

**NOTICE**

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**FILED**

July 1, 2015  
Carla Bender  
4<sup>th</sup> District Appellate  
Court, IL

2015 IL App (4th) 150096-U

NOS. 4-15-0096, 4-15-0097, 4-15-0098, 4-15-0099 cons.

IN THE APPELLATE COURT  
OF ILLINOIS  
FOURTH DISTRICT

In re: G.B., a Minor,	)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,	)	Circuit Court of
Petitioner-Appellee,	)	Vermilion County
v. (No. 4-15-0096)	)	No. 14JA99
SHALINA M. BRANNIN,	)	
Respondent-Appellant.	)	
-----	)	
In re: K.B., a Minor,	)	No. 14JA100
THE PEOPLE OF THE STATE OF ILLINOIS,	)	
Petitioner-Appellee,	)	
v. (No. 4-15-0097)	)	
SHALINA M. BRANNIN,	)	
Respondent-Appellant.	)	
-----	)	
In re: A.B., a Minor,	)	No. 14JA101
THE PEOPLE OF THE STATE OF ILLINOIS,	)	
Petitioner-Appellee,	)	
v. (No. 4-15-0098)	)	
SHALINA M. BRANNIN,	)	
Respondent-Appellant.	)	
-----	)	
In re: C.B., a Minor,	)	No. 14JA102
THE PEOPLE OF THE STATE OF ILLINOIS,	)	
Petitioner-Appellee,	)	
v. (No. 4-15-0099)	)	
SHALINA M. BRANNIN,	)	Honorable
Respondent-Appellant.	)	Claudia S. Anderson,
	)	Judge Presiding.

JUSTICE KNECHT delivered the judgment of the court.  
Justices Turner and Steigmann concurred in the judgment.

## ORDER

¶ 1 *Held:* The trial court properly found respondent's minor children neglected.

¶ 2 In 2014, the State filed a petition for adjudication of wardship regarding the four minor children of respondent. The petition alleged the minors suffered from environmental neglect. The petition further alleged respondent had an open intact-family case with the Department of Children and Family Services (DCFS) and had not made sufficient progress in the services. After a dispositional hearing, the trial court found the minors to be neglected and entered a dispositional order finding the minors to be neglected.

¶ 3 Petitioner appeals, arguing the State failed to prove her residence created an environment injurious to the welfare of the minors.

¶ 4 I. BACKGROUND

¶ 5 Respondent, Shalina Brannin, has four minor children, G.B., born October 19, 2010; K.B., born October 19, 2010; A.B., born December 10, 2011; and C.B., born May 11, 2013. The State filed a petition for adjudication of wardship on September 3, 2014. The petition alleged the minors suffered from environmental neglect due to the lack of cleanliness in their home and the home not having food. The petition further alleged respondent had an open intact-family case with DCFS and had not been making sufficient progress in her services.

¶ 6 On September 3, 2014, a shelter-care hearing was held. Jerry Feingold, a DCFS investigator, testified respondent's house was infested with cockroaches and the children had bug bites all over their bodies. The house was cluttered, with open food out and dirty dishes. There was not enough food in the house for the minors.

¶ 7 There was an open intact-family case for two prior indicated reports for

environmental neglect. There was concern about having no power or heat, the bugs, and the clutter. During the intact-family case, the roach infestation continued to get worse. An exterminator was contacted. Early in the intact-family case, respondent made an effort to clean some of the clutter, but when DCFS investigators returned, there was still open food out and grease and clutter on the counters.

¶ 8 When Feingold went to inspect respondent's home on August 28, 2014, after the exterminator was contacted, he found she had moved to the trailer next door. This home had open and old food left on the counters and dirty dishes in the sink. The bathroom sink had "all kinds of stuff in it" and dirty feminine hygiene pads were on the floor. The minors still had bug bites and the youngest had a severe diaper rash and a yeast infection.

¶ 9 In addition to this case, respondent had previously lost parental rights to one child and surrendered them regarding another child. In those cases, there were indicated reports for environmental neglect and also toxic-substance neglect where respondent had taken an unmarked bottle of what she thought was water and gave it to the children. It was actually cleaning solution.

¶ 10 The trial court entered a temporary custody order granting custody of the minors to DCFS. The minors were placed in foster care.

¶ 11 An adjudicatory hearing was held on December 4, 2014. Cathy Hall, a child-protective investigator with DCFS, testified the initial contact with respondent was based on environmental and medical neglect relating to the unclean condition of her house and the bug bites on the minors. Hall testified respondent's house would be clean one day and then unclean the next. Respondent required constant prompting to maintain levels of cleanliness for the

minors.

