

No. 1-15-0223

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IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

In re DANGELO M. and DJAMYLAH P., Minors,)
)
 Minors-Respondents-Appellees,) Appeal from the
) Circuit Court of
 (The People of the State of Illinois,) Cook County.
)
)
 Petitioner-Appellee,) No. 14 JA 405-06
)
)
 v.)
)
 Angelique P.,) Honorable
) Peter Vilkelis
 Respondent-Appellant.)) Judge Presiding.

JUSTICE McBRIDE delivered the judgment of the court.
Presiding Justice Palmer and Justice Reyes concurred in the judgment.

ORDER

¶ 1 *Held:* The circuit court's findings that the minors were abused and neglected were not against the manifest weight of the evidence, where the record showed that respondent was under the influence of drugs and alcohol while caring for the minors, she had been consistently unable to make progress toward correcting her serious substance abuse issues, and she had been observed behaving aggressively towards one of the minors on multiple occasions.

¶ 2 The circuit court of Cook County adjudicated the minors, Dangelo M. and Djamylah P.,¹ wards of the court based on findings of abuse (substantial risk of physical injury (705 ILCS 405/2-3(2)(ii) (West 2012)) and neglect (injurious environment (705 ILCS 405/2-3(1)(b) (West 2012))). Respondent, Angelique P., the natural mother of the minors, appeals from the circuit court's findings of abuse and neglect, and argues that these findings were against the manifest weight of the evidence. George M., the father of the minors, is not a party to this appeal.

¶ 3 The record shows that on April 18, 2014, the State filed petitions for adjudication of wardship and motions seeking temporary custody of the minors, Dangelo (born April 1, 2012) and Djamylah (born August 26, 2013). Those petitions alleged that respondent had two prior indicated reports for inadequate supervision and substantial risk of harm, and that respondent had pleaded guilty to endangering the health and life of a child on September 24, 2010. They further stated that respondent had another minor child who was in the custody of the Department of Children and Family Services (DCFS), that she was noncompliant with services including substance abuse treatment and therapy, and that she tested positive for marijuana and alcohol on a regular basis. The petitions also alleged that respondent had been diagnosed with bipolar disorder and manic depression, but was noncompliant with her psychiatric care including medication. The petition concerning Dangelo specifically alleged that respondent had been observed being aggressive and inappropriate toward him, whereas the petition relating to Djamylah alleged that respondent had been observed being aggressive and inappropriate toward her sibling.

¹ We note that the minor's names have been spelled in a variety of different ways in the briefs and in the record. We will refer to the minors by their names as spelled in the petitions for adjudication of wardship.

¶ 4 The circuit court entered a temporary custody hearing order, and placed both minors in the custody of the DCFS guardianship administrator. A hearing on the State's petitions took place on September 16, 2014, and October 22, 2014, at which time the following evidence was adduced based on the testimony and exhibits, including a list of prior indicated reports² and therapy reports.

¶ 5 The record shows that DCFS became involved with respondent and her family before the births of either minor in this case, beginning with an August 1, 2010, indicated report which related to the minors' older sibling, Delilah. The report alleged that respondent was pushing Delilah in a stroller, while she was too intoxicated to control it. Respondent almost let the stroller roll into traffic, and she was arrested for child endangerment. The month following this incident, Julia Levy was assigned by Lawrence Hall Youth Services as a case manager relating to Delilah.

¶ 6 Thereafter, an integrated assessment was completed, and service plans were developed which required respondent to participate in substance abuse treatment, psychiatric treatment, individual therapy, parent-child therapy and domestic violence services. Initially, respondent engaged in those services, and was in contact with Ms. Levy "at least weekly" as Ms. Levy was "facilitating visitation."

² An indicated report is one made pursuant to the Abused and Neglected Child Reporting Act (Reporting Act), where it is determined after investigation that credible evidence of abuse or neglect exists (325 ILCS 5/3 (West 2010)). Section 2-18(4)(b) of the Juvenile Court Act of 1987 provides that any indicated report filed pursuant to the Reporting Act shall be admissible in evidence at the adjudicatory hearing. 705 ILCS 405/2-18(4)(b) (West 2010).

¶ 7 At some point, respondent became pregnant and indicated to Ms. Levy that she was no longer willing to take her psychotropic medication. Ms. Levy did not object or take issue to respondent discontinuing the medication during her pregnancy.

