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IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

<i>In re</i> BRANDON L., BRIANNA L., and BROOKLYN L., Minors)	Appeal from the Circuit Court of Cook County.
)	
(The People of the State of Illinois,)	
)	Nos. 13 JA 526
Petitioner-Appellee,)	13 JA 527
)	13 JA 986
v.)	
)	The Honorable
Byronda L. and Maurice J.,)	Maxwell Griffin,
)	Judge, presiding.
Respondents-Appellants).)	

JUSTICE HYMAN delivered the judgment of the court.
Presiding Justice Pierce and Justice Neville concurred in the judgment.

ORDER

Held: The trial court's findings that respondents' children were abused or neglected due to an injurious environment and at a substantial risk of physical injury and that it was in the children's best interest to be made wards of the court were not against the manifest weight of the evidence.

¶ 1 The Department of Children and Family Services took custody of Byronda L's three children after a dispositional hearing. Byronda appeals from the circuit court's adjudicatory findings of neglect due to injurious environment and substantial risk of physical injury and

the dispositional finding that she was unable to parent her children. We affirm. The evidence shows Byronda engaged in doctor shopping for a procedure she knew her eldest son, Brandon, could not have and withheld from doctors necessary medical information that resulted in Brandon being subjected to unnecessary, painful, and sometimes risky, medical procedures. Further, although Byronda has participated in services so as to be reunited with her children, before the children can return to her, additional progress is needed.

¶ 2 Meanwhile, Maurice, the father of Byronda's youngest child, two-year-old Brooklyn, also filed a petition for leave to appeal. The Cook County public defender filed a motion to withdraw as counsel on appeal for Maurice under *Pennsylvania v. Finley*, 481 U.S. 551 (1987) and *Anders v. California*, 386 U.S. 738 (1967). We agree, grant the motion, and affirm the trial court's findings.

¶ 3 BACKGROUND

¶ 4 Bryonda L. has three children, Brandon, 15, Brianna, 13, and Brooklyn, 2. Maurice J. is Brooklyn's father; the whereabouts of Brandon's and Brianna's fathers are unknown and they are not parties. Two weeks after Brandon's birth in California, he was diagnosed with Hirschsprung's disease, a condition that is present from birth, affecting the large intestine and causing problems with passing stool (<http://www.mayoclinic.org/diseases-conditions/hirschsprungs-disease/basics/definition/con-20027602>). Doctors operated on Brandon to create a stoma and provide him an ostomoy bag. A stoma is a surgically created hole in the abdomen to which an ostomy bag is attached. When Brandon was five months old, doctors diagnosed malrotation, which required a "pull-through" surgery, to pull the large intestine down to the anus, so he could have normal bowel movements. The surgery did not

prove successful, however, and at age one, Brandon had to return to using an ostomy bag. When Brandon was two years old, his sister, Brianna, was born with no health problems.

¶ 5 By the time Brandon turned four years old, most of his large intestine had "died off" and he had a colectomy to remove the large intestine. For years after the surgery, Brandon had a recurring prolapsing problem, meaning the small intestine protruded through the skin and into the ostomy bag, and he needed sutures to push the stoma back to normal. Between the ages of 4 and 12, Brandon had about 10 procedures to suture the stoma at several different hospitals. During that time, Brandon also had a recurring problem with a leaking ostomy bag. Byronda took him to the hospital numerous times to address the leaking bag.

¶ 6 In 2007, Byronda contacted the pediatric gastroenterology department at the University of Chicago Medicine Comer Children's Hospital to request a transfer of care for Brandon. Byronda thought Brandon's problems, particularly his leaking bag, were not being adequately resolved in California. Dr. Timothy Sentongo, a pediatric gastroenterologist and nutritionist, reviewed the medical records Byronda submitted and scheduled an appointment, but Byronda and Brandon did not appear. Four years later, in 2011, Byronda moved to Chicago to have Brandon treated at Comer. Dr. Sentongo examined Brandon and obtained a detailed medical history from Byronda. Dr. Sentongo also asked Byronda to obtain Brandon's medical records from all of the hospitals where he had been treated. Dr. Sentongo explained to Byronda he hoped they could eventually remove the ostomy bag and perform a "pull through" surgery, to attach Brandon's intestine to his rectum so he could empty his bowels normally. Dr. Sentongo's notes from this consultation state that Brandon had a total colectomy (a complete removal of the large intestine), which would have precluded the pull through surgery. But, according to Dr. Sentongo's testimony, he presumed based on what he heard, but needed the

medical records to confirm, that this was the case. When Comer's doctors finally obtained Brandon's medical records in late 2012, they learned that Brandon no longer had a large intestine and had too much scarring to make the surgery possible. At no point did Byronda tell Sentongo or other Comer doctors that other physicians had told her that Brandon could never be a candidate for the pull through surgery.

¶ 7 Between October 2011 and late 2012, Brandon underwent numerous tests to determine if he was a candidate for the pull through surgery. When Brandon's medical records arrived, Dr. Mak learned Brandon was not eligible for the pull through surgery and agreed to refer the case to Dr. Alberto Pena, a colorectal specialist in Cincinnati. Although Byronda had contacted Dr. Pena in 2009, she did not inform Dr. Mak of having done so.

¶ 8 In August 2012, Sara Desai, a Comer social worker, consulted with Dr. Jill Glick, the medical director of Comer's child protection team, about suspicions that Brandon might be the victim of medical child abuse (alternatively referred to as fictitious disorder by proxy or Munchausen syndrome by proxy). Medical child abuse occurs when a child gets "unnecessary and harmful or potentially harmful medical care at the instigation of the caretaker." Carole Jenny, *Child Abuse and Neglect: Diagnosis, Treatment and Evidence* 586 (2011). After reviewing Brandon's medical records, consulting with Dr. Sentongo and Dr. Mak, and examining Brandon, Dr. Glick believed Brandon the victim of medical child abuse and contacted DCFS. Dr. Glick based his diagnosis on the fact that Byronda (1) instigated ongoing unnecessary medical evaluations for Brandon despite knowing surgery was not an option and (2) failed to cooperate by purposely withholding, delaying, or misrepresenting Brandon's medical history.

