

NOTICE
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2015 IL App (4th) 140982-U
NOS. 4-14-0982, 4-14-0983 cons.
IN THE APPELLATE COURT

FILED
March 23, 2015
Carla Bender
4th District Appellate
Court, IL

OF ILLINOIS

FOURTH DISTRICT

In re: A.D., a Minor,)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,)	Circuit Court of
Petitioner-Appellee,)	Vermilion County
v. (No. 4-14-0982))	No. 14JA35
LASHOUND C. DAVIS,)	
Respondent-Appellant.)	
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In re: P.D., a Minor,)	No. 14JA36
THE PEOPLE OF THE STATE OF ILLINOIS,)	
Petitioner-Appellee,)	
v. (No. 4-14-0983))	Honorable
LASHOUND C. DAVIS,)	Claudia S. Anderson,
Respondent-Appellant.)	Judge Presiding.

JUSTICE STEIGMANN delivered the judgment of the court.
Justices Harris and Appleton concurred in the judgment.

ORDER

¶1 *Held:* The appellate court affirmed the trial court's judgment, which adjudicated the respondent's minor children neglected and abused and made them wards of the court.

¶2 In March 2014, the State filed wardship petitions alleging that A.D. (born September 25, 2003) and P.D. (born April 9, 2009)—the minor children of respondent, Lashound Davis—were neglected and abused within the meaning of section 2-3 of the Juvenile Court Act of 1987 (705 ILCS 405/2-3 (West 2012)). Following a September 2014 adjudicatory hearing, the trial court adjudicated A.D. neglected and abused and P.D. neglected. Following an October 2014 dispositional hearing, the court made the minors wards of the court and appointed the De-

partment of Children and Family Services (DCFS) as their guardian.

¶3 Respondent appeals, arguing only that the trial court's findings of neglect were against the manifest weight of the evidence. We disagree and affirm.

¶4 I. BACKGROUND

¶5 A. The State's March 2014 Wardship Petitions

¶6 The State's March 2014 wardship petitions set forth two counts of (1) abuse and one count of neglect as to A.D. and (2) neglect as to P.D. Specifically, the State alleged that (1) A.D. was abused in that respondent inflicted upon him physical injuries by other than accidental means (705 ILCS 405/2-3(2)(i) (West 2012)) and excessive corporal punishment (705 ILCS 405/2-3(2)(v) (West 2012)); (2) both A.D. and P.D. were neglected in that their environment was injurious to their welfare because respondent had prior cases with DCFS (705 ILCS 405/2-3(1)(b) (West 2012)) and; (3) P.D. was neglected in that her environment was injurious to her welfare because her sibling, A.D., had been abused by respondent, who inflicted upon A.D. physical injury by other than accidental means.

¶7 B. The Adjudicatory Hearing

¶8 The parties presented the following evidence at the September 2014 adjudicatory hearing.

¶9 Ann Kapella, a DCFS child-protection investigator, testified that on March 4, 2014, she received a hotline report that A.D. had burns on his arms that were indicative of abuse. On March 5, 2014, Kapella and a school social worker met with A.D. at his elementary school in Danville. Kapella looked at the marks on A.D.'s arms and determined that they were scars, not burns. A.D. stated that the scars came from his mother, respondent, who hit him with the cord of an iron in the summer of 2013. Kapella looked at A.D.'s back and noticed additional scars. A.D.

also said that respondent hit him in the face as a means of discipline.

¶10 On March 7, 2014, Kapella and a Danville police department investigator, Scott Damilano, interviewed respondent. After an initial denial, respondent admitted hitting A.D. with the cord of an iron. Although respondent could not remember when she hit A.D. with the cord, she told Kapella that "it must have been justified in some way." Kapella also spoke with P.D., who said that she remembered seeing respondent hit A.D. with the cord, but that respondent never abused her in such a manner. DCFS took A.D. into protective custody that same day. A medical exam revealed additional scars on A.D.'s legs and buttock.

¶11 Kapella further revealed that respondent had nine prior DCFS cases—the earliest going back to August 1993—several of which involved injuries to respondent's children.

¶12 Mark Goodwin, the principal of A.D.'s elementary school, testified that on March 6, 2014 (the day after Kapella's initial interview with A.D.), A.D. reported that respondent was angry because A.D. had spoken with a DCFS investigator. As punishment, respondent made A.D. sit outside for 10 minutes, prohibited him from watching television, and sent him to his room.