¶ 12 Luann Smalley, an intact-family worker with the Center for Youth and Family Solutions, was first assigned to work on respondent's case on September 2, 2013. She testified respondent had a Link card worth \$750 per month in food benefits and Special Supplemental Nutrition Program for Women, Infants, and Children benefits on top of that, and respondent was taken to food pantries to get food for the minors because she was always running out of food before the end of the month. Respondent began calling weekly to say she was out of milk and bread for the minors. Smalley unsuccessfully tried to determine how respondent was spending her food benefits because she was always running out of food. Smalley tried to work with respondent on a budget.

¶ 13 Smalley tried to work with respondent on ways to clean the house and to keep it a healthy environment for the minors. In addition to Smalley, two case assistants tried to direct respondent about housekeeping, keeping appointments, and dealing with the roach infestation. An agency titled Healthy Moms/Healthy Kids, which was involved with the family over a year, addressed in-home parenting education.

¶ 14 Smalley was involved with fellow investigator Feingold in working to rid respondent's home of roaches. The problem had not been solved by the time the minors were removed from respondent's care. When Smalley visited respondent's home, the minors were covered with bug bites. The minors were eating cold pasta straight from the can with their hands. An open jar of peanut butter on the kitchen counter was covered with flies. The counters were covered in grease. The refrigerator contained some cooked food, some uncooked pork steaks, and a bag of Oreo cookie crumbs. Large mounds of clothing were in the corners of every

room.

¶ 15 Even though there had been an intact-family case for a year when Smalley began working with the family, there did not seem to be any progress made. Smalley discussed respondent's service plan with her on August 18, 2014. Respondent reported she had finally gone for a mental-health assessment on July 31. She was diagnosed with bipolar disorder and postpartum depression. She was put on lithium and was to return for further blood work.

¶ 16 Feingold testified a hotline call was received by DCFS on July 28, 2014. The call was in regard to environmental neglect, the roaches in the house, and lack of food for the minors. The family had three prior indicated reports.

¶ 17 Feingold visited respondent's home at the end of July, 2014. Her mother, who lives a few trailers down, came over to make sure respondent heard what Feingold was telling her to do. She was told to get rid of all the piles of clothes, clean the kitchen counters, get rid of open food sitting on kitchen counters and figure out a way to get rid of the roaches. Respondent told Feingold she had attempted to "bomb" the trailer for the roaches.

¶ 18 Feingold returned in a short period of time and the piles of clothes were gone. The roaches were still bad, there was open food out on the kitchen counters, and the counters were still greasy. Feingold explained to respondent, until the counters were clean, the roaches would come back.

¶ 19 Feingold returned in another week or so with an exterminator to find out how much it would cost to get rid of the roaches. Again, there was grease on the stove top and open food containers. The supply of food in the house was very limited.

¶ 20 The exterminator gave an estimate and DCFS was looking for funds to cover the

\$400 initial treatment.

¶ 21 On Feingold's next visit, he found respondent had moved to the trailer next door. On the steps of the trailer were three or four plates of old food and wrappers. When he entered the home, Feingold found objects scattered throughout. The counters were greasy. An open jar of peanut butter was sitting on the counter. In the refrigerator were two partial bottles of children's antibiotics, Ramen noodles, a jar of mayonnaise, a jar of A-1 sauce, a jar of mustard, and a bowl with cooked food in it. The freezer had a big bag of Oreo cookie crumbs. Old underwear and used feminine hygiene pads littered the floor of the bathroom.

¶ 22 The minors had bug bite marks. These appeared to be the same type of marks as he had seen on them before. The minors were taken into protective custody shortly after this visit to their home. This was based on the environment they were living in and the ongoing issues with the environment. There was not enough food to sustain the minors for that day. Respondent received between \$700 and \$750 in food assistance per month and she could not account for where that assistance went and why the minors were not getting fed. All of the minors had bug bites and the youngest had a very severe diaper rash.

¶ 23 Feingold identified photographs taken of respondent's home on the day the minors were taken into protective custody. They showed the disarray in respondent's home.

¶ 24 Respondent testified and denied her home was in disarray on the date the minors were taken into custody. She also identified photographs she took in October 2014, showing her home clean and tidied up. The trial court found these to be irrelevant because they were taken after the minors were taken into custody.

