

No. 1-14-0844

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

IN THE INTEREST OF: JERON H., a minor,)	Appeal from the
)	Circuit Court of
Minor-Respondent-Appellee,)	Cook County.
)	
(The People of the State of Illinois,)	
)	
Petitioner-Appellee,)	No. 12 JA 785
)	
v.)	
Doris E.,)	Honorable
Respondent-Appellant).)	Demetrios Kottaras,
)	Judge Presiding.

JUSTICE CUNNINGHAM delivered the judgment of the court.
Justice Hoffman and Justice Delort concurred in the judgment.

ORDER

¶ 1 *Held:* In adjudication hearing under Juvenile Court Act of 1987, trial court did not abuse discretion in denying mother's counsel's request to call previously undisclosed witness where witness was accessible to counsel for several months prior to hearing, case management order required witness disclosures no later than two weeks prior to hearing, and counsel failed to make request until the morning of closing arguments.

¶ 2 Respondent-Appellant Doris E. (Doris) appeals from the trial court's adjudicatory findings that her son was neglected and dependent pursuant to the Juvenile Court Act of 1987. Doris asserts that the trial court erred in denying her motion to call a previously undisclosed witness to testify at the adjudication hearing.

BACKGROUND

¶ 3 The circuit court of Cook County found the minor, Jeron H., neglected and adjudged Jeron a ward of the court. The precise issue on appeal concerns the trial court's denial of Doris' motion to call a caseworker from the Illinois Department of Children and Family Services (DCFS) as a witness at the adjudication hearing. The caseworker had not been disclosed as a potential witness to testify in support of Doris' argument that Jeron was not dependent due to Doris' neglect.

¶ 4 Jeron was born on August 14, 1997. His father, who is not a party to this appeal, resided in Minnesota at all relevant times and apparently had little involvement in Jeron's life.¹ The record reflects that Doris has a history of mental illness and substance abuse, including possible cocaine use while pregnant with Jeron. In 2010, for reasons not apparent from the record, Doris informally arranged for Jeron to live with a family friend, Ruby Jones. This arrangement was reflected in a January 5, 2010 letter signed by Doris in which she agreed to Jones taking custody of Jeron. There was no formal adoption, guardianship or other proceeding transferring parental obligations for Jeron from Doris to Jones.

¹The record reflects that Jeron informed Hartgrove Hospital staff in 2012 that he had not met his father. After the filing of the State's petition for adjudication of wardship, it was discovered that Jeron's father was incarcerated in Minnesota. Jeron's father remained incarcerated through the disposition of Jeron's case in March 2014.

¶ 5 According to DCFS records, Jones "ha[d] an extensive history involving DCFS investigations" regarding children in her care, including a 1992 incident in which her daughter was allegedly sexually abused by Jones' "paramour," separate investigations in 1994, 1995, and 1996 involving claims of "inadequate shelter and risk of harm" and "inadequate supervision" with respect to three of Jones' other children, and a 1996 allegation that one of Jones' sons had been sexually abused by "an unidentified perpetrator." There is no indication in the record that Doris had any knowledge regarding Jones' history with DCFS when she arranged for Jeron to live with Jones in 2010.

¶ 6 Doris apparently had little involvement with Jeron after he moved into Jones' home. The record does not reflect any problems with Jeron's living arrangement until June 2012, when Jeron came to the attention of DCFS. At that time, Jones' household included herself, Jeron, Jones' 16-year-old daughter, Jones' 24-year-old son Jarvis and his fiancé, the couple's two-year-old daughter (Jones' granddaughter), and a three-year-old boy whose relationship to Jones was "unclear" to DCFS.

¶ 7 On June 10, 2012, the police and DCFS were contacted after Jeron was allegedly found engaging in a sexual act with Jones' two-year-old granddaughter. On the same day, Jeron was hospitalized at Comer Children's Hospital with injuries he allegedly sustained from an altercation with the two-year-old's parents after they discovered the abuse.

