2015 IL App (4th) 150268-U

NO. 4-15-0268

FILED
August 28, 2015
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re: D.H., a Minor,	)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,	)	Circuit Court of
Petitioner-Appellee,	)	McLean County
v.	)	No. 14JA12
DON HOUSTON,	)	
Respondent-Appellant.	)	Honorable
	)	Kevin P. Fitzgerald,
	)	Judge Presiding.

PRESIDING JUSTICE POPE delivered the judgment of the court.
Justices Knecht and Harris concurred in the judgment.

ORDER

¶ 1 *Held:* Trial court did not err in terminating respondent's parental rights.

¶ 2 On March 24, 2015, the trial court entered an order terminating respondent Don Houston's parental rights to D.H. (born August 5, 2007). Respondent appeals, arguing the trial court erred in finding him unfit for termination purposes. We affirm.

¶ 3 I. BACKGROUND

¶ 4 On February 1, 2012, the State filed a petition for adjudication of wardship of D.H. in Macoupin County, alleging she was (1) a dependent minor without proper care because of respondent's mental disability (bipolar disorder and intermittent explosive disorder); (2) a neglected minor "in that the child has been diagnosed with Fetal Alcohol Syndrome, Bipolar Disorder, developmental delays, [attention deficit/hyperactivity disorder] and the [respondent] has moved so often that early childhood education and specialized services have been disrupted

and terminated;" and (3) an abused minor because respondent created a substantial risk of physical injury by other than accidental means in that respondent struck D.H. so hard that she flew across the room. On February 2, 2012, at a shelter-care hearing, respondent stipulated to a probable-cause finding as to the urgent and immediate necessity D.H. be removed from his home.

¶ 5 On May 8, 2012, Children's Home and Aid submitted a case summary to the trial court pursuant to the court's instruction. The summary noted the Department of Children and Family Services (DCFS) had received a report on March 14, 2012, claiming D.H. had made statements about respondent sexually abusing her. According to the summary, the caseworker believed D.H. might have been sexually abused by respondent prior to entering foster care. The foster parent reported D.H. displayed sexualized behaviors, which escalated after visits with respondent. The report recommended D.H.'s visits with respondent be suspended until completion of the DCFS investigation.

¶ 6 On May 18, 2012, the trial court entered an adjudicatory order, finding D.H. to be a dependent minor because she was without proper medical or other remedial care for her well-being through no fault, neglect, or lack of concern by her parents. Respondent stipulated to this finding. The court granted respondent four hours of supervised visitation per week.

¶ 7 According to Children's Home and Aid's predispositional report filed June 25, 2012, DCFS received a hotline call on March 14, 2012, after D.H. made allegations respondent had sexually abused her while she was in his care. D.H. also claimed her brother sexually abused her. Respondent denied the allegations of sexual abuse. Respondent said D.H. had been displaying sexual acts for a few years and doctors could not explain why. According to respondent, if D.H. had been sexually abused, it was by respondent's son. The report noted D.H.

was interviewed on May 18, 2012, and stated respondent had penetrated her with his penis. She showed the interviewer what respondent did with dolls. The report recommended D.H. remain in her current placement so respondent could participate in parenting classes and work on his anger management. The report also noted respondent needed to complete a psychological evaluation to determine his ability to care for D.H. According to the report, D.H.'s psychiatrist recommended D.H.'s visits with respondent be suspended until respondent received the recommended services.

¶ 8 On November 5, 2012, Children's Home and Aid filed another predispositional report. D.H.'s foster parents stated D.H.'s sexual behaviors escalated after visits with her father. D.H. had admitted masturbating while in the bathroom. The foster parents noticed an increase in nightmares and defiant behavior following D.H.'s visits with respondent. The report again recommended discontinuing the visits between D.H. and respondent. The report also recommended respondent complete a sexual-offender evaluation. According to the report, until respondent received the recommended services, further contact between respondent and D.H. would be detrimental to the child.

