2016 IL App (1st) 153248-U

FOURTH DIVISION
May 19, 2016

No. 1-15-3248

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

In re MICHAEL J. JR., a minor,	)	Appeal from the
	)	Circuit Court of
Minor-Appellee,	)	Cook County.
	)	
(The People of the State of Illinois	)	
	)	
Petitioner-Appellee,	)	No. 15 JA 110
	)	
v.	)	
	)	
Pauline J.,	)	Honorable
	)	Maxwell Griffin, Jr.,
Respondent-Appellant.)	)	Judge Presiding.

PRESIDING JUSTICE McBRIDE delivered the judgment of the court.
Justices Howse and Ellis concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court's finding of neglect and adjudication of wardship was not against the manifest weight of the evidence where respondent had not completed the required DCFS services.

¶ 2 Respondent Pauline J. is the natural mother of minor Michael J. Jr., born November 27, 2014. On September 24, 2014, the trial court adjudicated Michael neglected due to an injurious environment. On October 19, 2015, the court found it was in the minor's best interest to be

adjudged a ward of the court and that the mother was unable, for some reason other than financial circumstances alone, to care for, protect, train, and discipline the minor. Respondent appeals, arguing that (1) the trial court's finding of neglect at the adjudicatory hearing was against the manifest weight of the evidence, and (2) the trial court's finding at the dispositional hearing was against the manifest weight of the evidence. Father Michael J. Sr. (Michael Sr.) is not a party to this appeal, his separate appeal was dismissed pursuant to *Anders v. California*, 386 U.S. 744. See *In re Michael J. Jr.*, 2016 IL App (1st) 153362-U.

¶ 3 On February 6, 2015, the State filed a petition for adjudication of wardship, stating that Michael was a neglected minor whose environment was injurious to his welfare, and that Michael was abused due to a substantial risk of physical injury. 705 ILCS 405/2-3(1)(b), (2)(ii) (West 2014). The petition alleged the following supporting facts.

> "Parents have two prior indicated reports for substantial risk of sexual abuse. Mother has six other minors who are in [Department of Children and Family Services (DCFS)] custody in Champaign County with findings of neglect having been entered. On November 25, 2014, a dispositional order finding mother unfit was entered. Mother only has supervised visitation with her children who are in DCFS custody. Therapy is ongoing for mother and she needs to be assessed for additional services. Mother has been diagnosed with depression and attention deficit hyperactivity disorder. Father is a registered sex predator and has been diagnosed with specified paraphilic disorder. Per sex offender assessments, father poses a risk of sexual harm to children.

> Current service provider state father is in need of further testing to assess his progress in treatment and to measure his risk to reoffend. Parents are married and currently reside together."

¶ 4 Respondent and Michael Sr. are married, with one child, Michael, from that relationship. Respondent has six other minor children from a previous relationship, and these children are not parties to this appeal. We briefly summarize the child protection proceedings for these minors for an understanding of the instant case.

¶ 5 Prior to the instant proceedings regarding Michael, child protection proceedings occurred in Champaign County regarding the six minors. The children were removed from the home and placed in foster care with respondent's mother and sister in Chicago. Respondent and Michael Sr. then moved to Chicago. In October 2014, the trial court in Champaign County adjudged the six children neglected. In November 2014, the Champaign County trial court found respondent unfit and adjudged the six minors wards of the court. In May 2015, the Fourth District affirmed the finding of neglect, but reversed the finding that respondent was unfit. *In re Ch. S., Am. S., Fr. S., Ni. S., Za. S., and Aa. S.*, 2015 IL App (4th) 141065-U. In its decision, the reviewing court observed that an agency authorized Michael Sr. to move back into the home. The court reasoned that while this placed the children in an injurious environment, respondent's unfitness could not be based on her following a plan authorized by an agency. However, the court did not authorize the return of the children to a home in which Michael Sr. resided, and remanded for a new dispositional hearing. *Id*. ¶¶ 72-75. In July 2015, the Champaign County trial court issued a redispositional order finding respondent fit, willing, and able, and granted her custody of the minors, but imposed an order of protection and granted DCFS guardianship. At the time of the

adjudication hearing in the instant case, the minors had not returned to respondent's custody because the home did not have sufficient room for the children.