¶ 8 After receiving the report of the incident, DCFS sex abuse investigator Bridgette Broadway spoke with Jeron and Jones at the hospital on June 10, 2012. According to Broadway, Jeron denied engaging in a sexual act with Jones' granddaughter but appeared "remorseful" and "sad." Broadway recalled that Jeron "didn't appear to understand why he was there. He just knew that something happened, something that he did not want to admit to happening."

¶ 9 Broadway observed that Jeron had bruising on his face. When she asked about his injuries, Jeron told Broadway "that he ran into a table or a wall but he never admitted that those bruises were inflicted from someone." Jeron repeatedly expressed his desire to return "home" to Jones' household, referring to Jones as his "Doris." Jeron threatened to kill himself if he was not permitted to return to Jones' home.

¶ 10 Broadway's investigation found no record of Jeron having psychiatric hospitalizations, problems in school, or violent behavior prior to the June 2012 incident. She also found no evidence of prior problems during Jeron's stay in Jones' household and in fact observed that Jeron and Jones "appeared to be bonded with each other."

¶ 11 Broadway also spoke with Jones at the hospital, where she learned that Jones was not related to Jeron but was a friend of Jeron's mother, Doris. Jones explained to Broadway that Jeron had lived with her since 2010 and showed Broadway the letter signed by Doris. Jones informed Broadway that, based on Jeron's alleged abuse of her granddaughter, she would no longer permit Jeron to live in her home. Broadway thus began "exploring other options on where [Jeron] could possibly be placed during the course of the investigation." As Jones had no formal obligation to care for Jeron, Broadway determined that Doris remained responsible for finding an alternative placement once Jones decided not to allow Jeron to stay in her home.

¶ 12 In Broadway's presence, Jones called Doris to inform her that Jeron was in the hospital. Broadway testified that Jones explained to Doris "what had taken place with [Jeron] and why they were at the hospital." While Jones had Doris on the phone, Broadway asked to "speak to [Doris] myself so I can explain to her why [DCFS] was involved." Broadway introduced herself to Doris over the phone and "began to explain to her why we were involved and that we were looking for placement for [Jeron]," and asked Doris if she could "come up with someone."

Broadway testified that Doris responded by "indicat[ing] that she was either dying her hair or drying her hair and then she hung up" on Broadway. Broadway testified the call was very brief. On cross-examination, Broadway acknowledged she had not specifically told Doris about the sex abuse incident involving Jones' granddaughter, but stated that Jones had informed Doris about the situation.

¶ 13 Because of Jeron's threats to harm himself, he was admitted to the Hartgrove Hospital, where he remained until August 24, 2012. DCFS records indicate that Doris visited Jeron at the hospital on one occasion in June 2012, but "Jeron seemed to be embarrassed," as Doris "was reportedly under the influence and was confrontational with another patient." On June 21, 2012, Doris was incarcerated on theft-related charges. There was no contact between Doris and DCFS from the time of her incarceration until after Jeron's discharge from Hartgrove Hospital in August 2012.

¶ 14 While Jeron was hospitalized, Broadway requested a DCFS clinical staffing report to formulate recommendations for Jeron. The clinical staffing meetings occurred on July 18 and 30, 2012, resulting in a "Psychiatric Hospitalization Clinical Summary and Discharge Care Planning" report based upon psychological evaluations and assessments conducted at Hartgrove Hospital. The DCFS report states that Jeron had been diagnosed with "attention deficit/hyperactivity disorder" and "borderline intellectual functioning," noting that Jeron's IQ score was 70. The report states Jeron had "difficulty with attentiveness and sitting still" and had been prescribed the psychiatric medications Risperdal and Adderall.

¶ 15 According to the DCFS report, "Jeron consider[ed] Ms. Jones his aunt and his only source of support." Although Jeron continued to deny that he had abused Jones' granddaughter, the report noted "Jeron's sexually inappropriate behavior *** appears to be motivated by sexual

desire" and "Jeron had little insight regarding appropriate sexual behavior and may be at risk of sexually acting out again." The report acknowledged there were "no known incidents of sexual misconduct in Jeron's history" and that the abuse of Jones' granddaughter "appears to be an isolated incident." Nevertheless, DCFS recommended that Jeron be placed in a group home "with outpatient sexual behavior services."