¶ 8 On January 25, 2012, Delilah was adjudicated a ward of the court based on findings on abuse (substantial risk of physical injury (705 ILCS 405/2-3(2)(ii) (West 2012)) and neglect (injurious environment (705 ILCS 405/2-3(1)(b) (West 2012)). The factual basis for the findings indicated that respondent had two indicated reports with the Department of Children and Family services (DCFS), and that she had "failed to address substance abuse and mental health issues through intact services." Additionally, respondent "was observed to be aggressive with [Delilah], intoxicated while caring for [Delilah] and engaged in altercation while caring for [Delilah]." On March 27, 2012, the circuit court entered a dispositional order regarding Delilah, finding respondent unable to care for her, and placing her under DCFS guardianship.

¶ 9 A few days later, on April 1, 2012, the minor Dangelo was born. Following his birth, Ms. Levy's responsibilities increased to include monitoring respondent's ability to parent and provide for Dangelo's needs, making sure there were no safety issues, and continuing to ensure that respondent was complying with the necessary services. Ms. Levy testified that after Dangelo's birth, respondent resumed taking her medication.

¶ 10 Michelle Tipre testified that she is a Lawrence Hall family support specialist. On July 16, 2012, while Dangelo was in respondent's care, Ms. Tipre went to pick up Delilah from an unsupervised visit with respondent. When she arrived at respondent's home, respondent was not there. Ms. Tipre called and texted respondent, but received no response. Eventually, respondent's paramour called Ms. Tipre, and she went to meet them at 115th Street and Michigan Avenue. When she arrived, Ms. Tipre heard respondent's paramour tell her to "sit down, she's too drunk,

and he's got it." He brought Delilah to Ms. Tiptre's car, buckled her in, and said "I'm not saying anything." Ms. Tiptre saw that respondent was sobbing profusely, her eyes were red, and she could not walk in a straight line. Respondent was slurring her words and "kept saying she was fine, she was fine." Ms. Tiptre also observed that respondent attempted to put her arm on the car's window ledge, but "completely missed it." Following this incident, an indicated report was filed concerning Dangelo, which alleged that the reporter believed respondent was so intoxicated that she was not able to care for him.

¶ 11 According to Ms. Levy's testimony, respondent's unsupervised visits with Delilah were suspended as a result of this incident, and respondent was immediately enrolled in an inpatient substance abuse treatment program at Haymarket. While at Haymarket, respondent would attend appointments for medication management, but would not take the prescribed medication. Respondent was successfully discharged in October 2012, with a recommendation of continued outpatient treatment.

¶ 12 Around the beginning of 2013, Ms. Levy learned that respondent was pregnant. Respondent again stated that she would be discontinuing her medication during her pregnancy, and Ms. Levy did not object. Although she denied using marijuana at that time, in March 2013 respondent tested positive for that substance in a random toxicology screen.

¶ 13 Also in March 2013, respondent began meeting with therapist Megan France, from whom she received in-home parenting coaching. Over the course of their therapeutic relationship, Ms. France authored a number of reports, which related respondent's history, including her diagnoses of bipolar disorder and depression, and her struggles with substance abuse. In June 2013, Ms. France wrote in one report that respondent "struggled to work towards meeting treatment plan goals *** due to [respondent's] lack of emotional stability and the instability within her home

environment, *** as well as her lack of trust in [Ms. France]." She observed that respondent "exhibits care and concern for both of her children, and can engage with them in an appropriate manner when she appears calm or focused. However, when triggered to anger or distracted by various sources of stress in her life, *** [respondent] loses her awareness of her children and her ability to attend to their needs and maintain their level of safety becomes compromised." Ms. France recommended that respondent participate in individual therapy services.

¶ 14 Ms. Levy testified that around June of 2013, she saw gauze on Dangelo and became aware that he had been treated for a burn. Respondent acknowledged that Dangelo had a burn that had been treated, and that she did not seek treatment for the burn until she was directed by Ms. France to do so. Respondent's explained to Ms. Levy that her brother, who was living at the home, left a hot iron on the floor, and Dangelo "must have run into it or something." The incident was investigated, but it was subsequently determined to be "accidental."