¶ 6 The trial court conducted the adjudicatory hearing in September 2015. The evidence presented showed that in November 2010, Michael Sr. pled guilty to possessing and receiving photos and videos of children engaged in sexually explicit conduct while in the United States Air Force. Michael Sr. was confined for 10 months and received a "bad conduct discharge."

¶ 7 Traci Broadnax testified that she was employed as a DCFS caseworker and was assigned to Michael's case. She stated that services began for the family in April 2014 in Champaign County. In December 2014, the case was transferred to Cook County after respondent and Michael Sr. moved to Chicago.

¶ 8 Broadnax testified that in February 2015, both respondent and Michael Sr. were in need of sex offender reunification services "to identify what possible triggers that [Michael Sr.] might display. And for them to identify those things and be able to work out protective measures for the children." Broadnax also stated that Michael Sr. needed sex offender treatment, individual therapy, and the court ordered a psychological evaluation and assessment. Respondent was already engaged in individual therapy, which was to continue. Respondent had already completed parenting education classes. Broadnax said she later learned from Michael Sr. that he had self-referred and was engaged in individual therapy with Joel Savoy.

¶ 9 Broadnax stated that DCFS took protective custody of Michael because Michael Sr. is a registered sex offender and he was not in treatment services for his sex offender issues. DCFS determined that Michael was at risk. Broadnax admitted that she had never received a report that Michael Sr. had harmed a child.

¶ 10 Joel Savoy testified that he was employed by Forward PC as a psychologist. He began services for Michael Sr. in September 2014. Michael Sr. showed Savoy two previous evaluations and asked for Savoy to provide sex offender treatment. Michael Sr. was diagnosed with paraphilia (NOS) designation, pictophilia. Michael Sr.'s treatment consisted of individual and group sessions. As of February 2015, Savoy testified that Michael Sr. had completed individual sessions and had 10 group sessions remaining.

¶ 11 Savoy testified that as of February 2015, Michael Sr.'s risk of reoffending was "more in the moderate range," but classified as moderate to high because of the availability of child pornography on the internet. Savoy stated that Michael Sr.'s status as a convicted sex offender created an ongoing risk, which removed him from the lower range of risk. Savoy said that the factors were low for Michael Sr. to reoffend based on Michael Sr.'s willingness to change and honesty in treatment. Savoy testified that he believed Michael Sr. internalized the treatment. He stated that Michael Sr. acknowledged his problem and the risk for his living situation, made progress, met his treatment goals, and Savoy was unaware of any deviancy during treatment.

¶ 12 Savoy stated that since Michael Sr. lived with respondent, a safety plan was created in which respondent had all of the responsibilities pertaining to the children. The safety plan included bathing, providing door locks, and internet security.

¶ 13 The State submitted several exhibits, including Savoy's sex therapy reports, a sex offender assessment from February 2014, and the DCFS prior indicated reports, into evidence and rested following Savoy's testimony. The February 2014 sex offender assessment by Terry Campbell stated that Michael Sr. may pose a risk of sexual harm to children, especially if he was in a position to groom a child. The assessment observed inconsistencies in Michael Sr.'s court martialed testimony and his statements during the assessment. Specifically, Michael Sr.

admitted to the judge that he purposefully and knowingly downloaded child pornography and had a pornography addiction. In contrast at the assessment, Michael Sr. denied knowing the content of the pornography he was downloading, denied having any problems with pornography, and continued to view adult pornography on a regular basis. Campbell's diagnostic impression of Michael Sr. was that Michael Sr. showed adult antisocial behavior, narcissistic personality disorder with histrionic traits, and problems with DCFS and financial problems. The assessment recommended sex offender treatment.

¶ 14 The two prior indicated reports were from August 2014. Both incidents occurred when the Rantoul police department attempted to conduct a random check of the home to ensure that Michael Sr. was not in possession of child pornography, or using his computer or cell phone to view child pornography. In the first incident, both respondent and Michael Sr. denied the police access into the home, and Michael Sr. refused to allow the police access to his cell phone. In the second incident, Michael Sr. refused to give police access to the home or to his cell phone.

¶ 15 Beverly Allen testified for respondent. She stated that she was employed as a therapist with Thrive Counseling Center. She first met respondent in August 2012 and treated respondent from then until August 2013, when respondent moved downstate. When respondent initially started seeing Allen, she was dating Michael Sr. Respondent resumed therapy with her in September 2014. They met once a week, and respondent was consistent with her attendance. Allen testified that respondent needed therapy for anxiety, depression, and the DCFS family issues. She stated that respondent experienced stress and depression from not having her children.