¶ 9 On June 5, 2013, the State filed petitions for adjudication of wardship on behalf of Brandon and Brianna based on parental neglect due to injurious environment (705 ILCS 405/203(1)(b) (West 2012)) and abuse due to substantial risk of physical injury (705 ILCS 405/2-3(2)(ii) (West 2012)), and that Brandon had been neglected due to lack of care. (705 ILCS 405/203(1)(a) (West 2012)). A few weeks after Brooklyn's birth in October 2013, the State filed a petition for adjudication of wardship for Brooklyn, alleging she was neglected due to injurious environment (705 ILCS 405/203(1)(b) (West 2012)) and abused due to substantial risk of physical injury (705 ILCS 405/2-3(2)(ii) (West 2012)). Later, the State amended the petitions for all three children to add a ground that the children were dependent and "without proper care because of the physical or mental disability of his [or her] parent, guardian or custodian" (705 ILCS 405/2-4(1)(b) (West 2012)) and to voluntarily dismiss without prejudice the abuse due to substantial risk of physical injury ground from Brooklyn's petition.

¶ 10 The petitions alleged Byronda had two previous adjudicated reports for neglect and risk of harm in California and that Brandon and Brianna had been in the custody of Riverside County Child Protection Services until the case concluded in 2011. The petition alleged that although Brandon's medical condition was stable, Byronda subjected him to multiple unnecessary and potentially harmful medical tests and procedures and withheld his medical information from doctors. Specifically, they alleged Byronda tried to find a hospital that would perform an operation on Brandon to reconnect his colon to his anus despite knowing Brandon no longer had a colon. They also alleged Byronda withheld medical records from the more than 10 hospitals that treated Brandon, which would have revealed Brandon's situation.

¶ 11 Byronda acknowledged that California authorities removed her children from her custody after she was diagnosed with Munchausen syndrome by proxy. But, she contended, after it later was determined she did not have that disorder, the children were returned to her. Byronda also acknowledged a history of domestic violence with Brooklyn's father, Maurice, namely, an incident when he pushed her while she was pregnant with Brooklyn and then kicked her and the children out of the house. Byronda claimed that immediately following the incident, she moved with the children to a domestic violence shelter.

¶ 12 The trial court placed the children into the temporary custody of the State and appointed Cook County Public Guardian Robert F. Harris as their guardian *ad litem*. The Cook County Public Defender was appointed to represent Byronda and the public defender conflict unit was appointed to represent Maurice. Brandon and Brianna live together with a non-family member foster parent and Brooklyn lives with a paternal relative. Byronda may have supervised visitation with all three children.

¶ 13 **Adjudicatory Hearing**

¶ 14 The State's first witness at the adjudication hearing, which began in September 2014, was Dr. Jill Glick, the medical director of Comer's child protection team. Dr. Glick testified she became aware of Brandon's case in the summer of 2012, when Sara Desai, a Comer social worker, brought it to the attention of the hospital's child protection team. Dr. Glick then initiated an investigation by interviewing the Comer doctors who had treated Brandon, reviewing Brandon's Comer medical records, and examining him. Dr. Glick prepared a report summarizing her findings and concluding that Brandon was a victim of medical child abuse and that Byronda had fictitious disorder by proxy.

¶ 15 Dr. Glick, in making a diagnosis of medical child abuse, focused on the impact on the child rather than the parent's psychological issues. She based her finding that Brandon was a victim of medical child abuse on her review of: (i) his medical needs and medical history, (ii) Byronda's failure to provide medical records, (iii) the reports of Brandon's doctors who said Byronda had been told that Brandon was not a candidate for surgery, (iv) Byronda's efforts to consult with numerous other physicians and (v) her dishonesty about those consultations. Dr. Glick described Byronda as knowledgeable about her son's condition and aware that surgery was not an option for him, but continued to try to find a doctor who would operate.

¶ 16 Dr. Glick testified that medical records show that as early as Brandon's infancy, doctors expressed concern about her doctor shopping and excessive use of medical services and referenced Munchausen syndrome by proxy. Dr. Glick asserted that based on literature, Brandon's siblings were at risk and should not live with Byronda.

¶ 17 Maryann Okocha, a DCFS child welfare investigator who spoke with Byronda at Comer on May 6, 2013, testified that Byronda told her Brandon had Hirschsprung's disease, was born with no large intestine, and had surgery in California, but his stoma was not properly put in place and always leaks. Byronda told Okocha she had been working with a doctor at Comer to fix the stoma, but he died. She was trying to see a doctor in Pittsburgh who could do the surgery but was having difficulty getting Comer to transfer information so insurance would pay for it. Okocha could not recall Byronda saying she was trying to find a doctor to do a pull through surgery. Byronda informed Okocha she was living in a domestic violence shelter in Tinley Park and was no longer involved with Brooklyn's father. Okocha did not complete the investigation because Byronda lives outside her assigned geographical area. Okocha said she was unaware that Dr. Glick asked for Okocha's removal from the case.

¶ 18 Evelyn Martinez, from DCFS, was assigned to Brooklyn's case three days after Brooklyn was born. That day she met with Byronda and Brooklyn's paternal great grandmother. Byronda told Martinez that Maurice was Brooklyn's father and in March 2013, seven months before Brooklyn was born, she was involved in a domestic violence incident with Maurice. She said she called the police after Maurice pushed her, but Maurice left before the police arrived. When Maurice returned, he kicked Byronda and her two children out of the house, and they went to live in a domestic violence shelter. Byronda also told Martinez that when she was living in California, child protection services removed the two children from her care but they were later returned to her. She said she had been diagnosed with Munchausen syndrome by proxy, had an open DCFS case and was receiving services, and that Brandon and Brianna resided in foster care.