¶ 15 After Djamyah's birth on August 26, 2013, efforts were made to engage respondent in medication management, psychiatric care, and substance abuse services. In the report dated September 25, 2013, Ms. France indicated that respondent had transitioned from receiving parent coaching services to individual therapy in July 2013. Ms. France wrote that she was:

"aware that [respondent] has not gone consistently to NA/AA meetings over the past three months and it is important that she begin to attend these meetings consistently in order to gain the support and assistance she needs to maintain sobriety. [Respondent's] ability to work towards sobriety and address her patterns of substance abuse will determine whether or not she can continue to make progress in therapy."

¶ 16 Ms. Levy testified that throughout September, October and November of 2013, respondent periodically acknowledged using either cannabis or alcohol. Respondent did not comply with every request for "drops" by her Treatment Alternatives for Safe Communities (TASC) worker, and a TASC report dated November 20, 2013, indicated that every time she was tested between November 20, 2013, and April 3, 2014, respondent tested positive for cannabinoids, alcohol, or both.

¶ 17 In Ms. France's January 23, 2014, report, she wrote that respondent "struggled to make progress toward her treatment goals due to several cancelled appointments, a lack of engagement in services, and continuing problems with alcohol and substance abuse." She concluded that it was not appropriate for respondent to engage in further individual therapy, "as she requires substance abuse services and has consistently been unable to make progress since beginning therapy services," but that once respondent completed substance abuse treatment, "it may be appropriate to re-engage in therapy to address her mental health concerns and involvement in the child welfare system."

¶ 18 In February of 2014, Ms. Tipre supervised a visit between respondent and Delilah at a McDonald's restaurant. Ms. Tipre testified that Dangelo was present for this visit, and possibly Djamyah as well. During the visit, respondent began yelling at Dangelo when he was not listening, and she told Ms. Tipre that she could not handle him and that "DCFS should just take him."

¶ 19 On March 5, 2014, Ms. Tipre supervised another visit between respondent and Delilah at McDonald's. During that visit, Dangelo, who was then 23 months old, kept getting up from his seat and running around. Respondent "kept yelling at him, cursing him to sit down, and then she smacked his hand." Dangelo stopped his activity briefly, and then continued. At one point,

Dangelo slid off a bench seat where he was sitting next to respondent, and landed on the floor. Respondent "open-hand slapped his leg, and picked him up, told him to sit down, and called him a stupid dummy." After another ten minutes, when Dangelo continued to run around, respondent yelled at him, and Dangelo "fell on his stomach right by her, and [respondent] punched his back." Dangelo whined for a few seconds, but Ms. Tipre did not see any behavior that indicated continued pain. Ms. Tipre told respondent that she knew she was frustrated with Dangelo, but that she should not hit him. Respondent then appeared to calm down. The record contains an indicated report dated March 5, 2014, regarding this incident.

¶ 20 Respondent testified that she remembered the March 5, 2014, visit, and that she was there with Ms. Tipre, Dangelo and Djamylah. Respondent recalled that Dangelo fell off the seat during the visit, and that she told him to sit down. Dangelo sat for "a few seconds" and then returned to "[j]ust basically doing whatever [Dangelo] wants to do." Respondent testified that Dangelo "runs around all day. He's very playful, and he's just very energetic," and sometimes she had to "calm[] him down."

¶ 21 During the visit, Ms. Tipre was "trying to give [her] some advice on how to redirect the children if they were not listening" and got out some crayons and colorings books or paper. The advice helped her and she later bought some coloring books to use during visits. On cross-examination, respondent stated that she did not think she did anything wrong during the visit.

¶ 22 Ms. Levy testified that during the investigation of the March 5, 2014, report, it was discovered that there had been a "charge" of domestic violence between respondent and her paramour, Benjamin Williams, who lived with respondent and who respondent identified as "an adult in the home assisting her with the provision of care" for the minors. Although respondent

denied the existence of a domestic violence issue, Ms. Levy testified that it would not be appropriate for an "abusive spouse" to be monitoring the safety of the minors in the home.

¶ 23 At some point, respondent filed a complaint for administrative review, seeking to have Delilah returned to her. Assistant Attorney General Patricia Llcase testified that she was assigned to the Child Welfare Litigation Bureau and represented DCFS in those proceedings. On March 13, 2014, respondent mistakenly appeared at Ms. Llcase's office on the date of a status hearing, and respondent and Ms. Llcase walked over to the courthouse together. Ms. Llcase testified that respondent had a child with her who appeared to be about two years old.