¶ 9 On January 17, 2013, Illinois Mentor filed a court progress report, which included a child psychosexual evaluation from Alternatives Counseling. According to the psychosexual evaluation, D.H. had displayed signs of sexual abuse upon entering foster care in January 2012. These signs included inserting items into her vagina, including pencils, utensils, a stroller handle, and toilet paper holders. D.H. also took her clothes off in front of men in the foster home to encourage the men to be sexual with her. She also encouraged the foster parent's five-year-old son to join her in sexualized activities. D.H. stated her father and brother would hold her down by her hair and each person put his "bad stick," *i.e.*, penis, into her "cookie," *i.e.*, vagina.

¶ 10 On April 19, 2013, Illinois Mentor filed a dispositional hearing report. According to the report, D.H. was taken to Gateway Medical Center after threatening to kill her foster mother's three-year-old son.

¶ 11 On June 7, 2013, respondent admitted to allegations D.H. was a neglected minor whose environment was injurious to her welfare pursuant to section 2-3 of the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/2-3(b) (West 2012)) because D.H. had sustained an unexplained injury to her nose. The trial court accepted respondent's admission, entered an adjudicatory order, and set a dispositional hearing for July 2, 2013.

¶ 12 On June 27, 2013, Illinois Mentor faxed the trial court another dispositional report. The report noted Illinois Mentor began looking for a specialized foster home for D.H. in June 2013. On June 22, 2013, D.H. was hospitalized in Peoria because of her escalated behaviors, which included kicking, screaming, masturbating, and animal abuse.

¶ 13 On July 3, 2013, the trial court entered a dispositional order, adjudging the minor a ward of the court and finding respondent unable for some reason other than financial circumstances alone to care for, protect, train, or discipline D.H. The court ordered four hours of weekly visitation except while D.H. was placed in a medical or psychiatric facility.

¶ 14 On August 6, 2013, Illinois Mentor filed another progress report. The report noted D.H. left the hospital on July 11, 2013, and was taken to a foster home in Eldorado, Illinois. Since her discharge from the hospital, D.H. and respondent had three four-hour visits at respondent's home.

¶ 15 Illinois Mentor filed another court progress report on October 16, 2013. The report noted DCFS received a hotline report stating respondent was alone with two other children. Respondent was not allowed to be alone with children because he had indicated

sexual-abuse cases with DCFS. The report also noted D.H. had been moved to a different specialized foster home on August 9, 2013, because of her behavior. Although D.H.'s behavior appeared stable in her new foster home, the foster parents reported D.H. was defiant and physically aggressive toward her classmates the day after visits with respondent.

¶ 16 At an October 22, 2013, permanency hearing, DCFS objected to an agreement between the parties that respondent had made reasonable and substantial progress toward returning D.H. home. However, the trial court found respondent had made reasonable and substantial progress toward returning the minor home. That same day, the trial court transferred the case from Macoupin County to Washington County.

¶ 17 On March 17, 2014, Illinois Mentor filed a report with the Washington County circuit court. The report noted D.H. was placed at The Baby Fold's residential facility on March 7, 2014, because D.H. was unable to be maintained in a foster home because of her increased negative behaviors. D.H. would bang her head on a wall, pick at her skin, and throw herself on the floor. Staff at The Baby Fold expressed concern with D.H.'s visits with respondent and asked the visits be suspended because the visits hindered D.H.'s treatment and progress.

¶ 18 As to respondent's progress on the service plan, the report noted respondent was asked to participate in a sexual-perpetrator assessment and participate in counseling. However, the Macoupin County trial court did not require the sexual-offender evaluation because respondent had not been criminally charged.

