

**NOTICE**  
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2015 IL App (4th) 150472-U  
NO. 4-15-0472

**FILED**  
October 8, 2015  
Carla Bender  
4<sup>th</sup> District Appellate  
Court, IL

IN THE APPELLATE COURT  
OF ILLINOIS  
FOURTH DISTRICT

In re: K.C., a Minor,	)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,	)	Circuit Court of
Petitioner-Appellee,	)	Champaign County
v.	)	No. 15JA7
TANISHA JONES,	)	
Respondent-Appellant.	)	Honorable
	)	John R. Kennedy,
	)	Judge Presiding.

JUSTICE TURNER delivered the judgment of the court.  
Justices Knecht and Holder White concurred in the judgment.

**ORDER**

¶ 1 *Held:* The appellate court found the trial court did not err in finding respondent unfit and unable to parent her minor child.

¶ 2 In January 2015, the State filed a petition for adjudication of neglect and shelter care with respect to K.C., the minor child of respondent, Tanisha Jones. In May 2015, the trial court made the minor a ward of the court and placed custody and guardianship with the Department of Children and Family Services (DCFS).

¶ 3 On appeal, respondent argues the trial court erred in finding her unfit and unable to parent K.C. We affirm.

¶ 4 I. BACKGROUND

¶ 5 In January 2015, the State filed a petition for adjudication of neglect and shelter care with respect to K.C., born in December 2014, the minor child of respondent and Kin

Conerly. The petition alleged K.C. was neglected pursuant to section 2-3(1)(b) of the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/2-3(1)(b) (West 2014)) (count I) because her environment was injurious to her welfare when she resided with respondent in that respondent failed to correct the conditions that resulted in a prior adjudication of parental unfitness involving a different child. Count II alleged K.C. was neglected because her environment was injurious to her welfare when she resided with respondent and/or Conerly because the environment exposed the minor to domestic violence.

¶ 6 At the shelter-care hearing, Demetria Candler, a child-protection specialist at DCFS, testified she received a report concerning the birth of K.C. Candler learned respondent had given birth to K.C. and had previously been found unfit to parent a child. Candler learned respondent had surrendered her parental rights in a prior case. K.C.'s father admitted he had domestic-violence issues, and Candler stated Conerly had an aggravated-battery conviction involving a female victim and had been sentenced to prison in 2007 after his probation had been revoked. Candler obtained a psychological assessment of respondent and found she had a diagnosis of mild retardation with an intelligence quotient (IQ) of 61. At the conclusion of the hearing, the trial court entered a temporary custody order, finding probable cause to believe the minor was neglected.

¶ 7 In April 2015, the trial court conducted the adjudicatory hearing. Respondent admitted the allegations in count I. The State agreed to dismiss count II.

¶ 8 In May 2015, the trial court conducted the dispositional hearing. The dispositional report indicated respondent had previously been found unfit and surrendered her parental rights to her previous child. The report indicated she had an IQ of 61 and was "mildly mentally retarded, which deemed her unable to parent long term independently without support."

A psychological evaluation concluded her impairment "keeps her from being able to parent children at minimal standards." Respondent reported she had been involved with a man named "Meechy," but she did not know his first or last name. Respondent had been charged with assault, a weapons offense, and obstructing the peace, the latter for which she received a conviction.

¶ 9 The trial court found respondent unfit and unable, for reasons other than financial circumstances alone, to care for, protect, train, and discipline the minor and it would be contrary to the minor's health, safety, and best interest to be in her custody. The court adjudged the minor neglected, made her a ward of the court, and placed custody and guardianship with DCFS. This appeal followed.

¶ 10 II. ANALYSIS

¶ 11 Respondent argues the trial court's finding of unfitness was against the manifest weight of the evidence. We disagree.

¶ 12 In deciding whether a minor should become a ward of the court, the trial court engages in a two-step process. *In re A.P.*, 2012 IL 113875, ¶ 18, 981 N.E.2d 336. First, an adjudicatory hearing on the State's petition for adjudication of wardship is held to determine whether the minor is abused, neglected, or dependent. *A.P.*, 2012 IL 113875, ¶ 19, 981 N.E.2d 336. If the court finds the minor abused, neglected, or dependent, then the matter moves to step two, which is the dispositional hearing. *A.P.*, 2012 IL 113875, ¶ 21, 981 N.E.2d 336.

¶ 13 At the dispositional hearing, the trial court determines whether a child may be committed to DCFS custody and guardianship and may grant custody and guardianship to DCFS if it finds (1) the parents are "unfit or are unable, for some reason other than financial circumstances alone, to care for, protect, train or discipline the minor or are unwilling to do so,

and [(2)] that the health, safety, and best interest of the minor will be jeopardized if the minor remains in the custody of his or her parents." 705 ILCS 405/2-27(1) (West 2014).

¶ 14 Because biological parents have a superior right to custody, both parents must be found unfit, unable, or unwilling before the children may be placed with DCFS. *In re Ta. A.*, 384 Ill. App. 3d 303, 307, 891 N.E.2d 1034, 1037 (2008). However, in proceedings under the Juvenile Court Act, the primary interest is the best interest of the child and "a child's best interest is superior to all other factors, including the interests of the biological parents." *In re J.J.*, 327 Ill. App. 3d 70, 77, 761 N.E.2d 1249, 1255 (2001).

¶ 15 "The standard of proof in a trial court's section 2-27 finding of unfitness that does not result in a complete termination of all parental rights is a preponderance of the evidence." *In re April C.*, 326 Ill. App. 3d 245, 257, 760 N.E.2d 101, 110 (2001). On appeal, this court will not reverse a trial court's decision unless its factual findings are against the manifest weight of the evidence or the court abused its discretion in choosing an improper dispositional order. *Ta. A.*, 384 Ill. App. 3d at 307, 891 N.E.2d at 1037-38. We note this court "may affirm the trial court's decision on any basis established by the record." *In re K.B.*, 314 Ill. App. 3d 739, 751, 732 N.E.2d 1198, 1208 (2000).

¶ 16 In the case *sub judice*, the trial court found respondent unfit and unable to parent K.C. Respondent admitted the allegations in count I of the petition for adjudication of neglect, which alleged K.C.'s environment was injurious to her welfare because respondent failed to correct the conditions that resulted in a prior adjudication of parental unfitness of another child. The evidence indicated respondent was mentally impaired and unable to independently parent a child for an extended time without support. Her impairment also kept her from being able to parent K.C. "at minimal standards." The court's findings were not against the manifest weight of

the evidence.

¶ 17

### III. CONCLUSION

¶ 18

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

¶ 19

Affirmed.