¶ 19 When Martinez spoke with Byronda on the phone on October 17, 2013, Byronda told her she and Maurice had argued at the hospital nursery. Byronda said Maurice often gets angry with her, and she feared what would happen next. Byronda told Martinez that during the domestic violence incident before Brooklyn was born, Maurice had a knife and was going to cut himself but alleged that she had cut him. Byronda also told Martinez that on May 23, 2013, she took Brandon to the hospital because he was dehydrated. She said her children were in DCFS custody when the hospital claimed she failed to state that Brandon did not have a colon and had complex medical issues.

¶ 20 Martinez met with Maurice a few days later. Maurice told her he collects disability benefits for asthma and a learning disability. He said he was not ready to take care of Brooklyn and needed a few weeks to get some things together as well as obtain support from

family members. Maurice admitted to the domestic violence incident with Byronda but denied he hit or pushed her, though he acknowledged throwing her out of the house.

¶ 21 When Martinez next spoke on the phone with Byronda, Byronda had moved to a shelter in DeKalb to be closer to Brooklyn, who was living with Maurice's cousin. Martinez testified she does not recall Byronda saying she told hospital staff that Brandon had no colon but did say the hospital performed unnecessary procedures because they did not know he had no colon. Byronda told Martinez she had been diagnosed with Munchausen syndrome by proxy but her therapist disagreed with the diagnosis. Martinez called Byronda's therapists but could not recall their names, the dates or times she called, or whether she actually spoke with them.

¶ 22 Dr. Sentongo testified he first heard about Brandon in 2007, and recounted the failed effort to schedule an appointment. In August 2011, Dr. Sentongo met Brandon and Byronda at a clinic appointment. Byronda verbally provided Brandon's medical history and Dr. Sentongo asked for Brandon's medical records because Brandon had a complicated medical situation and had been treated elsewhere. Dr. Sentongo's notes from that visit state that Brandon had a "total colectomy," or surgical removal of the entire large intestine, but Dr. Sentongo explained that this a presumption, which he planned to confirm after reviewing Brandon's medical records.

¶ 23 Dr. Sentongo referred Brandon to Dr. Liu, a pediatric surgeon, and in October 2011, they operated on Brandon to suture his stoma to address his prolapse problem and to clean fecal matter out of his rectum. That same month, Dr. Sentongo performed a test to determine if pull through surgery was possible and if Brandon had colitis because Byronda reported Brandon had been bleeding from his bottom. The test revealed Brandon did not have colitis or a fistula, which is an abnormal connection between two parts of the intestine, and nothing

indicated a need for immediate surgery. Brandon was diagnosed with disused colitis, which was treated with antibiotics.

¶ 24 In May 2012, Brandon underwent a motility study at Lurie Children's Hospital to help determine eligibility for pull through surgery. A motility study measures how the intestines move and whether the muscles work correctly. This is important for someone with Hirschsprung's disease, which affects the nerves. Dr. Sentongo said he asked Byronda to provide him with all of Brandon's medical records but he had not acquired them yet.

¶ 25 Dr. Sentongo also testified about numerous other tests Brandon underwent to address concerns Byronda raised including kidney tests because of Byronda's concern about Brandon's concentrated urine, which Dr. Sentongo said is normal for a person with a stoma; and lung and respiratory tests because of Byronda concern about Brandon's snoring and breathing, including a sleep study, a sonogram, an endoscopy, and CT scans. The tests showed Brandon had normal kidney and pulmonary function.

¶ 26 By December 2012, Dr. Sentongo had all of Brandon's medical records from hospitals in California and Illinois and after reviewing them, determined Brandon was not eligible for the pull through surgery due to extensive scarring. Dr. Sentongo said if he had known about the scarring, he would not have performed the motility study and other tests. Dr. Sentongo said that in hindsight, Comer should have asked Byronda for all of Brandon's medical records before doing any tests.

¶ 27 Brandon has not been admitted to the hospital since June 2013 and has not undergone any additional tests. Dr. Sentongo sees Brandon and his foster mother once every four to six months to check his growth, hydration, and any issues related to his stoma. Brandon has done well; the stoma leaks periodically but it is manageable. Dr. Sentongo said Brandon now

communicates more during visits and talks without prompting, is engaged in normal activities, and has adjusted to the ileostomy.

¶ 28 Next, Heather Jandura from Kaleidoscope social services agency, Brandon and Brianna's caseworker, testified she was present during the family's integrated assessment screening process. The integrated assessment, which was admitted into evidence over Byronda's objection, described Byronda as "guarded, with low self-insight, avoidance, and emotional numbing," which "may negatively impact her ability to problem-solve and to recognize her role in the detrimental affects to her son and her involvement in child welfare services." The assessment recommended Byronda undergo a psychological evaluation, participate in individual therapy, secure stable employment and a stable residence, and support Brandon in advocating for his own medical needs. Jandura made the appropriate referrals for Byronda and at the time Brooklyn was born, Byronda participated in individual therapy and engaged in services at the emergency shelter where she resided. Jandura spoke with Maurice about having a plan for Brooklyn after her birth so she would not end up in foster care. Maurice told Jandura he would talk to family members about taking care of Brooklyn.

¶ 29 Jandura spoke to Brandon, Brooklyn, and their foster parent in June 2014. Brandon told Jandura he did not want to return home because he worried he would end up back in DCFS custody. Brianna told Jandura she did not want to return home because she was afraid her mother would beat her. Jandura acknowledged that was the first time either child mentioned any fear of physical abuse by Byronda. Jandura also said Brandon and Brianna had given other reasons for not wanting to visit with Byronda, including because it interfered with their plans to go skating on Friday afternoons and because she lived too far away in DeKalb.