¶ 19 On March 20, 2014, the case was transferred to McLean County. On April 1, 2014, D.H.'s residential therapist, residential casework supervisor, and the clinical director of The Baby Fold wrote a letter to the trial court, which noted D.H. was learning the rules and expectations of the residential treatment center and her new school since being admitted on

March 7, 2014. The letter estimated it would take 18 months or more of treatment before D.H. would be stabilized enough to step down to a less-restrictive setting. During her stay up to that point, D.H. had displayed sexualized behaviors, including groping the buttocks of a staff member, asking a therapist for a kiss, and knocking over and lying on top of another student and afterword calling him "daddy." The letter also noted:

> "Our agency has had the opportunity to read documents that were provided about prior treatment and services [D.H.] has received. In numerous documents, professionals have requested a cease of visitation between [D.H.] and her perpetrator, father, [respondent]. The professional opinion of clinical staff at The Baby Fold is that [D.H.] should not have visitation with [respondent] until (1) he has successfully engaged in and made significant progress in treatment specifically focused on his sexual abuse of [D.H.], and (2) [D.H.] has been stabilized in residential treatment and has made significant progress in addressing both her sexual perpetration and sexual victimization issues. It is very likely that [D.H.] would continue to become significantly emotionally and behaviorally dysregulated if she has ongoing visits with [respondent] before each of them has received focused treatment on the sexual abuse."

The Baby Fold recommended all visitation and communication between D.H. and respondent be suspended until the treatment professionals working with both of them believed enough progress had been made that communication would be in D.H.'s best interests. Further, The Baby Fold

recommended the service plan should be amended to specify respondent must receive treatment for the sexual molestation of his daughter, including individual treatment and specific sexual-perpetrator therapy.

¶ 20 On April 15, 2014, the McLean County trial court held a permanency hearing. The State noted DCFS had made an indicated finding of rape or sexual harm against respondent in March 2014. The State also noted DCFS had another investigation regarding a male infant and four other indicated findings concerning D.H. The State argued custody and guardianship should remain with DCFS and D.H. should remain a ward of the court. The State noted respondent still needed to participate in a sex-offender evaluation and to complete any recommended treatment. Further, respondent had refused to participate in a DCFS-approved psychiatric evaluation and was inappropriate and ineffective during his visits with D.H. D.H. also exhibited troubling behavior during and after contact with respondent. The State asked the court to suspend visits between D.H. and respondent. In addition, the State noted:

> "The other issue is that while I do believe that reasonable—that the services that have been required by previous court order have been provided, I do not believe that those services were adequate to address [respondent's] status as an indicated child sex offender. So I'm not asking the court to find that the services have not been provided because I don't believe that the agencies have been allowed to provide the services this child needs. But I am asking that the father be made aware and be made to understand that he does need to participate in the sex offender evaluation and if ordered, if found to be in need of treatment, he needs to do that.

He does need to participate in a DCFS-sanctioned psychological evaluation. So he just needs to understand that these are part of the client service plan and if he's interested in ever being reunited or even having contact with his child he needs to be doing the services that would make him safe to be around this child."

Respondent's counsel noted the Macoupin County trial court had not required respondent to participate in a sex-offender evaluation. Further, respondent was receiving psychiatric services through the United States Department of Veterans Affairs (VA). The guardian *ad litem* stated contact between respondent and D.H. should cease until further order of the court.

¶ 21 The trial court found the recent indicated finding of abuse would be sufficient to order a sex-offender evaluation. According to the court:

"I don't know the whole history of this case but [D.H.] was—I've never seen a child of this age manifest these types of symptoms without having been a victim of direct sexual abuse. I don't know if there is a suggestion that it was anyone else, there was an indicated finding for [respondent] but that obviously would justify the assessment and treatment as well.

Given the trauma that she has exhibited following visitations, again the recommendations from her treaters, counselors and such, that the court at this point will make a finding that it's not in her best interests to have visitation or contact with [respondent] until—at least until such time as it's recommended

> that that occur by the counselors and psychologists or psychiatrists for her."

¶ 22 On August 13, 2014, the trial court held another permanency hearing. The State told the court respondent still needed to participate in the sex-offender evaluation and psychological evaluation. Further, the State noted respondent had not produced certification he had completed an anger-management program. Respondent's attorney essentially argued the claims of respondent sexually abusing D.H. were meritless. The court stated:

> "I have reviewed here briefly the April 1st report from the Baby Fold that was filed on April 4th indicating the, some, a little more information on the instances of sexual acting out. This was a dependency case, but the disclosure was made by [D.H.] herself after being in care for some period of time. I would expect no sexual acting out by a child who's not been molested. We have had a finding here that was not appealed. If [respondent] goes for an assessment, I believe protocol, if there's a denial, calls for a lie detector test to be performed. And he can, you know, he's going to have to do that probably in order to go through that service. If he refuses to go through the service, I guess that tells us something."

