

NOTICE

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2015 IL App (4th) 150176-U

NO. 4-15-0176

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

July 30, 2015

Carla Bender

4th District Appellate

Court, IL

In re: Gab. R. and Gav. R., Minors,)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,)	Circuit Court of
Petitioner-Appellee,)	Champaign County
v.)	No. 14JA86
SHANNON RULE,)	
Respondent-Appellant.)	Honorable
)	Richard P. Klaus,
)	Judge Presiding.

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

ORDER

- ¶ 1 *Held:* The appellate court affirmed, concluding the trial court's dispositional order was not against the manifest weight of the evidence.
- ¶ 2 In November 2014, the State filed a petition for adjudication of neglect, alleging respondent, Shannon Rule, neglected her minor children by subjecting them to an environment injurious to their welfare. 705 ILCS 405/2-3(1)(b) (West 2012). Nathaniel Brosia is the father of Gab. R. and Gav. R., twins born on March 24, 2008. Brosia is not a party to this appeal.
- ¶ 3 At a February 2015 adjudicatory hearing, the trial court accepted respondent's stipulation the children were neglected and adjudicated Gab. R. and Gav. R. neglected minors. The following month, the court entered a dispositional order making the children wards of the court and granting custody and guardianship to the Department of Children and Family Services (DCFS).

¶ 4 Respondent appeals, asserting the trial court's dispositional findings of unfitness and inability were against the manifest weight of the evidence. For the following reasons, we affirm.

¶ 5 I. BACKGROUND

¶ 6 A. Initial Proceedings

¶ 7 In November 2014, the State filed a petition for adjudication of neglect and shelter care, alleging the children were subjected to an injurious environment pursuant to section 2-3(1)(b) of the Juvenile Court Act of 1987 (Juvenile Act) (705 ILCS 405/2-3(1)(b) (West 2012)), in that the children were exposed to (1) domestic violence while in respondent's and/or Brosia's care (count I), (2) substance abuse while in respondent's and/or Brosia's care (count II), and (3) an injurious environment while in respondent's care due to her history of mental illness (count III).

¶ 8 B. Adjudicatory Hearing

¶ 9 In February 2015, the trial court held an adjudicatory hearing. Respondent stipulated to the allegations in count III—namely, the children were neglected because respondent's history of mental illness created an injurious environment. The State offered a report from the Center for Youth and Family Services (CYFS) and respondent's medical records relating to her mental health as exhibits to establish a factual basis for the stipulation. The court admitted the exhibits, which outlined, as discussed below, the events that ultimately lead to the filing of the petition for adjudication of neglect.

¶ 10 In May 2014, respondent called 9-1-1 to report her suicidal thoughts. A responding officer convinced respondent to go to Carle Foundation Hospital for psychiatric evaluation. Respondent was hospitalized at Pavilion Foundation from May 9 to May 20, 2014,

for suicidal ideation. She had a long history of self-inflicted harm and was having daily thoughts of suicide and self harm. She was diagnosed with bipolar disorder, with the most recent episode being manic with psychotic features. Respondent was prescribed Zyprexa and Tegretol to stabilize her mood.

¶ 11 Also in May 2014, a hotline report was made regarding respondent's mental illness. Respondent was referred to CYFS for intact family services. The CYFS report indicated respondent and the children moved to Rantoul to escape abuse by Brosia. Brosia was serving a sentence in South Carolina for domestic violence at the time of the adjudicatory and dispositional hearings. He was due to be released May 15, 2015. Previously, DCFS in South Carolina removed Gab. R. and Gav. R. due to domestic violence in the home, and returned them to respondent's care within a year.

¶ 12 During August 2014, a caseworker observed respondent disciplining her children inappropriately, drinking while on various medications, and allowing multiple unidentified men into her home. Respondent failed to take her medications regularly. In October 2014, the caseworker observed self-inflicted cuts on respondent's thighs and neck. Respondent indicated Gab. R. saw the cut on her neck. Respondent tried to blame the cat, but Gab. R. stated, "That is not from a cat that is from a knife."