¶ 25 The trial court found the State met their burden on all counts and respondent was

found to have neglected the minors. In addition, the court expressed its concern a lot of time was taken to solve respondent's environmental-neglect problems and stated DCFS needed to address respondent's mental-health issues.

¶ 26 On January 29, 2015, a dispositional hearing was held. Ethan Riojas, a specialized-foster-care worker for the Children's Home and Aid Society, testified respondent's services were to include a psychological assessment, psychiatric care, parenting classes, counseling, and housekeeping services. As of that time, respondent had completed parenting classes. She had been discharged from counseling for not attending the first appointment. The cleanliness of her house had gotten much better since the case opened. Respondent attended weekly visits with the minors and had been applying her knowledge learned in parenting classes during visits.

¶ 27 Riojas stated the first couple times he went to respondent's house, the power was not on and there was no food in the refrigerator. On his last couple visits, respondent's house was well-organized, had no garbage, and every issue he saw before had been fixed. Respondent corrected everything he pointed out as an issue and was cooperative. His main concern was if no one pointed out any of the things needing to be fixed, respondent might not consider it an issue or an environmental threat to the minors' well-being.

¶ 28 Riojas prepared the dispositional report for the court. He suggested the prognosis for the return home of the minors was "fair." He remained concerned the family has had an open intact-family case with DCFS for the past year and had failed to rectify the issues bringing the family to the attention of DCFS. He recommended the trial court find respondent made reasonable efforts during this reporting period, but he also recommended the court find

respondent to be unfit.

¶ 29 Briana Coffey, a case manager for the Children's Home and Aid Society, also testified respondent fixed everything in the house she was told to fix and was cooperative. Coffey had no environmental concerns about respondent's house. However, consistent and ongoing maintenance of the home is one of the biggest hurdles respondent still has to overcome.

¶ 30 Coffey suggested a family advocate needed to be assigned to respondent in order to assist her in recognizing the environmental threats to the minors. Respondent had yet to receive any psychological treatment. Although she had previously been prescribed lithium, her prescription expired and she had been unable to renew her prescription.

¶ 31 The trial court found respondent was unfit and unable to care for and protect the minors and they were placed in the custody and guardianship of DCFS. This appeal followed.

¶ 32 II. ANALYSIS

¶ 33 Respondent argues the trial court erred in finding the minors to be neglected because the State failed to prove their residence created an environment injurious to their welfare. She acknowledges evidence was presented indicating the residence had no food in it and had roaches, but respondent contends later visits to the home by caseworkers showed a tremendous improvement and a better level of cleanliness. Additionally, she contends no evidence was presented showing she ignored the minor's bug bites.

¶ 34 At a dispositional hearing, the State must prove the allegations in its petition for adjudication of wardship by a preponderance of the evidence. *In re Faith B.*, 216 Ill. 2d 1, 13, 832 N.E.2d 152, 159 (2005). The preponderance-of-the-evidence standard is demonstrated by proof the allegations are more probably true than not. *In re Arthur H. Jr.*, 338 Ill. App. 3d 1027,

1035, 789 N.E.2d 890, 896 (2003). A trial court's ruling in cases involving the abuse or neglect of a minor will not be disturbed unless the findings are contrary to the manifest weight of the evidence. *In re C.M.*, 351 Ill. App. 3d 913, 916, 815 N.E.2d 49, 51 (2004).

¶ 35 In September 2013, DCFS received reports of environmental neglect concerning respondent's home. An investigation of the home revealed it was infested with roaches and the minors were covered with bug bites. The family moved into several homes over the following year. Each of the homes ultimately deteriorated into filth and bug infestation. Respondent was provided with caseworkers and assistants to aid her in keeping her homes clean and free of roaches, yet she continued to experience these same problems. She left items laying about her home, with clothes stacked in the corners. Respondent left food open and laying about and the minors continued to suffer bites all over their bodies from bugs. Because of the poor environment and lack of food kept at the residence to feed the minors, they were removed from respondent's home on August 29, 2014.

¶ 36 At respondent's adjudication hearing on December 4, 2014, the trial court noted the minors' health is directly affected by the environment in which they live. The court noted the "minors might be better off living in a pig sty."

¶ 37 The improvements in her home, as noted by caseworker visits, took place after the minors were removed from respondent's care. While the improvements are worth noting, there is no reason to believe respondent can maintain the improved level of cleanliness as she was not able to do so for an entire year while DCFS worked with her in an intact-family situation.

¶ 38 Respondent's inability to notice the filthy and unsafe conditions in her home unless pointed out to her by caseworkers may be the result of mental-health issues. Respondent