¶ 23 The next permanency hearing was held on January 20, 2015. The State informed the court respondent had indicated he was not going to perform the major services required of him, including the sex-offender evaluation. The State asked the trial court to change the permanency goal to substitute care. The court changed the permanency goal to substitute care pending determination on termination of respondent's parental rights.

¶ 24 On January 30, 2015, the State filed a petition to terminate respondent's parental rights to D.H. The State alleged respondent failed to maintain a reasonable degree of interest, concern, or responsibility as to the minor's welfare (750 ILCS 50/1(D)(b) (West 2012)) and failed to make reasonable progress toward D.H.'s return following adjudication in the nine-month period between April 15, 2014, and January 15, 2015 (750 ILCS 50/1(D)(m)(ii) (West 2012)). According to the petition, terminating respondent's parental rights was in D.H.'s best interests.

¶ 25 On March 24, 2015, the trial court held a hearing on the State's termination petition. Kaitlin Kuhn, a licensed clinical social worker at ABC Counseling and Family Services, testified she met with D.H. on April 9, 2014. Kuhn testified D.H. made credible disclosures indicating she had been sexually abused by her "daddy." She also stated his name. D.H. did not name any other perpetrators. Kuhn testified she could not recommend even therapeutic contact between D.H. and respondent because such contact could cause D.H. to regress.

¶ 26 Angela Lefler testified she was involved in D.H.'s case as a child-welfare specialist and also as a supervisor at Illinois Mentor and had been continuously involved in the case between April 15, 2014, and January 15, 2015. Lefler first met respondent in August 2013, after a client-service plan was in place. Lefler testified respondent was aware of what was expected of him pursuant to the client-service plan. Respondent was also informed his parental rights could be terminated if he did not cooperate with services.

¶ 27 As of April 15, 2014, respondent's client-service plan called on him to complete a DCFS-approved psychological assessment and follow any recommendations given, complete anger-management classes and demonstrate anger control, complete parenting classes and

demonstrate improved parenting skills, follow his medication management, and engage in individual counseling. Lefler reviewed respondent's client-service plan on January 15, 2015. As of January 15, 2015, respondent had not completed or even begun a DCFS-approved psychological assessment. Lefler believed respondent was still in need of a psychological assessment on January 15, 2015. He also had not provided any verification of participating in anger-management classes and was not demonstrating an ability to control his anger as of January 15, 2015.

¶ 28 Lefler testified respondent had been fairly consistent in participating in his medication management. Respondent had been participating in psychiatric services through the VA, but it was not related to parenting or mental-health services regarding D.H. The allegations of sexual abuse were not being explored at the VA. Between April 15, 2014, and January 15, 2015, respondent had refused to participate in a sexual-offender evaluation. Lefler testified she believed respondent was still in need of a sexual-offender evaluation. On cross-examination, Lefler testified respondent said he would not participate in a sexual-offender evaluation because he believed doing so would be admitting guilt, which he denied.

¶ 29 According to Lefler, between April 15, 2014, and January 15, 2015, respondent had not shown any improvement toward completing his service-plan goals. Lefler was unable to recommend D.H. and respondent resume contact. As of January 15, 2015, Lefler's agency was nowhere close to being able to recommend D.H. be returned to respondent.

¶ 30 The State introduced two indicated reports from DCFS. In the first report, respondent was indicated for sexual molestation and sexual penetration as to D.H. In the second report, respondent was indicated for substantial risk of sexual abuse and had access to a child

other than D.H. Although respondent's counsel conceded the reports were admissible, he argued they were of extremely limited value.

¶ 31 Without objection, the trial court took judicial notice of the original petition for adjudication of wardship filed on February 1, 2012, the first adjudicatory order entered on May 18, 2012, the amended petition for supplemental relief filed on June 7, 2013, the second adjudicatory order entered on June 7, 2013, the dispositional order entered on July 3, 2013, the permanency order entered on October 2, 2013, the permanency order entered on April 15, 2014, the permanency order entered on August 13, 2014, and the permanency order entered on January 9, 2015.