¶ 13 Community Elements completed a comprehensive mental health assessment. The assessment indicated respondent had bipolar disorder, was unstable, and her mental health was deteriorating. She admitted using alcohol and cocaine. The report indicated respondent tried to commit suicide multiple times—once taking a gun from a police officer to try to shoot herself—and she had a history of self-inflicted harm. Respondent reported depression, irritability, elevated mood, hopelessness, grief, guilt, loss of interest in everything, mood swings, anxiety,

obsessions, hallucinations, paranoia, and disrupted thought processes. She also reported hyperactivity, impulsivity, agitation, and irregular sleep patterns. She had been unemployed since September 2012 due to her mood swings and impulsive behavior.

¶ 14 On October 16, 2014, respondent and her counselor at Community Elements developed a treatment plan including weekly therapy sessions and continued psychiatric care from Dr. Whisenand at Carle Psychiatry. On October 20, 2014, police officers responded to a domestic dispute at respondent's home and, upon their arrival, defendant informed them she wanted to die. Officer Tyler Johnston learned defendant jumped into oncoming traffic and laid on the hood of a slow-moving vehicle. Johnston filed a petition for involuntary hospitalization. Respondent told staff at Community Elements she was "just drunk and did it impulsively." Respondent denied drinking often. The following day, a safety plan was put in place for the children to reside with Andrea Dow, respondent's aunt, to ensure their safety. Dow was scheduled to have surgery November 12, 2014, thus, the children were placed in a respite home on November 11.

¶ 15 The trial court found a factual basis and accepted the stipulation the children were neglected on count III of the petition because they had been exposed to an environment injurious to their welfare. The court set the matter for a dispositional hearing. The State sought leave to file an amended petition to include respondent's older child in the proceedings. That matter ultimately proceeded separately and is not at issue in this appeal.

¶ 16 C. Dispositional Hearing

¶ 17 In March 2015, the trial court held a dispositional hearing. The parties presented no evidence but relied upon the dispositional report prepared by DCFS. The dispositional report contained much of the same information presented during the adjudicatory hearing. However,

the report contained additional information as well. Gab. R. and Gav. R. were residing in a respite home licensed through Illini Christian Ministries. Both children adjusted to living in the respite home, were doing well in school, and were healthy. Gav. R. was attending weekly counseling sessions at Community Elements, and respondent's weekly visits with Gab. R. and Gav. R. were appropriate and positive. However, respondent missed one February 2015 visit because she was in jail for driving under the influence (DUI).

¶ 18 Respondent initially participated in random drug testing, but had not submitted to a drug test since early December 2014. Although she had information for a parenting education class DCFS required, she did not register for it. Respondent was argumentative, difficult to work with, and blamed the caseworker for the children residing in a respite home.

¶ 19 In submitting the report, the caseworker recommended custody and guardianship be awarded to DCFS and custody be removed from respondent and Brosia. The caseworker further recommended a permanency hearing three months later. At the dispositional hearing, the State recommended the trial court find respondent and Brosia unfit and unable to exercise custody, suspend Brosia's visitation rights, and grant DCFS the discretion to implement visitation for respondent. The guardian *ad litem* agreed with the State, expressed concern over respondent's February 2015 DUI and failure to engage in services, and recommended supervised visitation.

¶ 20 When the trial court asked respondent's attorney for his recommendation, the following exchange occurred:

"[COUNSEL]: Judge, my client has requested that I ask the [c]ourt if she could have permission to address the [c]ourt.

THE COURT: To what end, [counsel]?

[COUNSEL]: I don't know what she's going to say, so I don't know—

THE COURT: Maybe you ought to find out before you turn her loose without advice of counsel.

([Counsel] and the Respondent Mother converse.)

[COUNSEL]: Thank you, Judge. We withdraw the request.

THE COURT: Anything else ***?

[COUNSEL]: Judge, we have no objection to the recommendation.

RESPONDENT MOTHER: Yes."

The court went on to address the process for the supplemental petition regarding respondent's older child. Ultimately, the court found respondent and Brosia unfit and unable to act as custodial parents, placed custody of the children with DCFS, and granted respondent supervised visitation. The court advised respondent the dispositional order was a final, appealable order and informed her an attorney would be appointed to represent her at no cost should she appeal. Respondent immediately indicated she wished to appeal.