¶13 Respondent did not present evidence.

¶14 Following the presentation of arguments, the trial court found A.D. abused and neglected and P.D. neglected for the reasons set forth in the State's wardship petitions.

¶15 C. The Dispositional Hearing

¶16 At the October 2014 dispositional hearing, Autumn Jackson, a DCFS caseworker, testified that A.D. and P.D. had been placed with a relative in Chicago. Both children were attending therapy and engaging in visits with respondent twice per month. Respondent was complying with DCFS services and progressing well. Jackson confirmed, however, that respondent

had a history of domestic violence, including "some convictions and arrests for things that would suggest that sometimes it's hard to control." To address this issue, DCFS was providing individual counseling to respondent. Respondent did not present evidence.

¶17 At the conclusion of the hearing, the trial court found respondent unfit within the meaning of section 2-27 of the Act (705 ILCS 405/2-27 (West 2012)) and made the children wards of the court.

¶18 These appeals followed.

¶19 II. ANALYSIS

¶20 Respondent argues only that the trial court's findings of neglect were against the manifest weight of the evidence. We disagree.

¶21 A. Section 2-3 of the Act and the Standard of Review

¶22 "The Act seeks to protect not only children who are the direct victims of neglect or abuse, but also those who potentially may be subject to neglect or abuse because they reside, or may in the future reside, with a person who has been found to have neglected or abused another child." *In re L.W.*, 291 Ill. App. 3d 619, 623, 683 N.E.2d 1292, 1295 (1997). "All that is necessary under the Act for a finding of abuse is that the physical injury occur by 'other than accidental means.'" *In re Marcus H.*, 297 Ill. App. 3d 1089, 1098, 697 N.E.2d 862, 868 (1998) (quoting 705 ILCS 405/2-3(2)(i) (West 1994)). Under the concept of an "injurious environment" being the basis of neglect, "evidence that a parent has neglected or abused one child is relevant in determining whether another child may be at risk for abuse or neglect. [Citations.] This holds true even if the neglect or abuse took place at some time in the past with other children. [Citations.]" *L.W.*, 291 Ill. App. 3d at 623, 683 N.E.2d at 1295.

¶23 "The trial court has broad discretion when determining whether a child has been

abused or neglected." *In re Malik B.-N.*, 2012 IL App (1st) 121706, ¶35, 984 N.E.2d 55. Every case involving an adjudication of neglect or abuse "must be decided on the basis of its own distinct set of facts and circumstances." *Id.* "A trial court's finding that a minor has been neglected or abused under section 2-3 of the Act will not be reversed unless it is against the manifest weight of the evidence." *In re L.S.*, 2014 IL App (4th) 131119, ¶60, 11 N.E.3d 349.

¶24

B. The Trial Court's Judgment

¶25

In these consolidated appeals, respondent simply argues that the children's environment was not injurious to their welfare because (1) respondent's abuse of A.D. occurred "one and one-half years" prior to DCFS' involvement and (2) the evidence showed no "imminent danger" to the children from respondent. Respondent's position is both unpersuasive and factually inaccurate (respondent actually struck A.D. with the cord in August 2013 and DCFS became involved in early March 2014).

¶26

In this case, the State presented uncontroverted evidence that respondent intentionally struck A.D. with the cord of an iron, leaving scars throughout his body that remained more than seven months later. Respondent has not contested the trial court's finding that A.D. was abused within the meaning of section 2-3(2) of the Act. We therefore affirm the trial court's judgment as to A.D. See *In re Faith B.*, 216 Ill. 2d 1, 14, 832 N.E.2d 152, 159 (2005) (only one count need be proved under section 2-3 of the Act to affirm the trial court's judgment).

¶27

From the time respondent abused A.D. through the filing of the State's wardship petitions, P.D. lived in the same home as A.D. and respondent. Proof that P.D.'s environment was injurious to her welfare did not require proof that respondent had already physically abused P.D. *L.W.*, 291 Ill. App. 3d at 623, 683 N.E.2d at 1295. In light of the undisputed evidence, including respondent's long history of domestic violence and DCFS involvement, we conclude that

the trial court's findings of neglect as to P.D. were not against the manifest weight of the evidence. Accordingly, we affirm the court's judgment as to P.D. as well.

¶28 Because respondent has not specifically challenged the trial court's dispositional order, we affirm that portion of the court's judgment without discussion.

¶29 III. CONCLUSION

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

¶31 Affirmed.