¶ 32 After hearing arguments from the parties, the trial court stated the case at that point was "really about the sexual offender evaluation." The court noted it was clear D.H. was the victim of sexual abuse, and D.H. identified respondent as her abuser. While recognizing uncorrobated assertions do not support a finding of abuse or neglect, this case was no longer at that stage of the proceedings. The court noted respondent had been indicated for sexual abuse and the requirement he participate in a sexual-offender assessment was appropriate. Although the court ordered respondent to participate in a sexual-offender assessment, it stated this did not mean he would automatically be required to do any sex-offender treatment. According to the court:

> "[I]t is clear there's no question in the Court's mind that the order for sex offender assessment, at the very least was appropriate, that he couldn't make progress at all toward return of this child home until he had undergone at least the assessment; and

depending on what that said, the treatment if that was ordered. He hasn't done that."

The court found the State proved by clear and convincing evidence respondent had not made reasonable progress during the nine-month period between April 15, 2014, and January 15, 2015.

¶ 33 The trial court then proceeded to the best-interests hearing and found it was in D.H.'s best interests to terminate respondent's parental rights. Because respondent does not make an argument with regard to the court's best-interests finding, we do not summarize the evidence heard by the court.

¶ 34 This appeal followed.

¶ 35 II. ANALYSIS

¶ 36 Before a trial court can terminate parental rights, the State must prove by clear and convincing evidence (*In re M.H.*, 196 Ill. 2d 356, 365, 751 N.E.2d 1134, 1141 (2001)) the parent is unfit as defined by the Adoption Act (750 ILCS 50/0.01 to 24 (West 2014)) (*In re B.B.*, 386 Ill. App. 3d 686, 698, 899 N.E.2d 469, 480 (2008)). A reviewing court will reverse a trial court's finding of unfitness only when it is against the manifest weight of the evidence. *In re D.F.*, 201 Ill. 2d 476, 495, 777 N.E.2d 930, 940-41 (2002). A decision is against the manifest weight of the evidence only where the opposite result is clearly evident or where the determination is unreasonably arbitrary and not based on the evidence presented. *In re Cornica J.*, 351 Ill. App. 3d 557, 566, 814 N.E.2d 618, 626 (2004).

¶ 37 An individual's parental rights can be terminated if even a single alleged ground for unfitness is supported by clear and convincing evidence. *In re Gwynne P.*, 215 Ill. 2d 340, 349, 830 N.E.2d 508, 514 (2005). In this case, the trial court found respondent unfit because he failed to make reasonable progress toward D.H.'s return in the nine-month period between April

15, 2014, and January 15, 2015. During this nine-month period—as well as the rest of this case—respondent refused to participate in a sexual-offender evaluation. This fact is not in dispute.

¶ 38 According to respondent, the trial court erred in focusing on his refusal to participate in a sexual-offender evaluation in judging his progress. Respondent argues "[t]he State's allegations that [he] sexually abused [D.H.] never formed the basis of a finding of abuse, neglect, or dependency and did not give rise to her removal." However, this is irrelevant. Our supreme court has stated, when "measuring a parent's progress under section 1(D)(m) of the Adoption Act," courts must consider "the dynamics of the circumstances involved." *In re C.N.*, 196 Ill. 2d 181, 216, 752 N.E.2d 1030, 1050 (2001). A court cannot ignore conditions, some of which may be very serious, before returning custody of a child simply because the condition was not the stated reason the child was initially removed from her parent.

> "[T]he benchmark for measuring a parent's 'progress toward the return of the child' under section 1(D)(m) of the Adoption Act encompasses the parent's compliance with the service plans and the court's directives, in light of the condition which gave rise to the removal of the child, *and in light of other conditions which later become known and which would prevent the court from returning custody of the child to the parent*." (Emphasis added.) *Id.* at 216-17, 752 N.E.2d at 1050.