Jandura also acknowledged that during a home visit in June 2014, both children told her they wanted to return home.

¶ 30 Jandura said when Brandon and Brianna first entered foster care, they had poor personal hygiene, difficulty tying their own shoes, and Brianna exhibited some worrisome sexual behaviors. They lacked knowledge about common things, like the words to "Happy Birthday" and the days of the week, and struggled socially with their peers. Jandura said that for these reasons, she thought Brooklyn would be at risk in Byronda's care. Jandura said that although Byronda had started services and had made minimal progress in individual therapy, her concerns remained.

¶ 31 From June 2013 until November 2013, while in foster care, Brandon did not have to go to the emergency room to address complications of his Hirschsprung's disease. She also said the children attended a new school. Brandon already had an Individualized Education Program (IEP) and Brianna, who tested at a first grade level even though she was in fifth grade, eventually got an IEP as well.

¶ 32 Sharon Richardson, a "priority one" child protection investigator with DCFS, investigates more serious allegations of abuse and assigned to investigate Brandon and Brianna's case in May 2013. By phone, Byronda told Richardson that Brandon had been admitted to the hospital on May 14 and that Brianna was staying in a domestic violence shelter. Byronda said Brandon had not been feeling well and she asked the school nurse to check on him. Later that day, Byronda was informed Brandon had been admitted to South Suburban Hospital, the nearest hospital, after he passed out. Byronda told Richardson she had a prior child protective services case in California and her children had been removed from her care for about a year after being diagnosed with Munchausen syndrome by proxy. She also said later it was

determined she did not have that disorder and the authorities returned the children to her care. Byronda told Richardson that Dr. Mak thought Brandon's case too complicated to handle and recommended a specialist in Cincinnati. Byronda said she used to live with Maurice until he pushed her and she moved with the kids to a domestic violence shelter.

¶ 33 On May 28, 2013, Richardson spoke with Brianna alone, at her school. Brianna told Richardson she and Brandon lived with Byronda in a shelter and Brandon was in the hospital but she did not know why. Brianna said that before the shelter, they lived with her mother's boyfriend and before that at a Ronald McDonald House. Brianna told Richardson that Byronda was nice and fun, she likes doing things with her mother, and was excited about her own upcoming birthday. Richardson met with Brianna, alone, at Comer the following month. During that meeting, Brianna denied her mother hurt her or had done anything to make her feel uncomfortable; she said her mother treats her well and asked to return home.

¶ 34 On June 3, 2013, Richardson talked with Brandon, alone, at Comer. Brandon said that while at Ronald McDonald House he had surgery, but could not recall what it was for. He said his mother told him he would have to have additional surgeries because his stoma was sideways and his bag was leaking. Brandon said he did not know why he had been hospitalized but thought it involved his leaking bag. He told Richardson he transferred to Comer from South Suburban Hospital after he passed out. The day before going to the hospital, he felt ill and Byronda asked if he wanted to go to the doctor, but he told her he was tired of going to the doctor and wanted to go to school. He said that he felt a little tired at school but otherwise was fine, that his mother was "cool" and that he had been in foster care in California but did not know why.

¶ 35 Richardson spoke with Byronda at Comer the same day. Byronda gave Richardson extensive information about Brandon's hospitalizations dating from birth. Richardson documented the conversation and the court admitted into evidence her notes as well as a substance abuse screening. After Richardson concluded her investigation, Byronda was indicated for allegations of emotional and mental impairment, for torture, and substantial risk of physical injury/environment injurious to health and welfare as to Brandon and Brianna. She said she relied on Comer's medical recommendations and that one reason for the indicated finding was the substantiated reports in California for similar conduct. She met two or three times with Dr. Glick, whose opinion of medical neglect or abuse figured large in her decision. Richardson agreed that the children appeared clean, neat, and well cared for when she meet with them. They never claimed abuse or neglect, and no obvious signs of abuse or neglect could be detected.

¶ 36 Byronda testified about Brandon's birth and his Hirschsprung's disease diagnosis. She estimated Brandon needed to have his stoma sutured 10 times between the ages of 4 and 12 and has had problems with his bag leaking since age 4. She acknowledged seeing several different doctors but noted that doctors would refer her to other physicians because Brandon's case was so complex. Also, Brandon had tests done at different hospitals because not all hospitals performed them.

¶ 37 Byronda moved to Chicago in August 2011, to see Dr. Sentongo, as he was a well-known GI doctor who had been recommended by another doctor. At that time, Brandon's bag still leaked and he had stool coming out of his bottom. She said Dr. Sentongo and Dr. Liu worked together on Brandon's case and suggested pull through surgery. She never told them she wanted that surgery.

¶ 38 Byronda testified she told Dr. Sentongo that Brandon had Hirschsprung's disease and did not have a large intestine. In October 2011, Dr. Sentongo and Dr. Liu operated on Brandon to suture his stoma, which needed repair. In 2012, Dr. Liu died, and Dr. Mak took over Brandon's care and referred her to a colorectal specialist in Cincinnati. Byronda admitted she had contacted the doctor in 2009, but did not inform Dr. Mak.

