

**NOTICE**  
This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

2015 IL App (4th) 141034-U  
NO. 4-14-1034  
IN THE APPELLATE COURT  
OF ILLINOIS  
FOURTH DISTRICT

**FILED**  
April 20, 2015  
Carla Bender  
4<sup>th</sup> District Appellate  
Court, IL

In re: A.W., a Minor, )  
THE PEOPLE OF THE STATE OF ILLINOIS, )  
Petitioner-Appellee, )  
v. )  
YVONKIA STEWART, )  
Respondent-Appellant. )  
Appeal from )  
Circuit Court of )  
Sangamon County )  
No. 14JA67 )  
Honorable )  
Matthew Maurer, )  
Judge Presiding. )

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JUSTICE APPLETON delivered the judgment of the court.  
Presiding Justice Pope and Justice Holder White concurred in the judgment.

**ORDER**

¶ 1 *Held:* The appellate court was without jurisdiction to consider this appeal because petitioner's postjudgment motion was directed at an order entered in a separate case.

¶ 2 Respondent, Yvonkia Stewart, appeals the trial court's order denying her motion to vacate an agreed order entered in a separate, but related, family case. We dismiss the appeal for lack of jurisdiction.

¶ 3 I. BACKGROUND

¶ 4 On April 28, 2014, the State filed a petition for adjudication of neglect of the minor A.W., born March 3, 2002, alleging A.W. was neglected pursuant to section 2-3(1)(b) of the Juvenile Court Act of 1987 (705 ILCS 405/2-3(1)(b) (West 2012)) in that his environment was injurious to his welfare due to respondent mother's mental-health issues. The State alleged A.W. (1) was not "receiving the proper care and supervision necessary for his well being in that

[respondent] failed to make a proper care plan for the minor," and (2) was subjected to "excessive and unnecessary medical care and treatment." Respondent did not object when, on April 28, 2014, the trial court entered an order placing A.W. with his father, Jermaine W.

¶ 5 On May 1, 2014, the trial court entered an order on the State's motion voluntarily dismissing the neglect petition. The order stated: "It is ordered that \*\*\* father, Jermaine W[.], [is] given custody of minor, [A.W.], in Sangamon County case [No.] 2005-F-335." Included in the record before us, is a copy of that order entered in the referenced family case, wherein respondent was named as petitioner and Jermaine W. as respondent. That order, entered in case No. 05-F-335, provided as follows:

"Respondent's petition for custody is granted by agreement of the parties. The respondent is granted sole custody of [A.W.], subject to supervised visitation by the petitioner. All visitations must be supervised by the respondent, or an agreed supervisor, who must submit affidavit submitting to jurisdiction of court. Current child support is terminated. Child support from petitioner is reserved[,] as she is unemployed and has applied for social security disability. Visitation to be reviewed [at a later date]."

¶ 6 On June 2, 2014, and June 3, 2014, in these neglect proceedings, respondent filed *pro se* motions to vacate the agreed order pursuant to section 2-1401 of the Code of Civil Procedure (735 ILCS 5/2-1401 (West 2012)). In the similar motions, respondent alleged, *inter alia*, she was denied a full and fair opportunity to litigate the claims at issue. She accused her appointed counsel of "misconduct, coercion[,] and excusable neglect by manipulating [her] into

relinquishing sole custody of [her] son to his father" in the family law case. We note the agreed order was not entered in the juvenile neglect case.

¶ 7 On November 21, 2014, respondent filed a *pro se* notice of appeal in the neglect case, noting she was appealing the judgment dated May 1, 2014. On November 25, 2014, the trial court entered a docket entry explaining the procedural posture of the case. The court noted the parties had reached an agreement in the family case on May 1, 2014, and thereafter, on the same day, the State dismissed the juvenile neglect proceedings.

¶ 8 This appeal followed.

¶ 9 II. ANALYSIS

¶ 10 The only order ripe for a challenge by respondent in the case *sub judice* (the juvenile neglect proceedings) would have been a challenge to the trial court's order allowing the State's voluntary dismissal dated May 1, 2014. No agreed order was entered in this case on that date. Thus, respondent's section 2-1401 motion, challenging the judgment was not properly filed in this case, given the procedural posture. See 735 ILCS 5/2-1401 (West 2012) (section allowing a party relief from a judgment entered more than 30 days earlier if certain criteria are met).

¶ 11 "An order granting a plaintiff's motion to voluntarily dismiss an action without prejudice is final and appealable by the defendant, but not by the plaintiff." *Brentine v. DaimlerChrysler Corporation*, 356 Ill. App. 3d 760, 765 (2005). However, in the absence of a prejudicial ruling prior to voluntary dismissal, the only proper subject of the appeal is the granting of the voluntary dismissal. *Saddle Signs, Inc. v. Adrian*, 272 Ill. App. 3d 132, 136-39 (1995). As a reviewing court, we do not have jurisdiction to hear an appeal of a nonprejudicial ruling made prior to the voluntary dismissal.