¶ 24 After the parties appeared before the court and the court indicated that it would set a briefing schedule, Ms. Llcase left the courtroom to consult with respondent about dates. Ms. Llcase testified that respondent appeared to be "very angry" and she:

"slammed her telephone down on the bench that's outside the courtroom, and she also slammed the snack tray [*sic*] on the stroller. The baby was sitting in the stroller, and she slammed it down very hard in front of him and was screaming at him. *** She told him to shut the f*** up. She said, 'Shut up you little f***.' She said 'I'm going to beat your a*** when we get home.' She was screaming so loudly that the bailiff from inside the courtroom came out to see if everything was okay."

As respondent was screaming and using profanity, the child was "[v]ery quiet, his eyes were wide open looking at her. He looked petrified."

¶ 25 Ms. Llcase told the bailiff that she did not think that everything was okay because she believed respondent was out of control. Ms. Llcase tried to calm respondent, and told her that he was a small child, and that everyone needed to take a deep breath. Respondent said "no, *** he

is not eating his snack, or he wasn't drinking his juice." Ms. LlCasa believed that respondent was "justifying her anger" but that her behavior did not appear to be in response to anything the boy did. After speaking more to respondent, she learned that she "didn't want to write a brief, or the schedule wasn't working for her" so they reappeared before the court. Once inside the courtroom, respondent was "still somewhat angry," and was getting frustrated with the boy, who was wiggling in his stroller. Respondent began "grabbing him very harshly *** by his arms, pulling him up in the stroller." After hearing respondent's requests, the court eliminated the briefing schedule and set the matter for a hearing.

¶ 26 Ms. LlCasa was "very worried for the baby's safety" and contacted her supervisor, who came over to the courthouse. The sheriff, who had been contacted by the bailiff, also arrived and stayed with respondent while the order was entered. They "all made sure [respondent] was kind of calmed down" before leaving. Ms. LlCasa testified that her interaction with respondent ended after she gave her a copy of the order and told her that she had a "very cute son."

¶ 27 Meanwhile, in February 2014, respondent agreed to enter treatment, and went for an "evaluation and assessment" sometime that month. She was referred to an intensive treatment service, and made an appointment to go there on March 11, 2014, but when Ms. Levy spoke with respondent a few days later, she learned that respondent had failed to attend the appointment. Thereafter, respondent reported to Ms. Levy that she had attended an intake session on April 16, 2014. She began receiving mental health services on that date, but not substance abuse treatment. Respondent told Ms. Levy that she did not like the man who was in charge of the substance abuse treatment, but that she "was still going to go and participate." Respondent eventually attended substance abuse treatment on April 26, 2014, but was unsuccessfully discharged on May 5, 2014.

¶ 28 Ms. Tipre continued to supervise respondent's visitation with Delilah until around the time the temporary custody order was entered. She had continual concerns about respondent's ability to redirect Dangelo, and testified that respondent regularly commented that he was "irritating her, giving her headaches, she can't handle him, [and] his dad should just take him." During the cross-examination of Ms. Levy, she testified that she was periodically monitoring whether respondent was "providing the necessities," and acknowledged that Dangelo had sufficient food, a bed, "safety necessities," and medical care.

¶ 29 At the close of evidence and argument, the court specifically referenced Dangelo's burn, and found that it "sp[oke] volumes of the environment in which the child lived; and in this Court's view, it was an injurious environment." The court noted that respondent seemed to be bothered by "typical, ordinary, every-day frustrations," and that "when things don't go [respondent's] way, either due to her mental health issues or her substance abuse issues, she gets frustrated. And the evidence is, when she gets frustrated, her children can be in trouble."

¶ 30 The court further noted that the reports of respondent's behavior were situations in which she was in public and being monitored, and that she:

"acted the way she acted in a court of law *** in front of sheriffs, lawyers and a judge; she acted this way in front of a worker *** who is there to monitor visits.

*** And if this is how respondent acts when she knows she is being observed,

*** [s]he strikes the child. She yells at the child. She swears at the child. She calls the child names.

That is the definition of an injurious environment. That is the very definition of abuse substantial risk of physical injury."