¶ 39 In May 2013, Brandon went to South Suburban hospital, the nearest hospital, after not feeling well at school. South Suburban treated Brandon for dehydration and transferred him to Comer. A day earlier, Brandon also had not been feeling well and Byronda asked him if he wanted her to take him to the doctor but he said he wanted to go to school. Byronda called the school to check on him and when he came home, she called the paramedics. At that time they were living in a domestic violence shelter for about a month and a half. Before that, they lived with Maurice but moved out after he pushed her and she called the police

¶ 40 Dr. Sentongo's coordinator, Erica Moseley, helped Byronda obtain Brandon's medical records, but the California hospitals would not send them. Byronda understood the importance of providing Brandon's medical records to the doctors at Comer. She also said Comer did not ask her to sign a consent form for the release of the medical records until December 2012, and she told them then she was not in a rush to sign the consent. Byronda acknowledged that as of 2010, she knew Brandon had extensive scar tissue from all of his surgeries and that this would have been important to tell the doctors at Comer. She also said she has known since 2004 that Brandon had no large intestine and some of his small intestine has been removed.

¶ 41 On February 23, 2015, the circuit court entered an order finding the State met its burden of proof by a preponderance of the evidence that Brandon, Brianna, and Brooklyn were

abused or neglected due to an injurious environment under section 2-3(1)(b) of the Juvenile Court Act (Act) (705 ILCS 405/2-3(1)(b) (West)). The court also found Brandon was at a substantial risk of physical injury under section 2-3(2)(ii) of the Act. (705 ILCS 405/2-3(2)(ii) (West 2012)).

¶ 42 The court listed six reasons for its decision:

¶ 43 1. Byronda had a history of having her children removed from her care for medical child abuse.

¶ 44 2. The medical records dating back to 2004 reflect physician suspicion that Byronda was doctor shopping and showed behavior consistent with medical child abuse.

¶ 45 3. Although California authorities removed the children from her care in 2011, she engaged in the same pattern of behavior, including failing to timely disclose Brandon's complete history, responding inappropriately to medical opinions, and over-reacting to mild symptoms.

¶ 46 4. The opinion testimony by competent medical specialists was not rebutted.

¶ 47 5. Byronda subjected Brandon to unnecessary procedures and testing and extended hospitalizations, which exposed him to the risk of infection and a diminished quality of life.

¶ 48 6. Byronda's actions were not those of an uneducated parent advocating for the best interest of her sick child, but rather, were a manipulation of the medical system.

¶ 49 Dispositional Hearing

¶ 50 The court started the dispositional hearing immediately after entering its adjudication order. Heather Jandura, again, testified on behalf of the State. Jandura said Dr. Paul Linden conducted a psychological evaluation of Byronda as recommended by the August 2013 integrated assessment. According to Dr. Linden's evaluation, Byronda was mildly

intellectually handicapped and suffered from narcissistic personality disorder. He stated that Byronda lacks capacity for good judgment, becomes overwhelmed by complex tasks, was likely underreporting depression and anxiety symptoms, and has poor prognosis for reunification. Jandura said Byronda has not yet completed an adaptive behavioral assessment with Dr. Linden, because her attorney told her not to complete that part of the psychological evaluation until after the adjudication ruling.

¶ 51 In September 2013, Jandura referred Byronda to Sherri Wandler for individual therapy. Jandura provided Wandler with Dr. Linden's psychological evaluation of Byronda. Wandler and Byronda had a strong working relationship but Jandura and Wandler disagree on Byronda's progress. While Wandler reported Byronda had made significant progress, Jandura said she has not seen that progress translated into Byronda's interactions with her children.

¶ 52 Jandura said before the children can return home, Byronda must make more progress in individual therapy by accepting her diagnosis and how that impacts her interactions with her children. The family also needs to attend family therapy and, in particular, they need to address an issue Brianna wants to discuss with Byronda. Also, before the children can return home, Byronda needs to complete the adaptive behavioral assessment and parenting capacity assessment.

¶ 53 Jandura acknowledged Byronda has sought out services on her own, including domestic violence counseling and parenting classes and that Byronda currently has stable housing and a full-time job.

¶ 54 As to their current placements, Brandon and Brianna have been living together in a safe, appropriate specialized foster home since June 2013, and there have been no unusual incidents or any signs of abuse, neglect, risk of harm, or corporal punishment. Brandon

initially had problems adjusting to his foster home placement, being away from his mother, and the structure in the foster parent's home, and there were some discussions about moving him, but the situation stabilized. Brandon is in ninth grade and has an IEP for medical concerns. He attends after school tutoring, plays in marching band and concert band, and plans to try out for the baseball team. When Brandon first went to the foster home, his ostomy bag leaked, but his foster parent helped him take better care of it and few leaks have been reported since. Jandura said when Brandon gets upset he tends not to take care of his ostomy bag and it leaks, but his therapy has helped him take responsibility for his bag.

¶ 55 In December 2014, Brandon had a psychiatric evaluation. The diagnosis was intermittent explosive disorder for which Risperdal (to help him stay calm) was prescribed. He also has monthly psychiatric appointments. Brandon's foster parent complies with his medication regiment, and both Brandon's and Brianna's medical, dental, hearing, and vision exams are current. Brandon has seen a gastroenterologist about five times since the case was opened, but has needed less frequent appointments and has not had any hospitalizations. His foster parent has adequate ostomy supplies. Brandon had weekly individual therapy at Kaleidoscope, but in September 2014, when he started high school and became involved in extracurricular activities, Kaleidoscope successfully discharged him. Jandura felt Brandon would benefit from individual therapy and she intends to speak with her supervisors to determine if he needs it.

¶ 56 As for Brianna, she has an IEP for a specific learning disability and is doing well in sixth grade. She has been diagnosed with post-traumatic stress disorder related to being separated from her mother. She attends weekly individual therapy and does not need medication. She changed therapists after a therapist left her in the lobby alone with Byronda for a few minutes

and Brianna became upset and asked for a new therapist. Brianna has made progress in therapy and on issues such as her separation from her mother and past traumatic experiences. Brianna has expressed displeasure with her mother regarding all the attention Brandon had had been given. Brooklyn's birth upset both Brandon and Brianna as they felt Byronda chose Brooklyn over them when she moved closer to where Brooklyn was living.

