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2015 IL App (4th) 140766-U
NO. 4-14-0766
IN THE APPELLATE COURT
OF ILLINOIS
FOURTH DISTRICT

FILED
January 22, 2015
Carla Bender
4th District Appellate
Court, IL

In re: J.G., C.G., B.N., and N.N., Minors,)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,)	Circuit Court of
Petitioner-Appellee,)	Champaign County
v.)	No. 13JA55
AMANDA GOOD and THOMAS NAVOLT,)	
Respondents-Appellants.)	Honorable
)	John R. Kennedy,
)	Judge Presiding.

JUSTICE APPLETON delivered the judgment of the court.
Justices Harris and Holder White concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court affirmed, concluding the trial court's adjudicatory and dispositional findings were not against the manifest weight of the evidence.

¶ 2 In July 2014, the trial court adjudicated the minors neglected after finding respondents, Amanda Good and Thomas Navolt, subjected them to an environment injurious to their welfare as defined by section 2-3(1)(b) of the Juvenile Court Act of 1987 (Juvenile Act) (705 ILCS 405/2-3(1)(b) (West 2012)). In August 2014, the court entered a dispositional order, finding respondents unfit and unable for reasons other than financial circumstances alone to care for, protect, train, or discipline the minors and making the minors wards of the court, granting the Illinois Department of Children and Family Services (DCFS) guardianship.

¶ 3 I. BACKGROUND

¶ 4 In November 2013, the State filed a petition for adjudication of neglect as to the minors J.G., age 14; C.G., age 13; B.N, age 9; and N.N., age 2. Respondent mother is the mother of all four minors. Respondent father is the biological father of the two younger minors. The father of the two older minors was defaulted and is not a party to this appeal. The petition alleged four counts of neglect based upon the minors' injurious environment (705 ILCS 405/2-3(1)(b) (2012)) as follows: (1) when the minors reside with respondent mother and/or the biological father of the two older minors, they are exposed to domestic violence (count I); (2) when the minors reside with respondent mother, they are exposed to inadequate supervision (count II); (3) when the minors reside with respondent mother and/or respondent father, they are exposed to the risk of sexual abuse (count III); and (4) when the minors reside with respondent mother, they are exposed to contact with "inappropriate persons" (count IV). In December 2012, the case came to the attention of DCFS after allegations of an August 2012 incident where respondent father had used social media to send pornographic material to his oldest son (a child not involved in this case). The DCFS report associated with this 2012 allegation was held unfounded and expunged.

¶ 5 The trial court conducted an adjudicatory hearing over the course of four days, between March 4, 2014, and July 22, 2014. During this hearing, the following evidence was presented. In 1988, respondent father was convicted of sexual misconduct when he, at the age of 23 or 24, had sexual intercourse with a 14-year-old female. He was sentenced to probation. In 2000, respondent father was indicated for oral penetration of his two sons from a previous marriage. In 2006, both respondents were indicated for allowing the minors to have access to a sex offender (respondent father). For reasons unclear in the record, after this report, respondent father was allowed to remain in the home.

¶ 6 Based on the history of indicated reports, when the 2012 allegations surfaced, DCFS demanded respondent father leave the home where respondent mother and the four minors resided, but the case remained an intact-family case. Respondent father's contact with the children had to be supervised.

¶ 7 Jackie Lewis, a sexual-abuse therapist at ABC Counseling and Family Services who testified at the adjudicatory hearing, said between May and July 2013, she attempted to enroll respondent mother in psychoeducational classes. These classes were designed to give her, as a nonoffending parent, a basic understanding of the effects of childhood sexual abuse. The classes were also designed to equip her with the tools she would need in order to prevent any type of abuse from happening. Lewis was unable to make contact with respondent mother and advised the caseworker she had been unsuccessful. Lewis received another referral in January 2014 and, at the time of the hearing, Lewis had met with respondent mother twice.

¶ 8 In January 2013, the family's mobile home caught fire. Stephanie Deloney, with the Champaign County Regional Planning Commission, had been contacted to (1) assist the family with finding suitable housing, (2) educate them on preparing a budget, and (3) develop other long-term financial goals. Respondent father was residing with his sister, while respondent mother and the children moved from hotel to hotel. Deloney testified she closed the case in July 2013 because the parents failed to follow through with the recommended plans. They had failed to call the landlords on the list provided by Deloney, and respondent father failed to start the required classes.

¶ 9 The evidence also demonstrated both respondents successfully completed their respective ten-week parenting courses, which began in June 2013. Respondent mother's instructor, Renee Eifert, testified respondent mother seemed to understand the concepts taught.