¶ 16 In anticipation of his discharge from Hartgrove Hospital in August 2012, DCFS again began looking for an appropriate placement for Jeron. Chicago police were initially expected to arrest Jeron once he was discharged, but Broadway testified that DCFS persuaded the police to "not arrest[] him at that time because of the clinical staffing and *** the [DCFS] recommendation" that a group home would be more appropriate than a juvenile detention facility.

¶ 17 DCFS again sought out Doris to assist in finding care for Jeron. In early August 2012, Broadway searched jail records and discovered that Doris had been incarcerated since June 21, 2012. Broadway did not attempt to contact Doris after discovering this fact. Rather, because Doris was incarcerated and Jeron's father had not yet been located, Broadway testified DCFS "had no other choice" but to take custody of Jeron.

¶ 18 On August 8, 2012, the State filed a petition under the Juvenile Court Act of 1987 (705 ILCS 405/2-3, 2-4 (West 2010)) for adjudication of wardship and a motion for temporary custody, alleging Jeron was neglected because he was not receiving "care necessary for his well-being," that his "environment [was] injurious to his welfare," and that he was at "substantial risk of physical injury" under sections 2-3(1)(a), 2-3(1)(b), and 2-3(2)(ii). The State also sought a finding that Jeron was "dependent" pursuant to section 2-4(1)(b) of the Juvenile Court Act "in that he is without proper care because of the physical or mental disability of his parent, guardian

or custodian." In particular, the petition alleged that Jeron's "care plan disrupted after he was psychiatrically hospitalized" and that Doris had "failed to create an alternative care plan" for Jeron. In an affidavit submitted with the petition, Broadway attested that Jones had refused to take Jeron back into her care and that Doris, Jeron's mother, was incarcerated.

¶ 19 After a hearing on August 9, 2012, the trial court granted DCFS temporary custody of Jeron and appointed the Cook County Public Guardian as Jeron's guardian *ad litem*. On August 16, 2012, Doris appeared and the court appointed the Public Defender of Cook County as Doris' attorney. After Jeron's discharge from Hartgrove Hospital on August 24, 2012, DCFS placed him into a residential group home facility, the Larkin Center in Elgin, Illinois.

¶ 20 On October 4, 2012, the State filed a separate delinquency petition against Jeron, alleging he was a delinquent minor on four counts related to the June 10, 2012 incident: aggravated criminal sexual assault, criminal sexual assault, aggravated criminal sexual abuse, and criminal sexual abuse. On January 4, 2013, the circuit court of Cook County entered an order under which Jeron admitted guilt to the count of criminal sexual abuse and the state declined to prosecute the remaining three counts.

¶ 21 According to a DCFS Family Service Plan dated February 20, 2014, Jeron was placed on probation and was required to register as a juvenile sex offender. That DCFS plan also states that "Jeron was placed at the Kane County Juvenile Detention Center" for an unspecified time. That DCFS report further states that "Jeron violated the conditions of his probation. The staff at Larkin [Center] reported an increase in sexual acting out" and "Jeron[s] aggressive behavior at the group[] home increased as well." As a result, "Jeron was stepped up to the Indian Oaks Academy in May 2013," a "more restrictive setting" than the Larkin Center.

¶ 22 On May 16, 2013, Doris' counsel filed a supplemental petition for adjudication of wardship. That petition did not seek custody of Jeron, but rather sought a finding that Jeron was dependent "through no fault, neglect, or lack of concern by his parents" under section 405/2-4(c) of the Juvenile Court Act. Doris' petition asserted: "Psychiatric personnel have diagnosed [Jeron] with impulse control disorder and attention-deficit hyperactivity disorder ***. Psychiatric personnel believe that [Jeron] will best receive the treatment that he requires in a group home setting to include outpatient sexual behavior services." Doris' petition also noted that Jeron had pleaded guilty to a charge of criminal sexual abuse stemming from the June 10, 2012 incident and contended that "[a]t all relevant times Ruby Jones was the legal guardian of [Jeron] and had the care, custody and control of the minor."