¶ 57 At the beginning of the case, Byronda had supervised weekly visits with Brandon and Brianna at Kaleidoscope's office. After Byronda experienced difficulties while pregnant with Brooklyn, Brandon and Brianna had supervised visits with Byronda in Evanston. In October 2013, Brianna became upset by something Byronda whispered in her ear and refused to visit her. Brianna later resumed visits, but again refused visits and has not visited since August 2014. Byronda and Brianna last spoke on the phone in November or December 2014. In January 2015, Brianna told Jandura she did not want to visit Byronda because she was concerned changes in Byronda were not real. Brianna's therapist has been working with her on the issue of not wanting to visit Byronda.

¶ 58 Brandon has had almost continual weekly two-hour supervised visits with Byronda and weekly supervised phone calls. After he started high school, Brandon missed a few visits because of his extracurricular activities. In October 2014, visits moved to Sundays to accommodate Brandon's school schedule and Byronda's work schedule. After Brooklyn's birth, Brandon and Brianna visited with Brooklyn monthly until about February 2014, when they refused to go. Brandon said he found the visits boring and Brianna said they were too far away. Brianna recently stated she wanted to resume visits with Brooklyn.

¶ 59 Based on Byronda's current progress and the steps she needs to take before reunification, Jandura's agency recommended that Brandon and Brianna become wards of the State and DCFS be appointed their guardian with the right to place them.

¶ 60 In October 2014, Lauren Stevens, Brooklyn's caseworker from One Hope United responsible for providing reunification services for Brooklyn's father, Maurice, testified that since the case opened, Brooklyn has been placed with a paternal cousin. Stevens visited Brooklyn's placement on February 17, 2015, and found it safe and appropriate, with no unusual incidents and no signs of abuse or neglect, risk of harm, or corporal punishment. At the hearing, Brooklyn, just over a year old, was developmentally on target, and her immunizations were up to date. Maurice's reunification assessment recommended he complete anger management, domestic violence classes, parenting classes, begin individual therapy, and take a psychological assessment. Maurice successfully completed anger management, domestic violence services, and parenting classes. Maurice has supervised visits Brooklyn at her foster home weekly for up to five hours a week. Stevens said that before unsupervised visits and reunification could be recommended, Maurice would need to complete a parenting capacity assessment.

¶ 61 On a weekly basis, Byronda visits with Brooklyn, under the supervision of the foster parent or the foster parent's mother. Byronda participates in parenting coaching, which she sought on her own. Stevens speaks to the parenting coach regularly and thinks the service should continue. The parenting coach will begin supervising visits in Byronda's home so Brooklyn gets used to being alone with Byronda. Stevens supervised a visit in December 2014, which went fine. The agency may recommend unsupervised visits between Brooklyn and Byronda depending on the parenting coach's report. Stevens took Brooklyn for a sibling

visit with Brandon and Brianna and recommended that those visits continue. Stevens said her agency recommends Brooklyn be made a ward of the court.

¶ 62 Byronda made an offer of proof that her therapist, Sherri Wandler, would testify that she reviewed Dr. Linden's psychiatric report and disagrees with his diagnosis for Byronda. Wandler believes Byronda has made substantial progress and is not a risk to her children if they are returned home. Wandler questions whether Kaleidoscope supports the goal of return home.

¶ 63 After the dispositional hearing, the court found that the reasons that brought the case into the system had not been rectified and the best interest Brandon, Brianna, and Brooklyn would be to make them wards of the court and place them in DCFS custody. The court determined that Byronda, Maurice, and Brandon and Brianna's unknown fathers were unable for some reason other than financial circumstances to care for, protect, train or discipline, as well as unable and unwilling to care for, the children. The court entered a permanency goal of return home within 12 months, finding that DCFS had made reasonable efforts to prevent the removal of the children from the home and services aimed at family reunification have been unsuccessful to date. The court found Byronda had made substantial progress toward return home for all three children and Maurice made substantial progress toward returning Brooklyn home. But neither parent had sufficiently progressed to permit the children to be returned home without risk of harm.

¶ 64 The court noted Byronda was not ready for unsupervised visits with Brandon and Brianna, the children's comfort level with returning home remained in doubt, and additional services were needed to repair the family structure. The court had difficulty finding if

Byronda made progress toward reuniting with Brooklyn because the service providers and agencies did not agree and this needed further evaluation.

¶ 65 Byronda objected to the finding of reasonable efforts by DCFS, but the trial court did not find compelling evidence the agency was not supportive of return home. Byronda filed a notice of appeal from the findings at the adjudication hearing and the dispositional hearing. Maurice appealed from the findings at dispositional hearing only.

¶ 66 ANALYSIS

¶ 67 Motion to Withdraw as Counsel

¶ 68 Before addressing Byronda's appeal, we consider the public defender's motion to withdraw as counsel on appeal for Maurice under *Pennsylvania v. Finley*, 481 U.S. 551 (1987) and *Anders v. California*, 386 U.S. 738 (1967). The clerk sent copies of the brief and motion to Maurice advising him to submit any points in support of his appeal. He has not responded. We have carefully reviewed the record and counsel's motion and brief, and we find no issue of arguable merit. Therefore, we allow the public defender's motion and affirm the judgment of the circuit court in accordance with Supreme Court Rule 23(c)(2) (eff. July 1, 2011).

¶ 69 Adjudicatory Findings

¶ 70 After the State files a petition for wardship and places a child in temporary custody, the circuit court conducts an adjudicatory hearing on whether the allegations in the petition support abuse, neglect or dependency by a preponderance of the evidence. 705 ILCS 405/1-3(1), 2-21 (West 2012). Preponderance of the evidence means the existence of a fact is more probable than its non-existence. See *In re K.G.*, 288 Ill. App. 3d 728, 735 (1997).