Respondent father's instructor, Stephanie Beard, a therapist at the Center for Youth and Family Solutions, testified respondent father had perfect attendance, actively participated in class, and had successfully completed all homework assignments. Beard said each participant in her class completes an introductory test designed to measure the level of parental empathy, belief in corporal punishment, roles of various family members, and whether he or she values a child's independence. The same test was administered at the end of the course. Respondent father increased his score in some areas, while his score remained unchanged in others. Beard said she was concerned about respondent father's relationship with his ex-wife, the mother of his sons who are not subject to this appeal. Respondent father said they had a "tense relationship," so Beard provided respondent father information on co-parenting. Otherwise, respondent father had successfully completed the parenting course.

¶ 10 The minors' therapists testified the minors had been referred to counseling due to anxiety surrounding changes in their lives, such as their unstable living arrangements and respondent father's absence from the home. In addition, B.N. was struggling with physical aggression. It was respondent mother's responsibility to take the children to counseling, but she failed to do so on a regular basis. Each counselor terminated the minors' counseling due to these attendance issues.

¶ 11 A psychologist, Dr. Jeff Reynolds, testified he had conducted a sex-offender-risk assessment on respondent father in November 2012, after the August 2012 allegations at issue surfaced. Dr. Reynolds received the following documentation: (1) the 1988 police report for respondent father's arrest for inappropriate sexual behavior; (2) the 2000 indicated finding regarding respondent father's inappropriate sexual behavior with his young sons; (3) the most recent 2012 allegation regarding one of his sons; and (4) a letter from Dr. Arthur Traugott

regarding the 2000 allegation, opining respondent father was not sexually dangerous to children. Dr. Reynolds struggled with Dr. Traugott's opinion because Traugott had relied solely on information provided by respondent father himself. Dr. Reynolds concluded respondent father had a moderate to high risk of reoffending based primarily on his repeated inappropriate sexual behaviors, even without the false claims. Respondent father completely denied any illicit behavior. Dr. Reynolds recommended treatment.

¶ 12 Respondent father began weekly sex-offender treatment in April 2013. He struggled with placing blame rather than accepting responsibility. With treatment, he eventually admitted the wrongfulness of his behavior in the 1988 incident. He slowly progressed through treatment toward lowering his risk of reoffending, but Dr. Reynolds was not certain whether his progress was genuine or simply in anticipation of court proceedings. His risk lowered even more when it was discovered that the 2012 allegation was untrue and had been initiated by respondent father's ex-wife, the mother of his sons. However, the 2000 allegation, involving his four-year-old son accusing him of performing oral sex on him and on his one-year-old brother, remained valid. At the time, he and the boys' mother were going through a divorce. Based on these 2000 allegations, the safety plan in this case remained intact. At the time of the adjudicatory hearing, Dr. Reynolds said respondent father had been participating in treatment for approximately one year and was making some progress.

¶ 13 Kelly Beisser, the intact caseworker for the Center for Youth and Family Solutions, testified she received the referral for this family on December 12, 2012. Based on the allegation of respondent father's inappropriate online contact with his son through social media, a safety plan was implemented. The safety plan required respondent father to have only supervised contact with the minors. Beisser referred respondent mother to ABC Counseling for

sexual-abuse therapy as a nonoffending parent, parenting classes, and individual counseling. She referred respondent father to sex-offender counseling and parenting classes. She also referred the minors to individual counseling.

¶ 14 Beisser said she discussed with respondent mother the risk of harm posed by respondent father. Respondent mother continued to support respondent father and deny any risk of harm. In January 2014, respondent father requested a second sex-offender evaluation, so Beisser made a referral. However, respondent father wanted an independent evaluation, rather than another one paid for by the State. To Beisser's knowledge, respondent father had not taken steps to find his own evaluator.

¶ 15 A police officer, detective Tim McNaught, testified that, after his October 2012 investigation into the allegations of respondent father sending inappropriate sexual material to his son through social media revealed no evidence of the allegation, he closed the investigation without charges.

¶ 16 A DCFS child-protection investigator, Janis Caffrey, testified regarding a 2001 complaint she received regarding respondent father's contact with respondent mother's minor children. Respondent father visited his own psychiatrist, Dr. Traugott, who reported respondent father had a low to no risk of reoffending and was safe to be in the home.