¶ 23 On August 2, 2013, the court entered a case management conference order (CMC) that set forth the parties' potential trial exhibits and witnesses and ordered the final disclosure of all witnesses to occur "2 weeks before trial." On August 30, the court amended the CMC to add certain as trial exhibits and one additional potential trial witness, a psychiatrist who had evaluated Jeron in June 2012. The CMC was not further amended prior to adjudication.

¶ 24 The adjudication hearing commenced on November 12, 2013. In its opening argument, the State contended that Doris had failed to make any effort to place Jeron after he was hospitalized in June 2012. The State argued that, contrary to Doris' theory of no-fault dependency, Jeron was "not aggressive" and lacked any history of psychiatric or behavioral problems. Doris' counsel argued that she had in fact "created an adequate care plan" for Jeron through the 2010 arrangement with Jones, and that its disruption by Jeron's abuse of Jones' granddaughter was out of Doris' control. Doris' counsel argued that Jeron's condition was "nothing that [Doris] could fix," noting Jeron "was in the psychiatric ward at Hartgrove Hospital"

and that Jeron "pled guilty to criminal sexual abuse." Doris' counsel thus "ask[ed] for a finding of Dependency C in this case, a no-fault dependency."

¶ 25 On November 12, 2013, the State called Broadway, the only testifying witness in the adjudication proceedings. Broadway described the events of June 10, 2010, including her conversations with Jeron and Doris as well as DCFS' clinical staffing recommendations in July 2012 and Jeron's placement in a group home after his discharge from Hartgrove Hospital. On cross-examination, Broadway acknowledged she had not attempted to contact Doris after the June 2012 phone call, even after she learned that Doris was incarcerated. Broadway also acknowledged that DCFS believed Jeron needed a group home with sexual behavior therapy, and could not simply return to live with Jones or a foster parent. On redirect, Broadway testified that Doris was nonetheless responsible to help determine an alternative care plan for Jeron once the arrangement with Jones was disrupted.

¶ 26 Following Broadway's testimony, the State published excerpts from DCFS findings that Jeron had no history of "sexually problematic behavior" and that the abuse of Jones' granddaughter "appears to be an isolated incident," as well as Hartgrove Hospital notes that Jeron had not been showing sexually inappropriate behavior. Doris' counsel published portions of the same records noting Jeron's diagnoses of impulse control disorder and attention deficit hyperactivity disorder, hospital entries indicating Jeron displayed impulsivity, agitation and aggression towards peers, and recommendations for his placement in a group home. After the parties concluded publication, the State indicated it would rest on the next court date.

¶ 27 Adjudication was continued to November 22, 2013. At the start of the proceedings on that date, the trial court indicated it was prepared to hear closing arguments. Doris' counsel then made an oral motion to amend the CMC to add an additional witness, Deborah Perkins. Doris'

counsel stated that Perkins "has been [Jeron's] caseworker since this case came in." The State objected to the addition of the witness, arguing that "it's improper to amend the case management [order] and add a new witness in the middle of trial." The State also argued that since Perkins had only been involved in Jeron's case after the State's petition, her testimony "would be post-temporary custody and arguably not relevant."

¶ 28 Doris' counsel claimed that "this information has come to my attention today" and that there would be "no prejudice" in adding this witness since counsel for the State and Jeron's guardian *ad litem* had "had an opportunity to speak with the caseworker regarding this new information." Doris' counsel further argued that Perkins' testimony would be relevant to the State's position that the June 2012 abuse was an "isolated incident," as Perkins "ha[d] information that since temporary custody was taken the minor has participated in more sexually inappropriate behavior." Specifically, Doris' counsel contended that Perkins would testify "that [Jeron] was not allowed to return to the Larkin Center because of his acting out behaviors and he is now in a center which provides treatment to those minors who have sexually inappropriate behavior ***."