¶ 71 A neglected minor includes any minor under age 18 in an environment injurious to his or her welfare. 705 ILCS 405/2–3(1)(b) (West 2002). Neglect refers to the failure to exercise the care the circumstances justly demand and encompasses both willful and unintentional disregard of parental duty. *In re Arthur H.*, 212 Ill.2d 441, 463 (2004). The term has no fixed and measured meaning, but takes its meaning from the specific circumstances of each case. *Id.* An injurious environment is an amorphous concept that cannot be defined with particularity but includes the breach of a parent's duty to ensure a safe and nurturing shelter for children. *Id.*

¶ 72 “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.” *In re Arthur H.*, 212 Ill.2d 441, 468 (2004). Proof of neglect of one minor applies on the issue of the neglect of any other minor for whom the parent is responsible. 705 ILCS 405/2–18(3) (West 2012). But, “the mere admissibility of evidence does not constitute conclusive proof of the neglect of another minor.” *Arthur H.*, 212 Ill.2d at 468. In other words, “there is no *per se* rule that the neglect of one child conclusively establishes the neglect of another child in the same household.” *Id.* “Rather, ‘such neglect should be measured not only by the circumstances surrounding the sibling, but also by the care and condition of the child in question.’” *Id.* (quoting *In re Edward T.*, 343 Ill.App.3d 778, 797 (2003)); see also *In re Edricka C.*, 276 Ill.App.3d 18, 29–31 (1995). Nevertheless, the Illinois Supreme Court recognizes that “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.’ ” *Arthur H.*, 212 Ill.2d at 477 (quoting *In re Brooks*, 63 Ill.App.3d 328, 339 (1978)).

¶ 73 Under 705 ILCS 405/2–3(2)(ii) (West 2012), an abused minor includes any minor under the age of 18 whose parent creates a substantial risk of physical injury 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. Specific intent to hurt the child does not need to be established to prove abuse. *In re F.S.*, 347 Ill.App.3d 55, 63, (2004). Abuse, neglect, and wardship cases are *sui generis*; each case must be decided on its own distinct set of facts and circumstances. *In re J.P.*, 294 Ill.App.3d 991, 1002 (1998).

¶ 74 The best interest of the child drives the court's ruling on a petition for adjudication of wardship or any proceeding brought under the Juvenile Court Act of 1987 (705 ILCS 405/1–1 *et seq.* (West 2012)). *In re K.G.*, 288 Ill.App.3d at 734-35. At the adjudicatory stage, the court must focus solely on whether the child has been neglected or abused, not on whether the parents were neglectful or abusive. 705 ILCS 405/1–3(1) (West 2012); see *In re Arthur H.*, 212 Ill.2d at 465.

¶ 75 If the State satisfies its burden of proof, the circuit court proceeds to a disposition hearing to determine whether it is consistent with the health, safety, and best interests of the minor and the public to make the minor a ward of the court, and to determine the appropriate order of disposition. 705 ILCS 405/1-3(6), 2-22 (West 2012).

¶ 76 We give great deference to a trial court's finding of abuse or neglect, which we will not disturb unless it is against the manifest weight of the evidence. *In re A.D.W.*, 278 Ill.App.3d 476, 482 (1996). To be against the manifest weight of the evidence, an opposite conclusion must be clearly apparent from the record on appeal. *In re T.B.*, 215 Ill.App.3d 1059, 1062

(1991). The great deference afforded to the trial court arises from its superior position to observe the witnesses, assess credibility, and weigh the evidence. *Id.*

¶ 77 Byronda contends the trial court's findings were against the manifest weight of the evidence. She argues that the trial court's findings were based on earlier accusations of "doctor shopping" and having the children removed from her care in California. She notes that doctors performed a prolapse repair and that several witnesses acknowledged Brandon's bag frequently leaked, which was a problem that needed to be addressed. She also states that at Comer's, doctors discovered Brandon had a disused colon that needed treatment. She asserts the times he was admitted to the hospital were once because he was sick with vomiting and another because he had fainted.

¶ 78 Byronda also argues the evidence rebuts the State's argument that if she had provided all of Brandon's medical records to Comer, he would not have undergone numerous unnecessary tests because the records would have shown Brandon had no colon and thus not a candidate for the pull through surgery. Byronda argues that while Dr. Glick testified none of the medical tests would have been performed on Brandon if his doctors had known he had no colon, Dr. Sentongo's initial clinical meeting notes indicated that Brandon had a total colectomy. (The State concedes a nurse's note dated September 26, 2011, also indicates Brandon had a total colectomy.) Thus, Byronda asserts, the unnecessary tests were the hospital's and doctors' fault and not due to her failure to provide medical records.

¶ 79 The removal of the children in California and the retracted diagnosis of Munchausen syndrome by proxy do not lessen the fact that the children were removed from her care for a year for the same reasons that brought the family into the system in Illinois. Dating back the Brandon's birth, medical personnel expressed concerns about Byronda's overuse of medical

services for Brandon. And, medical personnel repeated these concerns when she moved with the children to Illinois.

¶ 80 Brandon did have a prolapse problem that needed to be repaired several times, most recently at Comer in October 2011. He also was diagnosed with disused colon, which was treated with antibiotics. Aside from these two issues, the evidence suggests Byronda continued to bring Brandon to the hospital or the emergency room for reasons that did not require a hospital visit. Dr. Sentongo testified that Byronda frequently brought Brandon to Comer complaining about his bag leaking, but he and other hospital staff saw little, if any, leakage. He further stated this was a manageable issue that could be dealt with by taking precautions, such as emptying the bag on time, requiring helping Brandon to learn to do that, rather than a hospital visit. And, as the State points out, since Brandon has been in foster care, he has become better at taking care of the bag, which has resulted in minimal leaking.