In this case, the most severe condition facing the trial court was whether returning D.H. to respondent would subject her to further sexual abuse.

¶ 39 Respondent also complains his termination could not be based on his refusal to take part in a sexual-offender evaluation because the State never established he sexually abused D.H. Respondent cites the Second District's opinion in *In re K.S.*, 365 Ill. App. 3d 566, 850 N.E.2d 335 (2006), to support his argument.

¶ 40 Before analyzing *K.S.*, we note stricter evidentiary rules apply during adjudicatory hearings as opposed to dispositional and permanency hearings. During adjudicatory hearings, normal rules of evidence applicable to civil proceedings apply unless otherwise provided by statute. 705 ILCS 405/2-18(1) (West 2014). At dispositional hearings, any evidence, including written and oral reports, may be admitted and relied on to the extent of its probative value in determining the future status of a child. 705 ILCS 405/2-22(1) (West 2014). The same is true during permanency hearings. 705 ILCS 405/2-28(2) (West 2014).

¶ 41 In *K.S.*, the trial court ordered the respondent-father to participate in a sexual-offender evaluation after the adjudicatory hearing and the dispositional hearing. *K.S.*, 365 Ill. App. 3d at 568-69, 850 N.E.2d at 338-39. At the dispositional hearing, the State presented a Catholic Charities social-history investigation, which noted:

> "DCFS had become involved with the family when [K.S.'s sibling] and her cousin reported that respondent 'had fondled them and sexually molested them.' However, the case was closed when [the respondent-mother] 'agreed to a safety plan, and reported that she would not allow any contact between her children' and respondent. According to the report, respondent stated that 'the girls lied about the incidents' and he 'has denied any responsibility for the sexual

molestation report that was indicated by DCFS in 2000.' " *Id.* at 569, 850 N.E.2d at 338.

Respondent continued to deny any wrongdoing at the dispositional hearing and asked the court not to require him to complete a sex-offender assessment or participate in sex-offender counseling. No one testified at the dispositional hearing. *Id.* at 569, 850 N.E.2d at 339.

¶ 42 Based on the factual basis presented by the State and stipulated to by the respondent-mother, the Second District took no issue with the trial court's finding K.S. was neglected. According to the Second District, the respondent-mother's stipulation to (1) the allegation K.S.'s environment was injurious to her welfare because the respondent-mother failed to protect her by not following a DCFS safety plan and (2) the factual basis for the allegation was sufficient to establish the neglect finding by a preponderance of the evidence. The Second District stated the respondent did not rebut this evidence. *Id*. at 570, 850 N.E.2d at 339.

¶ 43 Although affirming the neglect finding, the Second District found the trial court's dispositional order requiring the respondent-father to complete a sex-offender evaluation was not supported by law or fact. *Id*. at 571, 850 N.E.2d at 340. The Second District stated:

> "The [trial] court heard nothing except rank tertiary hearsay regarding the allegations of a sexual offense committed by respondent. At the time that the court found count IV to be proved, it had heard nothing except what Valerie stipulated that DCFS caseworker Martinez would testify to if she were called to testify. In that stipulation, it was stated that Martinez would testify that she was involved in an investigation of the allegation that respondent molested T.V. and that DCFS's safety plan prohibited

respondent's presence in Valerie's house. It was the violation of this safety plan that formed the basis of the court's finding of neglect. However, the court also heard that the criminal case against respondent, which arose from the same allegations of sexual molestation, was dismissed in January 2000, more than two years prior to the hearing, and count III of the petition, alleging abuse based on those same allegations, was dismissed just moments before.

In both instances, the complete lack of evidence against respondent leads us to conclude that the trial court's actions were both an abuse of discretion and against the manifest weight of the evidence. The Catholic Charities report generated for the dispositional hearing included the statement that the DCFS report regarding the molestation allegations was 'indicated.' However, respondent consistently denied the allegations, and the Catholic Charities report noted this fact.

The trial court never heard *any* direct evidence that respondent had committed any sexual offense. Valerie's stipulation that she violated the safety plan and the dispositional report stating that allegations of sexual molestation had been made were the only 'evidence' that the court heard. *** While the DCFS report was indicated, such a designation means only that the report of abuse or neglect was supported by 'credible evidence.'