¶ 29 The State disputed Doris' counsel's characterization of Perkins' proposed testimony, arguing that on the contrary, Perkins would testify "that there [has] not been any inappropriate sexually acting out behavior[]" and that Jeron "has not perpetrated on any other children since this case came into the system." Moreover, the State argued that the proposed testimony was "not new information" but could have been learned months earlier. The State argued that if Doris' counsel "just found out today, that's not due diligence and she shouldn't be allowed to bring on a witness in the middle of trial ***."

¶ 30 The trial court asked for clarification about the time frame of the behavior to be described in Perkins' testimony. Doris' counsel responded that the alleged behavior occurred at Jeron's group home placement following the Larkin Center, which "would've been occurring in April -- in May of 2013." The trial court asked Doris' counsel when she had discovered this information, and counsel responded she had "just found out" when she "talked to the worker about it today."

¶ 31 The court noted that earlier in the case there had been testimony and requests for records pertaining to other facilities where Jeron had stayed, as well as Hartgrove Hospital records. The court reasoned that "if there were issues that [Doris' counsel] thought were worth pursuing or investigating because of the emotional state of the minor that's something [Doris' counsel] definitely could have done prior to *** adjudication." The court concluded that it was too late to add the witness, as the case was "in preparation for adjudication and the parties could've made certain inquiries to see what's the behavior of the minor in light of the whole history" of the case. Thus, the court "respectfully denied" Doris' request to call Perkins as a witness at that late point in the proceedings.

¶ 32 After denial of this request, the parties presented closing arguments. The State argued for a finding of dependency "because of the physical or mental disability of his parent" under section 2-4(b) of the Juvenile Court Act, as well as "neglect injurious environment, abuse substantial risk of physical injury," and "neglect lack of care for lockout." The State argued dependency was established by the fact that Doris was incarcerated and thus incapable of caring for Jeron upon his discharge from Hartgrove Hospital. As to the allegations of neglect, the State first argued that Doris' placement of Jeron with Jones, who herself had a history of "inadequate supervision of her own children," created an injurious environment. The State also argued this was a "lockout" situation warranting a finding of "lack of care" since Doris had refused to speak with

DCFS about finding an alternative care plan for Jeron in June 2012. The State noted that Jones had "no legal responsibility for" Jeron and that Doris was responsible for finding an alternative care plan, yet she "did not make any attempts, even after she became incarcerated, to reach out and figure out what was going to happen to her son."

¶ 33 The State further argued that the sex abuse of Jones' granddaughter was "an isolated incident" as Jeron had no history of psychiatric diagnoses or "acting out behavior." The State suggested that due to his "cognitive difficulties" Jeron did not realize that what he did was wrong, noting that Jeron had exhibited "no inappropriate sexual behavior" during his subsequent hospitalization.

¶ 34 The State argued that a finding of no-fault dependency under section 2-4(1)(c) of the Juvenile Court Act, as sought by Doris, "requires that a parent show efforts, attempts to stabilize a minor with such behavioral difficulties," yet Doris had made no such attempts in 2012. On behalf of Jeron, the public guardian concurred with the State, arguing that Doris was "the only person that has a legal relationship with Jeron," and thus it was her responsibility "to find another suitable placement or care plan for Jeron" after the arrangement with Jones broke down.

¶ 35 Doris' counsel argued that Doris had in fact made a "care plan" for Jeron through the arrangement with Jones in 2010, only to have it disrupted in June 2012 by Jeron's actions. Doris' counsel also argued Doris was "not given an adequate opportunity to create a care plan" following the abuse incident, as no one from DCFS reached out to Doris after June 10, 2012. Seeking a finding of no-fault dependency, Doris' counsel argued that any attempts to find alternative placement by Doris would have been moot, since DCFS had determined that Jeron needed a group home with sexual behavior therapy, and the police were otherwise prepared to place him in juvenile detention. Doris' counsel also disputed that the June 2012 abuse was an

"isolated incident," given the propensity for sex offenders to reoffend, and argued that no appropriate care plan could have been made for Jeron since his psychiatric condition placed him "beyond the control of a parent." After conclusion of arguments on November 22, 2013, the court took the matter under advisement.