¶ 21 This appeal followed.

¶ 22 II. ANALYSIS

¶ 23 On appeal, respondent argues the State failed to prove respondent's mental health posed any actual or potential harm to the children and the trial court's dispositional findings were against the manifest weight of the evidence. The State contends respondent's failure to object at the dispositional hearing to DCFS receiving custody forecloses respondent from raising this issue on appeal. Generally, to preserve error for appellate review, a respondent in proceedings under

the Juvenile Act must object at those proceedings. *In re M.W.*, 232 Ill. 2d 408, 430, 905 N.E.2d 757, 772 (2009). See also *In re Jaron Z.*, 348 Ill. App. 3d 239, 253, 810 N.E.2d 108, 119-20 (2004). Here, counsel for respondent stated there was no objection to the State's recommendation the children be placed in DCFS custody and did not argue the State failed to prove a nexus between her mental illness and actual or potential harm to the children. However, despite respondent's forfeiture of the issue, we conclude, as discussed below, the record supports the court's findings. Accordingly, we affirm.

¶ 24 The Juvenile Act provides a two-step process for determining whether a child should be removed from parental custody and made a ward of the court. *In re A.P.*, 2012 IL 113875, ¶ 18, 981 N.E.2d 336. As an initial matter, the trial court must conduct an adjudicatory hearing to determine whether the child is abused, neglected, or dependent. *Id.* ¶ 19, 981 N.E.2d 336. A neglected minor includes "any minor under 18 years of age whose environment is injurious to his or her welfare." 705 ILCS 405/2-3(1)(b) (West 2012). Here, the court adjudicated Gab. R. and Gav. R. neglected following respondent's stipulation to count III, *i.e.*, the children were exposed to an injurious environment while in respondent's care due to her history of mental illness. *In re R.B.*, 336 Ill. App. 3d 606, 616, 784 N.E.2d 400, 408 (2003) ("A custodial parent's admission and stipulation, *by itself*, may be sufficient to support a finding of abuse or neglect." (Emphasis in original.)). We note respondent does not challenge the court's neglect adjudication.

¶ 25 After a child is found neglected, the matter proceeds to a dispositional hearing. *A.P.*, 2012 IL 113875, ¶ 21, 981 N.E.2d 336. The trial court must determine, by a preponderance of the evidence, whether it is in the health, safety, and best interest of the minor to remain with the parent, or if alternative custody and guardianship placement, *i.e.*, with DCFS, is more

appropriate. 705 ILCS 405/2-22 (West 2012). The court's central concern in fashioning a dispositional order is the best interest of the child. *In re M.P.*, 408 Ill. App. 3d 1070, 1073, 945 N.E.2d 1197, 1200 (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, 545 N.E.2d 319, 325 (1989). We will not overturn the court's decision unless it is against the manifest weight of the evidence. *In re J.W.*, 386 Ill. App. 3d 847, 856, 898 N.E.2d 803, 811 (2008).

¶ 26 In this case, the trial court determined it was in the best interest of the children's health and safety to place custody and guardianship with DCFS. Respondent argues the children are unaffected by her mental health problems and the court's contrary finding was against the manifest weight of the evidence. To show the children are unaffected by her mental illness, respondent directs us to the dispositional report—a report prepared when the children resided in a respite home. While the record shows the children are doing well in school and are healthy, the children have not been in respondent's custody since the October 2014 incident where respondent jumped into oncoming traffic.

¶ 27 Additionally, the trial court had evidence before it of respondent's (1) multiple hospitalizations for suicidal ideation, (2) self-cutting (and Gab. R.'s knowledge of such behavior), (3) February 2015 DUI charge, (4) excessive drinking, and (5) failure to (a) regularly take her medications, (b) submit to drug testing, and (c) complete the classes DCFS required. This evidence is sufficient to support the court's finding that respondent was unfit and unable to care for the children and, thus, placing the children with DCFS was in their best interest. Accordingly, we conclude the court's dispositional order was not against the manifest weight of the evidence.

¶ 28

III. CONCLUSION

¶ 29

For the foregoing reasons, we affirm the trial court's judgment.

¶ 30

Affirmed.