¶ 17 Respondent father testified, in 1988, he pleaded guilty to criminal sexual abuse for having sexual relations with a 14-year-old girl when he was 23 years old. He was sentenced to 12 months' probation, which he completed successfully. In 2000, he was indicated for sexual abuse toward his sons. He appealed the decision, but his appeal was abandoned when he failed to pursue it. In 2006, he said, DCFS filed a new indicated report because of his access to

respondent mother's two older children, J.G. and C.G. However, DCFS did not recommend treatment.

¶ 18 After the 2012 allegation, respondent father said he was referred to various services. He said he successfully completed his parenting course and had been attending a class for sexual offenders once a week for approximately two years.

¶ 19 Dr. Arthur Traugott testified he had no formal training in performing sex-offender evaluations during his residency, but he had since received training and experience. He said Caffrey referred respondent father to him with no supporting documentation. He had only respondent father's verbal report. Based solely on respondent father's interview, Dr. Traugott found no evidence respondent father would be sexually dangerous to young children. Respondent father had denied having sexual intercourse with the 14-year-old girl.

¶ 20 Respondent mother testified she and respondent father had lived together since 2000. She felt her children were safe in his presence despite her knowledge of his 1988 conviction. She said the subsequent allegations have been the product of his ex-wife. She said respondent father had daily supervised contact with the minors.

¶ 21 Bridgette Walls, the case supervisor at the Center for Youth and Family Solutions, testified she has supervised the case since May 2014. Approximately 10 days before the hearing, Walls visited the family at their new home. Walls remained in the home for approximately one hour and had no safety concerns. She said respondents have both been cooperative. At this time, respondent father was unable to return home because "ABC Counseling reported that [he] is not progressing in his therapy at [Community Resource and Counseling Center] and so that is preventing [respondent mother] from completing chaperone class at ABC." Respondent father told Walls he will not admit to conduct regarding his sons, so ABC will not consider progression.

She said she called ABC, but she had not made contact as of the time of the hearing. Further, respondent mother does not believe respondent father committed the acts against his young sons.

The following exchange occurred:

"Q. Does that give you any concern, the fact that she doesn't believe he did it?

A. I mean I don't know that he did it either, so I don't—it's just that he needs to complete treatment and she needs to complete treatment in order for us to be sure the kids are safe.

Q. To the best of your understanding neither of them have completed treatment right now, correct?

A. Correct."

¶ 22 Following the presentation of evidence and arguments of counsel, the trial court found counts I and II had not been proved, but counts III and IV had been proved by clear and convincing evidence. The court found respondent father had a moderate to high risk of reoffending without successful completion of treatment. The court referred the parties to the factual findings in the court's written order.

¶ 23 In the written order, the trial court found respondent father (1) has not completed sex-offender treatment since his 1988 conviction of criminal sexual abuse, (2) was previously determined to have a moderate to high risk of reoffending, (3) has not sufficiently progressed in counseling, (4) remains at a moderate to high risk of reoffending, and (5) is an inappropriate person to be in the home with the minors.

¶ 24 On August 26, 2014, the trial court conducted a dispositional hearing, where respondent mother was the only witness. Respondent mother (1) explained the minors had

expressed their desire to stop counseling, (2) said she had completed all referred services, and (3) described her relationship with her children. After considering this evidence and the Center for Youth and Family Solutions' dispositional report, the court entered a dispositional order, finding both respondents "unfit and unable for reasons other than financial circumstances alone, to care for, protect, train[,] or discipline the minors and the health, safety[,] and best interest of the minors will be jeopardized if the minors remain in the custody of [both] parent[s]." The court removed custody and guardianship of the minors from the parents to DCFS.

¶ 25 This appeal followed.

¶ 26 II. ANALYSIS

¶ 27 Respondents challenge the trial court's adjudicatory and dispositional orders as being against the manifest weight of the evidence. They assert the court erred in adjudicating the minors neglected under section 2-3(1)(b) of the Juvenile Act (705 ILCS 405/2-3(1)(b) (West 2012)). "Neglect" is defined as "the failure to exercise the care that circumstances justly demand and encompasses both willful and unintentional disregard of parental duty." *In re Kamesha J.*, 364 Ill. App. 3d 785, 792-93 (2006). A parent has a duty to shield his or her child from harm. *Kamesha J.*, 364 Ill. App. 3d at 793. When the petition for adjudication of neglect alleges the minor has been subjected to an injurious environment, the case should be reviewed based on the specific circumstances of that case. *In re Arthur H.*, 212 Ill. 2d 441, 477 (2004). The court's findings of fact are afforded great deference and will not be overturned unless those findings are against the manifest weight of the evidence. *In re R.S.*, 382 Ill. App. 3d 453, 459 (2008). "A finding is against the manifest weight of the evidence only if the opposite conclusion is clearly evident." *R.S.*, 382 Ill. App. 3d at 549.