¶ 36 The trial court announced its findings on December 4, 2013. Citing the evidence that "when Doris was, in fact, notified about the need for her to take care of the minor," she "hung up the phone," the court agreed with the State "that there needed to be efforts to stabilize the situation" and "this was, in fact, [Doris'] responsibility." Finding that the State had proven its allegations by a preponderance of the evidence, the court made findings as to neglect due to lack of care necessary and injurious environment, abuse due to substantial risk of injury, as well as a finding of dependency under section 2-4(1)(b) of the Juvenile Court Act. The court specifically rejected Doris' argument that she bore no fault for Jeron's dependency as outlined in section 2-4(1)(c). The court's written adjudication order of December 4, 2013, found that Jeron's "care plan [was] disrupted when he became hospitalized" and that Doris "made insufficient efforts to stabilize the situation" and "failed in her responsibility to create a care plan."

¶ 37 The disposition hearing occurred on March 25, 2014, beginning with testimony from Deborah Perkins, whose testimony had not been allowed at the adjudication hearing. Perkins testified that Jeron's placement at Larkin Group Home had been disrupted due to Jeron's aggressive behavior and sexually acting out, and thus Jeron had been moved to the Indian Oaks residential treatment facility. Perkins testified Jeron was "doing much better" academically and behaviorally at Indian Oaks, without further instances of sexual misbehavior.

¶ 38 Perkins also testified that Doris, who was on probation for theft, had visited Jeron and had been complying with DCFS services including substance abuse treatment. Although Doris'

visits with Jeron had been without incident, Perkins testified that a home environment was not yet appropriate for Jeron and recommended that DCFS place him in a group home after his anticipated discharge from Indian Oaks. The court also heard testimony from Donisha Diggs, Doris' social worker. Diggs testified that Doris had complied with the terms of her probation, including a drug treatment program, and was planning to "transition back into the community." Doris also testified that she planned to move to her own apartment, had been visiting Jeron regularly, and hoped for Jeron to live with her "[w]hen he's ready."

¶ 39 After the conclusion of testimony, the State asked that Jeron be adjudged a ward of the court and that DCFS director Debra Dyer-Webster be appointed Jeron's guardian. Doris' counsel agreed that a home environment was not yet appropriate for Jeron and asked "for a finding [Doris] has made substantial progress and she is unable only at this time as a result of Jeron not being able to return home to a home environment." On March 25, 2014, the trial court entered a permanency order finding that a home environment was not appropriate and that Jeron's parents were unable to care for him, as well as a disposition order adjudging Jeron a ward of the court. Doris filed a timely notice of appeal with this court on March 26, 2014; thus we have jurisdiction.

¶ 40 ANALYSIS

¶ 41 Doris' appeal does not argue that the evidence was insufficient to support the trial court's findings. Rather, her appeal is limited to the issue of whether the trial court erred in refusing to permit her to call Perkins, a previously undisclosed witness, to testify at the adjudication hearing on November 22, 2013. Doris claims that the denial of her oral motion constitutes error that entitles her to a new adjudication hearing.