¶ 31 The court entered adjudication orders for both minors, entering findings of neglect (injurious environment), and abuse (substantial risk of physical injury), and found that the abuse or neglect was inflicted by respondent. Following a dispositional hearing, the court determined that respondent was presently unable, for some reason other than financial circumstances alone to care for, protect, train or discipline the minors, and concluded that it was in the best interest of Dangelo and Djamylah to be placed in the guardianship of the DCFS guardianship administrator.

¶ 32 Respondent filed a notice of appeal, and in this court contends that the State's "theory of the case" based on "the doctrine of anticipatory neglect" was not sufficient to support the court's findings of abuse and neglect. She maintains that there was "little evidence during the two years prior to [the temporary custody order] to erect a case for neglect" and, as a result, the State needed to "reach back in the past to a time prior to the births of [the minors], and argue a theory of anticipatory neglect." Respondent acknowledges that:

"[t]here can be no dispute that [respondent's] use of profanity is uncivil, and especially should not be stated in front of children. It is also without doubt that [respondent] should not smack with an open hand her child as a tool to change behavior; nor should [respondent] have punched D[a]ngelo on his back, when he fell on the floor on his stomach while running around. Yet the totality of evidence during the two years in which the lives of D[a]ngelo and D[j]amylah are examined do not establish that they have been neglected."

¶ 33 The State and minors respond that this is a proper case for the use of the anticipatory neglect doctrine, and that even without the evidence showing respondent's prior abuse and neglect of Delilah, there was substantial evidence showing abuse and neglect related specifically to the two minors at issue here.

¶ 34 The Juvenile Court Act of 1987 provides a “step-by-step process used to decide whether a child should be removed from his or her parents and made a ward of the court.” *In re Arthur H.*, 212 Ill. 2d 441, 462 (2004). After a petition for wardship has been filed and a child has been placed in temporary custody, the circuit court must proceed to make an adjudicatory finding of abuse, neglect, or dependence, before it conducts a hearing as to wardship. *Id.*; 705 ILCS 405/2–21(1), (2) (West 2010).

¶ 35 In this case, the court entered findings of abuse based on a substantial risk of physical injury (705 ILCS 405/2–3(2)(ii) (West 2010)), and neglect based on an injurious environment (705 ILCS 405/2–3(1)(b) (West 2010)), for both minors.

¶ 36 Section 2–3(2)(ii) of the Act provides:

“(2) Those who are abused include any minor under 18 years of age whose parent or immediate family member *** :

* * *

(ii) creates a substantial risk of physical injury to such minor by other than accidental means which would be likely to cause death, disfigurement, impairment of emotional health, or loss or impairment of any bodily function.”
705 ILCS 405/2–3(2)(ii) (West 2010).

¶ 37 Likewise, section 2–3(1)(b) of the Act provides that a neglected minor includes “any minor under 18 years of age whose environment is injurious to his or her welfare.” 705 ILCS 405/2–3(1)(b) (West 2010). Neglect is broadly defined as “the failure to exercise the care that circumstances justly demand and encompasses both willful and unintentional disregard of parental duty.” *In re Kenneth D.*, 364 Ill. App. 3d 797, 801 (2006). “Similarly, the term ‘injurious environment’ has been recognized * * * to be an amorphous concept that cannot be

defined with particularity.” *In re Arthur H.*, 212 Ill. 2d. at 463. Nevertheless, the term has generally been interpreted to include " 'the breach of a parent's duty to ensure a "safe and nurturing shelter" for his or her children.' " *Id.* (quoting *In re N.B.*, 191 Ill. 2d 338, 346 (2000)). The "fact-driven nature of neglect and injurious environment rulings" dictates that such cases must be decided "on the basis of their unique circumstances.” *In re Arthur H.*, 212 Ill. 2d at 463.

¶ 38 The court's primary concern is the best interests of the children involved. *In re F.S.*, 345 Ill. App. 3d 55, 62 (2004). It is the State's burden to prove allegations of abuse or neglect by a preponderance of the evidence, meaning the allegations are more probably true than not. *In re N.B.*, 191 Ill. 2d at 343. A trial court's finding of neglect or abuse will not be reversed on appeal unless it is against the manifest weight of the evidence. *In re Faith B.*, 216 Ill. 2d 1, 13 (2005); *In re D.S.*, 217 Ill. 2d 306, 322 (2005). A finding is against the manifest weight of the evidence only if the opposite conclusion is clearly evident. *Id.* “Under the manifest weight standard, the reviewing court gives deference to the trial court as the finder of fact because it is in the best position to observe the witnesses' conduct and demeanor, and we will not substitute our judgment regarding witness credibility, the weight to be given to the evidence, or the inferences to be drawn. *In re A. W.*, 231 Ill. 2d 92, 102 (2008).

