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2014 IL App (3d) 130493-U

Order filed January 22, 2014

IN THE

APPELLATE COURT OF ILLINOIS

THIRD DISTRICT

A.D., 2014

<i>In re</i> S.W.,)	Appeal from the Circuit Court
)	of the 10th Judicial Circuit,
a Minor,)	Peoria County, Illinois,
)	
(The People of the State of Illinois,)	
)	
Petitioner-Appellee,)	Appeal No. 3-13-0493
)	Circuit No. 13-JA-15
v.)	
)	
L.W.,)	
)	Honorable Mark E. Gilles,
Respondent-Appellant).)	Judge, Presiding.

JUSTICE SCHMIDT delivered the judgment of the court.

Presiding Justice Lytton and Justice Wright concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court did not abuse its discretion when denying respondent's motion to continue.

¶ 2 Respondent, L.W., appeals from an order of the circuit court of Peoria County denying her motion to continue a dispositional hearing in this child neglect case. She claims the trial court abused its discretion when refusing to grant her continuance. We affirm.

¶ 3

BACKGROUND

¶ 4 The minor, S.W., was born in December of 2012. On January 15, 2013, the State filed a petition alleging the minor to be neglected. The petition notes that respondent previously had numerous children removed from her care and has a long history of mental health problems. The State alleged that respondent, despite claiming she stopped taking certain drugs during pregnancy, "was taking Klonopin and handfuls of other pills and Klonopin is passed through breast milk and is dangerous to minors who breast feed and the minor wanted to breast feed even after being warned."

¶ 5 The petition also alleges the respondent was not able to follow directives of the medical staff regarding the minor's care, has an unstable housing situation and refused to provide the father's name for an unreasonably long period of time. Based upon these facts, the State claimed S.W. is neglected.

¶ 6 Respondent originally answered the petition by denying the allegations therein. Later, however, respondent stipulated that the State could prove the allegations in the petition. At the initial court hearing, the trial court scheduled the adjudication hearing for April 12, 2013. Numerous subpoenas then issued for records from various medical providers.

¶ 7 Respondent did not appear at the April 12, 2013, hearing, causing her attorney to request "a continuance due to the mother's absence for unknown reason." The trial court granted the continuance, setting the adjudicatory hearing for April 26, 2013.

¶ 8 The adjudication order indicates that on that date, the trial court found the petition proved by a preponderance of the evidence. The order states that the State made a "detailed proffer – including medical records of mother and minor." The court then set the matter for a May 24,

2013, dispositional hearing and ordered respondent to cooperate with the Illinois Department of Children and Family Services (DCFS).

¶ 9 As the May 24, 2013, dispositional hearing began, respondent moved to continue it, claiming "she was seen by two different doctors in May and their reports have not been received yet." The State did not object to respondent's motion to continue. The trial court then continued the hearing for June 21, 2013.

¶ 10 Respondent appeared with counsel at the June 21, 2013, dispositional hearing. She made an oral motion to continue the matter, informing the court that she still had not received medical records from certain mental health providers, which she felt would assist her at the hearing. The specific reports were identified as those from Shanna Kurt for neuropsychological testing.

¶ 11 The State objected as did the guardian *ad litem*. The State commended respondent for taking steps which will be critical in "terms of ongoing services," but claimed that such reports are not necessary for the dispositional hearing. The State claimed that it would be contrary to the best interests of the child to prolong the dispositional hearing for receipt of every possible medical record of the mother. The guardian *ad litem* agreed. The trial court then discussed the time sensitive nature of a dispositional order and informed respondent that she could direct any new evidence toward the court upon its receipt. However, the court denied her motion and continued with the hearing.

¶ 12 Ultimately, the trial court found respondent to be unfit due to "long standing mental health issues which resulted in her being unable to raise 5 prior children, erratic behavior in the hospital at time of birth of this child and general mental instability." The court ordered S.W. a

ward of the court and directed custody to be with DCFS. Respondent filed her notice of appeal on June 26, 2013. This appeal followed.

¶ 13

ANALYSIS

¶ 14 Respondent's sole claim on appeal is that the trial court abused its discretion when denying her motion to continue.

¶ 15 There is no absolute right to a continuance. *In re D.P.*, 327 Ill. App. 3d 153, 158 (2001). Illinois recognizes that serious delay in the adjudication of neglect cases can cause grave harm to the minor. 705 ILCS 405/2-14 (West 2010). It is within the juvenile court's discretion whether to grant or deny a continuance and the court's decision will not be disturbed absent manifest abuse or palpable injustice. *In re K.O.*, 336 Ill. App. 3d 98, 104 (2002).

¶ 16 Section 2-22 of the Juvenile Court Act of 1987 (the Act) states that "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." 705 ILCS 405/2-22 (West 2010).

¶ 17 The record on appeal indicates that the State removed S.W. from respondent's home on January 16, 2013. At the start of the June 21, 2013, dispositional hearing, more than six months later, respondent moved for a continuance. Clearly, section 2-22 of the Act restricted the circuit court's authority to grant such a continuance.

¶ 18 Moreover, having reviewed the transcript of the dispositional hearing, we find no argument from respondent on how or why she was prejudiced by the denial of her motion to continue. While respondent voiced her desire to obtain certain medical records, the State claimed that sufficient evidence existed to allow the court to make a dispositional ruling.

Respondent never explained to the trial court or to this court, how the records she sought would

have impacted the trial court's order. She makes no argument that the records somehow would have changed the outcome of the dispositional hearing.

¶ 19 The denial of a request for continuance is not a ground for reversal unless the complaining party has been prejudiced by such denial. *In re K.O.*, 336 Ill. App. at 104.

Respondent simply has made no argument that the trial court's denial of her motion to continue prejudiced her in any way.

¶ 20 CONCLUSION

¶ 21 For the foregoing reasons, the judgment of the circuit court of Peoria County is affirmed.

¶ 22 Affirmed.