> [Citations.] On the other hand, the court knew that the State had dismissed the criminal charge against respondent and withdrawn the abuse allegations based on the same alleged incident, and that respondent had always denied the allegations. Reference to a DCFS report supported by 'credible evidence' was an insufficient basis for ordering respondent to undergo a sexual offender evaluation." (Emphasis in original.) *Id.* at 571-72, 850 N.E.2d at 340-41.

In another part of its opinion, the Second District noted "the State presented no competent evidence against [the respondent-father] and he was never given an opportunity to present evidence on his own behalf." *Id.* at 570, 850 N.E.2d at 340.

¶ 44 We first note juvenile neglect cases are fact-dependent. Our supreme court has stated, "in cases involving the termination of parental rights, each case is *sui generis* and must be decided based on the particular facts and circumstances presented." *In re D.D.*, 196 Ill. 2d 405, 422, 752 N.E.2d 1112, 1121 (2001). Second, in *K.S.*, it appears evidence was presented at the dispositional hearing concerning the sexual abuse of K.S.'s sibling and cousin. Hearsay evidence is properly admissible at a dispositional hearing. 705 ILCS 405/2-22(1) (West 2014). As a result, we need not comment on the Second District's opinion in *K.S.* other than to say we find the majority's reasoning troubling.

¶ 45 In this case, the McLean County trial court's decision to require respondent to participate in a sexual-offender evaluation was neither against the manifest weight of the evidence nor an abuse of discretion. The court had sufficient information to order respondent to participate in a sexual-offender evaluation.

¶ 46 As stated earlier, when determining at a permanency hearing whether recommended services are appropriate, all relevant evidence, "including oral and written reports, may be admitted and may be relied on to the extent of its probative value." *Id.* At the hearing on April 15, 2014, the trial court in this case noted it had received a permanency report and a report from The Baby Fold. The State told the court respondent was indicated by DCFS in March 2014 for what the State believed was rape or sexual harm. The State informed the court it did not yet have the investigative materials with regard to this indicated incident. In addition, the State notified the court respondent had another pending DCFS investigation regarding a male infant.

¶ 47 At the April 15, 2014, hearing, respondent failed to argue the trial court could not consider the permanency report or the report from The Baby Fold. Instead, he argued the case had been ongoing and the court should not make any finding with regard to respondent until the court knew more about the case since it had just been transferred to McLean County. He also noted the prior trial courts had not required respondent to participate in a sexual-offender evaluation.

¶ 48 We conclude the permanency report and The Baby Fold report contained sufficient evidence for the trial court to order respondent to participate in a sexual-offender evaluation. The permanency report from Illinois Mentor indicated DCFS received a call on March 14, 2012, stating respondent had sexually abused D.H. In a later interview, D.H. stated respondent had sexually abused her. The report also noted D.H. frequently masturbated and inserted objects into her vagina. In addition to the information in the permanency report, The Baby Fold's report noted D.H.'s "sexual behaviors include inserting items into her vagina, masturbating in public, undressing in front of foster fathers and asking them to engage in sexual behaviors with her, attempting to be sexual with foster siblings, and having over sexualized

speech and knowledge." The court had sufficient information to require respondent to participate in a sexual-offender assessment as part of his service plan.

¶ 49 In addition, contrary to respondent's argument, the State did not have to present clear and convincing evidence at the termination hearing that respondent sexually abused D.H before the trial court could find him unfit for termination purposes. The State only had to establish respondent failed to make reasonable progress toward D.H.'s return during the nine-month period between April 15, 2014, and January 15, 2015, which it did. As stated earlier, respondent refused to participate in a sexual-offender assessment as ordered by the trial court. The trial court's decision respondent was unfit for termination purposes was not against the manifest weight of the evidence.

¶ 50 III. CONCLUSION

¶ 51 For the reasons stated above, we affirm the trial court's decision to terminate respondent's parental rights.

¶ 52 Affirmed.