¶ 39 Although respondent appears to take issue with the theory of anticipatory neglect generally, our supreme court has reaffirmed that theory and recognized that it flows from the Act's concept of an injurious environment. *In re Arthur H.*, 212 Ill. 2d at 468, 477. “Under the anticipatory neglect theory, the State seeks to protect not only children who are the direct victims of neglect or abuse, but also those who have a probability to be subject to neglect or abuse because they reside, or in the future may reside, with an individual who has been found to have neglected or abused another child.” *Id.* at 468. While neglect of one child does not conclusively

show the neglect of another child, the Act recognizes that neglect of one minor is admissible as evidence of the neglect of another minor under a respondent's care. *Id.*; 705 ILCS 405/2-18 (3) (West 2010). Any finding of anticipatory neglect should take into account not only the circumstances surrounding the previously neglected minor, but also the care and condition of the minor named in the petition. *In re Arthur H.*, 212 Ill. 2d. at 468. Under this theory, "when faced with evidence of prior neglect by parents, 'the juvenile court should not be forced to refrain from taking action until each particular child suffers an injury.'" *Id.* at 477 (quoting *In re Brooks*, 63 Ill. App. 3d 328, 339 (1978)).

¶ 40 In this case, the record shows that on January 25, 2012, less than 3 months before Dangelo was born, Delilah was adjudicated abused based on a substantial risk of physical injury, and neglected based on an injurious environment. Respondent had two indicated reports, and had been observed to be aggressive with Delilah, and to engage in an altercation while Delilah was in her care. The record also showed that respondent was intoxicated while caring for Delilah, but she failed to address her substance abuse and mental health issues through intact services. On March 27, 2012, days before Dangelo's birth, the court found respondent unable to care for Delilah, and placed her under DCFS guardianship.

¶ 41 In addition to the evidence of respondent's pattern of abuse and neglect of Delilah occurring prior to the minors' births, the record shows that as of April 2014, when the minors were taken into custody, respondent's serious substance abuse issues still had not been corrected. Respondent tested positive for marijuana while pregnant with Djamylah, and tested positive for marijuana, alcohol, or both at every drop between November 20, 2013, and April 3, 2014.

¶ 42 Respondent's therapist, Ms. France repeatedly expressed concern about respondent's struggles to make progress toward her treatment goals, and ultimately stated that respondent had

"consistently been unable to make progress since beginning therapy services." Ms. France blamed, among other things, respondent's lack of engagement in services, cancelled appointments, and continuing problems with alcohol and substance abuse.

¶ 43 Moreover, Ms. Tiptre, who supervised a number of visits between respondent and Delilah while the minors were also present, observed respondent act aggressively and inappropriately. Initially, on July 16, 2012, Ms. Tiptre observed that respondent appeared to be extremely intoxicated after an unsupervised visit with Delilah. This incident resulted in the first indicated report in reference to Dangelo, which specified that respondent was so intoxicated she was unable to care for him. During subsequent incidents, one of which resulted in the March 5, 2014 indicated report, respondent repeatedly yelled at Dangelo, called him names, smacked his hand, slapped his leg, and punched him in the back. During the visits, respondent complained to Ms. Tiptre that she was not able to handle Dangelo, and that DCFS or his father should "just take him."

¶ 44 Ms. Llaca also testified to respondent's aggressive behavior towards Dangelo, as she repeatedly slammed her cell phone near Dangelo, yelled and cursed at him, and grabbed and pulled him "very harshly" in his stroller during a court appearance. We find the totality of the evidence in this case overwhelmingly supports the trial court's findings of abuse and neglect.

¶ 45 In support of her contention that the trial court's findings were against the manifest weight of the evidence, respondent relies on *In re Arthur H.*, 212 Ill. 2d 441. She maintains that the case stands for the proposition that "the focus should be placed solely upon the minors who are the subjects of the petitions which seek to adjudicate them as wards of the court, and not the person responsible for the welfare of the minors." Although respondent devotes a large portion of her brief to *In re Arthur H.*, she provides scant analysis of why or how it is applicable to her

case. We find *In re Arthur H.* distinguishable to the case at bar, and, to the extent respondent contends that her inappropriate behavior was not a proper subject of the court's attention, she misunderstands the holding in that case.

