1) a June 2011 police report documented a domestic-violence incident between respondent and Nietupski while they were living together and (2) despite participating in mental-health therapy, respondent had yet to achieve significant progress. Taylor noted that although respondent had completed parenting classes, her follow-up evaluation determined that she had "more severe risk factors" related to her inappropriate expectations of her children's abilities, level of empathy, and reverse family roles than she did before she began the training. Another DCFS-contracted case manager defined "level of empathy" as a parent's fear of "spoiling" the child and an inability to understand or value their child's normal development needs and that "reversed family roles" refers to a parent's use of a child to satisfy their own needs.

¶ 20 In February 2012, Taylor, prompted by the State's supplemental termination petitions in Macon County case Nos. 10-JA-139 and 10-JA-140, noted that respondent had completed her domestic-violence counseling but rated her progress as unsatisfactory because respondent stated that "she believed she continued to need additional service" because "she was trying to learn *** how to refrain from contact with [Nietupski]." Taylor also rated respondent's progress with her mental-health counseling as unsatisfactory because she had only completed 4 of 17 objectives. Taylor noted that respondent had successfully complied with her drug goal and that she claimed to be taking her psychotropic medications, a claim Taylor could not confirm.

Taylor summarized that respondent's overall progress in completing her client-service-plan goals was unsatisfactory because she had not progressed to the point of having any of her children returned to her custody within the next six months.

¶ 21 James Vanderbosch, a clinical psychologist, conducted a March 2011 psychological evaluation of respondent, concentrating on "overall functioning development, behavior, mood, and emotions." Vanderbosch diagnosed respondent, in part, with major depressive disorder and borderline personality disorder, both of which he considered mental illnesses. Vanderbosch explained that major depressive order could manifest itself if a parent becomes frustrated when parenting a child. In such a scenario, the parent would "tend to get more involved internally rather than focusing on what's going on around [her]." Borderline personality disorder, Vanderbosch explained further, is "a developmental delay usually associated with barriers to learning in early childhood" that "is marked by failure to develop good impulse control, frustration tolerance, empathy [and is u]sually associated with volatile relationships."

¶ 22 Vanderbosch noted that respondent's condition would "interfere with her judgment" because her "negative feelings [are] going to be acted out when she *** is caring for her children." Vanderbosch recommended adoptive placement for respondent's children because he did not believe that they would be safe in respondent's care given her minimal progress. Vanderbosch opined that respondent faces a lifetime of therapy, adding that years of meaningful therapy would have to occur before she could be reunited with her children.

¶ 23 b. Respondent's Evidence

¶ 24 Lori McKenzie, a clinical psychologist, testified that since March 2011, she met with respondent weekly as her therapist. In October 2011—at DCFS's request— McKenzie

created a revised treatment plan for respondent that sought to address the following four goals: (1) comply with DCFS's client-service plan goals, specifically, parenting; (2) develop coping skills; (3) address the history of domestic violence in her relationship; and (4) address traumatic life experiences. Each goal had specific subparts that totaled 13 objectives for the overall treatment plan. McKenzie reported that respondent had completed 10 of 13 objectives, which she acknowledged meant that respondent had not fully complied with her revised treatment plan. McKenzie noted that respondent was also attempting to address her medical diagnosis of Lupus, which further delayed progress on her treatment plan.

¶ 25 McKenzie opined that although respondent was capable of meeting minimal parenting standards, respondent was not prepared to have her three children placed back in her care at that time. McKenzie estimated that based on her current progress, respondent would not acquire the requisite parenting skills for at least another year, provided she is permitted increased visitation with her children. McKenzie had not observed respondent's interaction with her children during supervised visits, which she acknowledged could change her estimate if respondent was not able to implement the various techniques she had learned in therapy.

¶ 26 Respondent testified that she was committed to continuing her therapy, terminating her relationship with Nietupski, and maintaining her drug-free lifestyle. Respondent stated that her Lupus condition was improving and she was optimistic that she could regain custody of her children within 6 to 12 months; a challenge that she was "ready to take on." Respondent admitted that it was "going to take some time" and it would be a challenge to regain custody of her children, but she was committed to "putting in that time."

¶ 27

3. The Trial Court's Adjudicatory Finding

¶ 28 Following the presentation of evidence and argument, the trial court entered an October 2012 adjudicatory order, finding, in pertinent part, that because respondent's twin daughters remained wards of the court, Lu. N. was an abused and neglected minor as alleged by the State.

¶ 29 C. The Pertinent Evidence Presented at Respondent's Dispositional Hearing

¶ 30 A summary of the evidence presented at respondent's dispositional hearing, which began in September 2012 and was continued to October 2012, showed the following.

¶ 31

1. The State's Evidence

¶ 32 In preparation for respondent's hearing, Taylor filed an August 2012 dispositional report that noted, in part, the following:

"At the time of [Lu. N.'s] birth, [respondent] had not progressed in her services enough to alleviate any safety concerns regarding [respondent's] ability to care for an infant and therefore, [Lu. N.] came into care at birth. [Lu. N.] has remained in care for almost [one] year. [Respondent] has not progressed in services to a point in which DCFS would feel it would be in the child's best interest for her to have unsupervised contact with [respondent]. Furthermore, [DCFS] does not believe [respondent] would be able to demonstrate minimal parenting standards and her ability to ensure [Lu. N.'s] safety within the next 6 to 12 months."