¶ 42 At the outset, we note that the deferential abuse of discretion standard applies to our review of the trial court's decisions on the admissibility of evidence as well as the trial court's decision to bar the testimony of a witness who was not timely disclosed. "Under the [Juvenile Court] Act, the rules of evidence in *** civil proceedings are applicable to the adjudicatory hearing." *In re Kenneth D.*, 364 Ill. App. 3d 797, 803 (2006). "Whether evidence is admissible is within the discretion of the circuit court, and its ruling will not be reversed absent an abuse of that discretion." *Id.*

¶ 43 Similarly, under Illinois Supreme Court Rule 219(c), a trial court may "bar[] a witness from testifying at trial, when a party fails to abide by witness disclosure rules." *Klingelhoets v. Charlton-Perrin*, 2013 IL App (1st) 112412, ¶ 38. Our supreme court has instructed that "[i]n determining whether the exclusion of a witness is a proper sanction for nondisclosure, a court must consider the following factors: (1) the surprise to the adverse party; (2) the prejudicial effect of the testimony; (3) the nature of the testimony; (4) the diligence of the adverse party; (5) the timely objection to the testimony; and (6) the good faith of the party calling the witness." *Sullivan v. Edward Hospital*, 209 Ill. 2d 100, 110 (2004). "The decision whether or not to impose sanctions lies within the sound discretion of the trial court, and that decision will not be reversed absent an abuse of discretion." *Id.*; *Klingelhoets*, 2013 IL App (1st) 112412, ¶ 38 ("the ultimate decision regarding the admissibility of evidence lies within the sound discretion of the trial court and will not be reversed unless that discretion was clearly abused.") "An abuse of discretion exists where no reasonable person would agree with the position of the trial court." *Brax v. Kennedy*, 363 Ill. App. 3d 343, 355 (2005).

¶ 44 Weighing the relevant factors here, the trial court's decision not to permit Perkins' testimony was certainly reasonable and not an abuse of discretion. First, there is no doubt that

Doris' last-minute motion to call Perkins as a witness resulted in surprise. The CMC explicitly stated that witness disclosures were to be finalized two weeks prior to the start of the adjudication hearing. As the hearing commenced November 12, 2013, the latest time to disclose while in compliance with CMC would have been late October, over three weeks prior to the November 22, 2013 oral motion. Moreover, at no point during the first day of the adjudication proceedings on November 12, 2013, did Doris' counsel indicate that she anticipated calling any witnesses whatsoever. The record of proceedings makes clear that, as the State had presented its sole witness on November 12, 2013, it was the court's and the parties' understanding that the proceedings on November 22, 2013, would be limited to closing arguments. In other words, the proceedings were coming to an end at that date. As Doris' counsel acknowledged to the trial court that she had just learned of the "new information" from Perkins that morning, it can be inferred that she was surprised. Thus it can also be concluded that the motion must have been a surprise to the other parties as well.

¶ 45 Similarly, the last-minute disclosure of Perkins would certainly have prejudiced the other parties. Although Doris argues that any prejudice was lessened by the fact that the State had not yet rested its case, it is clear that the parties and the court did not anticipate any further witnesses following the testimony of Broadway, the State's only witness, on November 12, 2013. The surprise introduction of Perkins' testimony, had it been permitted, could certainly have prejudiced the State and public guardian.

¶ 46 Neither the record nor Doris' arguments on appeal suggest any reason that her counsel could not have discovered the information months earlier. In considering the factors outlined above as discussed by our supreme court in *Sullivan*, 209 Ill. 2d at 110, *only the nature of the testimony* is even remotely within the realm of favorable consideration regarding Doris' motion.

However, any minimally favorable consideration given to that factor is vastly and quickly outweighed by the obvious lack of diligence and the unfair element of surprise which would occur had this untimely motion been allowed by the trial court.

¶ 47 We note that after the State presented its only witness on November 12, 2013, but prior to the date set for closing argument on November 22, 2013, Doris' counsel made no attempt to alert the court or the other parties to this potential witness at any point in time before the adjudication hearing was essentially at its end. There is no reasonable explanation in the record nor in Doris' argument on appeal for this glaring lack of diligence.

¶ 48 Accordingly, we do not find that the trial court abused its discretion in denying Doris' motion to call Perkins as a witness on November 22, 2013.

¶ 49 For the foregoing reasons, the judgment of the circuit court of Cook County is affirmed.

¶ 50 Affirmed.