¶ 46 In *In re Arthur H.*, DCFS took emergency temporary custody of Arthur's four siblings, who were found in his mother's custody at her home in Rockford. The State filed a petition alleging that those children were neglected because they resided in an injurious environment, in part, based on a theory of anticipatory neglect based on the specific medical neglect of Earl, one of the siblings. Arthur, however, did not reside with his mother, and lived primarily with his father in Milwaukee. When the court later learned of Arthur's existence, the court *sua sponte* ordered the State to prepare and file a neglect petition regarding Arthur, ordered the parties to cooperate in finding him, and eventually issued a juvenile custody warrant for him. *Id.* at 444-49. After Arthur was taken into custody, he was adjudicated a neglected minor based on his mother's unfitness, and made a ward of the court, along with his four siblings. *Id.* at 458-59. Arthur's father appealed.

¶ 47 On direct appeal, the Second District appellate court reversed the trial court's judgment, emphasizing that a trial court may make a neglect finding as to one parent while not finding neglect as to the other parent. *Id.* at 459. The appellate court found that the evidence was sufficient to support a finding of neglect against the mother, but observed that there was no evidence showing that the father neglected Arthur; that Earl was not the child of the father, and, therefore, he was not responsible for his care; and that Arthur was with the father and was not present at the mother's home during the series of visits by DCFS which formed the basis of the State's allegations of neglect. *Id.*

¶ 48 The supreme court also reversed the trial court's judgment, but concluded that the appellate majority's consideration of the relative blame of each parent for the child's neglect at the adjudicatory stage in the case was improper, and instead "the Act instructs the circuit court during the adjudicatory hearing to determine whether the child is neglected, and not whether the parents are neglectful." *Id.* at 467. The supreme court then determined that the trial court's ruling that the minor was neglected under a theory of anticipatory neglect was against the manifest weight of the evidence. *Id.* at 470. The State failed to prove the allegations of neglect with respect to Arthur, where he lived in another state with his father, where he was not present when the neglectful acts towards other siblings took place, and where there was no evidence that Arthur has witnessed any abuse or harm or that he was medically neglected. *Id.* at 476. In so holding, the court explicitly stated that it was not criticizing the theory of anticipatory neglect, but rather holding the State to its burden of proof. *Id.* at 477.

¶ 49 We do not find *In re Arthur H.* relevant here where there is no indication that the minors were not present when the alleged abuse and neglect took place, or that they resided with another parent under whose care they were not abused or neglected. To the contrary, the record shows that the minors at issue lived with the respondent prior to being taken into DCFS custody, in an environment which was clearly "injurious to [their] welfare." 705 ILCS 405/2-3(1)(b) (West 2010).

¶ 50 Respondent further contends that the trial court's findings were against the manifest weight of the evidence because it was not "clearly proven" that she had two prior indicated reports. However, we note that when the State identified "People's Exhibit 1" as the "prior indicated reports," the exhibit was received without any objection. At various occasions throughout the proceedings, the court, the State, and respondent herself referred to the indicated

reports, and characterized them as such. At no time did respondent object to the characterization of the reports as indicated, and we thus conclude that she has forfeited this claim on appeal.

Williamsburg Village Owners Association, Inc. v. Lauder Association, 200 Ill. App. 3d 474, 479 (1990).

¶ 51 Finally, respondent maintains that it is "important to note" that certain factual allegations pleaded in the petitions for adjudications of wardship were "never proven by a preponderance of the evidence." She specifically objects to the following allegations: that she pled guilty to endangering the health and life of a child, and that she and her paramour had an "ongoing issue of domestic violence," including an incident during which he punched her in the eye. However, respondent cites no authority, and we are aware of none, which would require each and every factual allegation in a petition to be proven. These allegations were not relied on in the court's ruling when it found the minors abused and neglected, and given the plethora of other evidence in this case, we do not find the State's failure to prove these two allegations critical.

¶ 52 For the foregoing reasons, we affirm the judgment of the circuit court of Cook County.

¶ 53 Affirmed.