¶ 81 As to Dr. Sentongo's note that Brandon had a "total colectomy," Dr. Sentongo clarified he did not know Brandon had that procedure but only surmised it based on his knowledge and the medical history Byronda gave him. He did not know for sure that Brandon had no large intestine until he secured Brandon's medical records. Further, Dr. Sentongo stated the conclusion Brandon was not a candidate for pull through surgery was based on the amount of scarring and other factors that were contained in the medical records, which Byronda failed to provide until more than a year later. In the interim, despite having been told that Brandon was not a candidate for pull through surgery, Byronda permitted Brandon to undergo several invasive and risky procedures.

¶ 82 Byronda's behavior, including seeking medical care for the same problems, such as a leaking bag, doctor shopping for an operation he could not have, and permitting Brandon to

be subjected to unnecessary and sometimes painful procedures, testing, and extended hospitalizations, exposed Brandon to unnecessary risks to his health. Byronda's behavior also adversely affected Brandon emotional well-being. He spent a great deal of time in hospitals rather than at school, which had a detrimental impact on his socialization with his peers. Dr. Sentongo testified Brandon behaved differently around his mother, tending to speak little or repeating what Byronda said about his medical condition. He noticed a marked change in Brandon after he entered foster care, finding him to be more talkative and inquisitive about his condition, and better able to take care of his ostomy bag.

¶ 83 Byronda's conduct also created an adverse environment for Brianna and Brooklyn. Neglect of one minor is admissible evidence as to the neglect of another minor for whom the parent is responsible. 705 ILCS 405/2-18(3) (West 2012). But, neglect should be measured not only by the circumstances surrounding the sibling, but also by the care and condition of the child in question. *In re Arthur H., Jr.*, 338 Ill.App.3d 1027, 1036 (2003). The children's caseworker, Heather Jandura, testified Brianna struggled with hygiene and common tasks, like tying her shoes. She also had difficulty with social interactions and exhibited some concerning sexual behaviors. Dr. Glick's report concluded Byronda was incapable of making appropriate decisions for Brianna and did not understand how her behavior impacted her children. These factors support the trial court's finding that Brianna was neglected due to injurious environment. And under the anticipatory neglect theory, the trial court was not required to wait until new-born Brooklyn suffered injuries before removing her from Byronda's care.

¶ 84 Thus, the trial court's findings that Brandon, Brianna, and Brooklyn were neglected due to an injurious environment and Brandon was abused based on a substantial risk of physical injury was not against the manifest weight of the evidence.

¶ 85 Dispositional Findings

¶ 86 A minor may be made a ward of the court if the court determines the parents are unable, for some reason other than financial circumstances alone, to care for, protect, train, or discipline the minor. 705 ILCS 405/2–27(1) (West 20[10]).” *In re D.W.*, 386 Ill. App. 3d 124, 139, (2008). The trial court's decision must be supported by the preponderance of the evidence, and we will not disturb a dispositional finding on appeal unless it is against the manifest weight of the evidence. *Id.*

¶ 87 Byronda contends the evidence at the dispositional hearing was insufficient to support the court's determination and asks us to reverse the dispositional order and remand. She asserts she was found to be in need of a psychological evaluation, individual therapy, stable housing, and employment, and she has made substantial progress in all of these areas. The individual therapy has been on-going since September 2013, and her therapist, Sherri Wandler, believes she has made substantial progress. Further, on her own initiative, she has sought and completed services including domestic violence counseling and parenting classes. She also has secured a house and a stable job. She acknowledges she has not completed the adaptive behavioral assessment or the parenting capacity assessment, but contends this was at the advice of counsel.

¶ 88 With regard to her relationships with Brandon and Brianna, Byronda acknowledges that since August 2014, Brianna has refused visits and phone calls, but notes she visits weekly with Brandon, unless there is a conflict with his after school activities, and she and Brandon

continue to speak weekly by telephone. Further, Byronda has arranged for her visits with the children to be supervised by a parenting coach rather than the foster parent, and there is the possibility of unsupervised visits, pending a positive report from the parenting coach.

¶ 89 Although, as the trial court noted, Byronda has begun to make progress toward reunification with her children, the manifest weight of the evidence showed she was unable to care for them and in the best interests of the children to be made wards of the court. That said, we commend Byronda for seeking out services on her own, as this demonstrates initiative to address the domestic violence issues in her past and her desire to learn to be a better parent to her children.

¶ 90 As to her psychological well-being, Dr. Linden's diagnosed Byronda with narcissistic personality disorder and recommended individual therapy, and she has attended therapy since September 2013. Byronda's therapist, Sherri Wandler, disagrees with Dr. Linden's diagnosis and with Jandura's evaluation of Byronda's progress toward reunification. While Wandler thinks Byronda has made significant progress and is not a risk to her children if they are returned to her care, Jandura, who has observed Byronda's interactions with the children, thinks Byronda needs more progress. This suggests, as the trial court found, the need for further evaluation before the children can return home. In addition, as Jandura testified, family therapy should be conducted, particularly to address issues Brianna has raised.

¶ 91 The evidence also showed Byronda is not yet ready for unsupervised visits with Brandon and Brianna. And, the evidence showed the children are not yet comfortable with returning home. Although Brandon still has supervised visits with Byronda and speaks with her weekly on the phone, Brianna refuses visits and phone calls, which supports the State's argument that Byronda needs to make more progress in individual therapy and family therapy before the

Nos. 1-15-0799 & 1-15-0944 cons.

children can return home. Moreover, the children's caseworkers, Jandura and Stevens, who have observed Byronda's visits with the children, recommended that the children be made wards of the court. This evidence and testimony supports the circuit court's finding that it was in the children's best interest to be made wards of the court.

¶ 92 We affirm the trial court's orders.

¶ 93 Affirmed.