¶ 28 As to count III of the petition, which alleged respondents exposed the minors to a risk of sexual abuse, respondents assert the evidence failed to support the trial court's adjudicatory finding that respondent father was a risk to the minors' safety due to his past sexual misconduct. Likewise, respondent mother asserts the evidence failed to prove she had exposed the minors to an "inappropriate person" as alleged and proved in count IV. We disagree.

¶ 29 Respondent father was convicted of a sex offense in 1988 for having sexual intercourse with a 14-year-old female when he was 23 or 24 years old. He received no evaluation or treatment related to that conviction. Thereafter, other allegations arose about sexual misconduct between him and each of his young sons. DCFS became involved and recommended a psychiatric evaluation. Dr. Arthur Traugott performed the evaluation but admittedly did so without supporting documentation. The doctor was forced to rely solely on respondent's interview, wherein he denied the underlying act of this 1988 conviction. After the most recent allegations were raised, Dr. Reynolds performed a sex-offender evaluation and determined respondent father was a moderate to high risk to reoffend. He recommended respondent father have no unsupervised contact with the minors. Respondent father began sex-offender treatment in April 2013. Until he successfully completes treatment, he remains a risk to the minors.

¶ 30 Regardless of the veracity of the most recent 2012 allegations, the fact remains respondent was convicted of a sex offense in 1988. Further, he may have committed sexual abuse against his young sons in 2000 (those reports were not expunged by DCFS and remain indicated). Based on this evidence, the trial court found, although respondent has been cooperative, he remains a risk to the minors until he successfully completes sex-offender treatment.

¶ 31 We give deference to the trial court's findings of fact at an adjudicatory hearing because the court "is in the best position to observe the conduct and demeanor of the parties and the witnesses and has a degree of familiarity with the evidence that a reviewing court cannot possibly obtain." *In re D.F.*, 201 Ill. 2d 476, 498-99 (2002). In this instance, evidence existed to support the court's finding that respondent parents created a risk of sexual abuse to the minors if respondent father were in the home untreated.

¶ 32 Accordingly, we conclude the trial court's adjudicatory finding was not against the manifest weight of the evidence. Because we affirm the court's finding as to count III, we need not address the merits of count IV, alleging the minors were neglected based upon respondent mother's exposure of the minors to an inappropriate person. See *In re Faith B.*, 216 Ill. 2d 1, 14 (2005) ("[W]hen the circuit court has found a minor neglected on several grounds, we may affirm if any of the circuit court's bases of neglect may be upheld.").

¶ 33 Respondents assert the trial court erred in entering the dispositional order (1) finding respondents unfit and unable to care for the minors (2) making the minors wards of the court, and (3) granting guardianship to DCFS. Following an adjudication of neglect, the court must determine, by a preponderance of the evidence, whether it is in the best interests of the minor to be made a ward of the court. If the minor is declared a ward of the court, the court must then determine what disposition best serves the health, safety, and interests of the minor and the public. 705 ILCS 405/2-22 (West 2012); see also *In re K.B.*, 2012 IL App (3d) 110655, ¶ 22. The court's central concern in fashioning a dispositional order is the best interests of the child. *In re M.P.*, 408 Ill. App. 3d 1070, 1073 (2011). In making its decision, the court "should consider all reports, whether or not the author testifies, which would assist the court in determining the proper disposition for the minor." *In re L.M.*, 189 Ill. App. 3d 392, 400 (1989). "A reviewing

court will not overturn a trial court's findings merely because the reviewing court would have reached a different result." *K.B.*, 2012 IL App (3d) 110655, ¶ 23. In other words, we will not overturn the trial court's decision unless it is against the manifest weight of the evidence. *In re J.W.*, 386 Ill. App. 3d 847, 856 (2008).

¶ 34 According to the evidence, services aimed at the preservation and reunification of the family had been offered and were unsuccessful. Respondent mother stopped taking the minors to counseling to address their mental-health and anxiety issues related to the absence of their father from the home. Respondent mother refuses to believe respondent father poses a risk of harm to the minors. Therefore, without adequate reunification measures in place, the court determined, based on the evidence presented, it was in the minors' best interests to be made wards of the court so that issues preventing reunification could be properly addressed.

¶ 35 Accordingly, we conclude the trial court's dispositional order (1) finding respondents unfit and unable to care for the minors, (2) making the minors wards of the court, and (3) granting DCFS guardianship was not against the manifest weight of the evidence.

¶ 36 III. CONCLUSION

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

¶ 38 Affirmed.