Taylor's report recommended that the trial court grant DCFS guardianship of Lu. N.

¶ 33 Taylor testified that (1) respondent was prescribed psychotropic medication for her mental condition that respondent consumes "once in a while," (2) respondent admitted that she stopped taking that medication because she was feeling better, and (3) in August and September 2012, respondent tested positive for cannabis use. Taylor met with respondent the day before her September 2012 dispositional hearing, and respondent informed her that she was consuming cannabis approximately "every other day." Taylor again recommended that the trial court should adjudicate Lu. N. a ward of the court and appoint DCFS as Lu. N.'s guardian.

¶ 34 *2. Respondent's Evidence*

¶ 35 Respondent testified (1) to her culpability for the burns she inflicted on her twin daughters, assuring that such an event would not happen again and (2) that she stopped taking her medication because she was "fine" and had "stabilized." Respondent also admitted that she had consumed cannabis because she was "stressed and depressed and completely overwhelmed" and was in need of substance-abuse treatment.

¶ 36 *3. The Trial Court's Dispositional Finding*

¶ 37 After considering this evidence and counsel's arguments, the trial court entered an October 2012 dispositional order, finding respondent unfit, adjudicating Lu. N. a ward of the court, and appointing DCFS as Lu. N.'s guardian. The court based its determination on respondent's inability to care for Lu. N. because of her domestic-violence, substance-abuse, and mental-health issues

¶ 38 This appeal followed.

¶ 39

II. ANALYSIS

¶ 40

A. The Trial Court's Abuse and Neglect Finding

¶ 41

Respondent argues that the trial court's finding that Lu. N. was an abused and neglected minor was against the manifest weight of the evidence. We disagree.

¶ 42

When a petition for adjudication of wardship is filed under the Juvenile Court Act, the best interest of the minor is the paramount consideration. *In re R.G.*, 2012 IL App (1st) 120193, ¶ 31, 977 N.E.2d 869. The State must prove its allegations of abuse or neglect by a preponderance of the evidence, which is an amount of evidence that leads the trier of fact to find that the allegations are more probable than not. *Id.* A reviewing court will not disturb a trial court's abuse and neglect findings unless they are against the manifest weight of the evidence. *Id.* A determination is against the manifest weight of the evidence when the opposite conclusion is clearly evident from the record or the determination is arbitrary, unreasonable, or not based on the evidence presented. *In re J.B.*, 2013 IL App (3d) 120137, ¶ 14, ___ N.E.2d ___.

¶ 43

Respondent claims that no dispute exists that her twin daughters were in DCFS's care but "this alone should not be sufficient grounds to find [Lu. N.] abused or neglected." Contrary to respondent's claim, however, the evidence presented at the adjudicatory hearing consisted of more than merely respondent's adjudication of neglect in Macon County case Nos. 10-JA-139 and 10-JA-140, pertaining to her twin daughters. The evidence presented also showed that respondent had failed to successfully address the issues that caused her to lose custody of her children as enumerated by her client-service-plan goals. Specifically, her mental-health issues, domestic-violence concerns, and deficient parenting skills. In this regard, the evidence showed that respondent had only completed 4 of 17 mental-health objectives, she

requested additional domestic-violence counseling because she doubted her ability to stop contacting Nietupski, and respondent's medical expert testified that respondent was not prepared to care for Lu. N. for at least another year, provided respondent had expanded visitation with her three children.

¶ 44 Reviewing this evidence under the appropriate standard of review, we conclude that the trial court's determination to adjudicate Lu. N. and abuse and neglected minor was not against the manifest weight of the evidence.

¶ 45 B. The Trial Court's Dispositional Determination

¶ 46 Respondent next argues that the trial court's adjudication of Lu. N. as a ward of the court and appointment of DCFS as Lu. N.'s guardian were against the manifest weight of the evidence. We disagree.

¶ 47 On review, we will not disturb a trial court's dispositional determination unless the court's findings of fact are against the manifest weight of the evidence or if the court abused its discretion by selecting an inappropriate dispositional order. *In re J.W.*, 386 Ill. App. 3d 847, 856, 898 N.E.2d 803, 811 (2008).

¶ 48 In this case, the record shows that the trial court's adjudication of Lu. N. as a ward of the court and the court's appointment of DCFS as Lu. N.'s guardian was based on DCFS's August 2012 dispositional report and Taylor's testimony. Based on that evidence, the court entered an October 2012 dispositional order, finding that respondent was unable to care for Lu. N. because of her domestic-violence, substance-abuse, and mental-health issues. We note that with regard to her mental-health and substance-abuse issues, respondent provided evidence in support of the court's dispositional order when she testified at the dispositional hearing that she had

stopped taking her psychotropic medication and had consumed cannabis. Accordingly, we conclude that the trial court's dispositional order (1) finding respondent unfit, (2) adjudicating Lu. N. a ward of the court, and (3) appointing DCFS as Lu. N.'s guardian were not against the manifest weight of the evidence.

¶ 49

III. CONCLUSION

¶ 50

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

¶ 51

Affirmed.