¶ 16 Allen said that respondent made progress on her depression and anxiety until Michael was born, and then the threat of losing him caused respondent terror. The therapy also included

working with respondent on how to manage living with a significant other who was a convicted sex offender in a home with children. Allen stated that respondent found Michael Sr.'s viewing of child pornography " 'disgusting.' " Respondent said she was willing to do whatever was necessary to protect her children. Allen believed that respondent had a good understanding of Michael Sr.'s pornography addiction. Allen said that under the DCFS safety plan, respondent had to be present if Michael Sr. was in the house, cameras were installed outside the home to monitor the children, and locks were placed on all doors to limit Michael Sr.'s access. Respondent complied with this safety plan.

¶ 17 Allen testified that she did not think respondent was a risk to the children, including Michael. Allen also did not have any concerns about respondent's ability to appreciate the risk of residing with Michael Sr. and respondent's ability to monitor him. Allen stated that Michael Sr. attended some therapy sessions with respondent and found him to be open and cooperative about his pornography addiction. Allen admitted that she was unaware of the incidents involving the Rantoul police being denied access into the home. After admitting exhibits from both parents into evidence, the parties rested.

¶ 18 Several days later, the trial court found Michael to be neglected due to an injurious environment by a preponderance of the evidence. The court observed that

> "the nature of the State's case is one of anticipatory neglect with there being no evidence that this minor showed signs of either abuse or neglect during the more than two months that the child was in the home prior to protective custody being taken. However, I am not required to wait until the child is actually injured, but I can find that an injurious environment exists. Relevant to that

> determination is the status of the parents' home and any other children in the home when protective custody and temporary custody are taken."

¶ 19 The court concluded that the evidence was sufficient to establish at the time protective custody was taken, an injurious environment existed. "That is to say that the children were at risk living with a registered sex offender." The court noted that the Champaign County redispositional order "speaks to the need for continued monitoring and services."

¶ 20 In October 2015, the trial court conducted the dispositional hearing. The State admitted psychological evaluations for both respondent and Michael Sr. into evidence. The evaluations were conducted in August 2015. Dr. Gladys Croom, a licensed clinical psychologist, conducted the evaluations and prepared the reports. Regarding respondent, Dr. Croom stated that respondent "minimized and denied many of the events surrounding her involvement with her husband's conviction and its impact on her life. She defended him and tried to explain away his behaviors." Dr. Croom noted that respondent admitted that she would leave Michael Sr. if he violated any of her children. Dr. Croom found that while respondent had taken logical and necessary steps to protect her children, "it also seemed that she needed to see an event happened [*sic*] rather than be more proactive about her children's safety." Dr. Croom described respondent as "level headed" and "laid back," but noted that her skill for relationships and choosing romantic interests was "problematic."

> "It seems that when she learned of [Michael Sr.'s] past, she dismissed it on some level and did not appreciate what it really meant. *** She minimized, attempted to neutralize the threat by inserting protective measures. She also denied and avoided aspects

> of the truth and/or what the truth could mean about her otherwise desirable and supportive husband. This is an example of her difficulty with formal reasoning, when it comes to relationships."

¶ 21 Dr. Croom stated that respondent appeared to have some mild anxiety and symptoms of ADHD. "She needs help discerning why she chose to continue her involvement with a registered child sex offender or a person convicted of child pornography." Dr. Croom's recommendations for respondent were domestic violence classes, continued couples counseling, and a parenting capacity assessment. Dr. Croom also recommended "cautious consideration" when allowing respondent to have her children returned.

¶ 22 In Michael Sr.'s report, Dr. Croom described Michael Sr.'s emotion as "blunted." "He displayed anxiety at times, and used humor to deflect from it. He lacked empathy and seemed largely disconnected from his emotion." Dr. Croom also noted that Michael Sr. stated that he did not have to obey the police officer asking to see his computer because the case occurred when he was in the military. Michael Sr. "tended to act as though life events were happening to him as opposed to the fact that he was making conscious decisions that affected his life as well as the life of his wife and her children." His manner was "grandiose, narcissistic, contentious, yet pleasant. *** He minimized and denied the breadth and depth of events surrounding his conviction by the Air Force. He seemed detached from his emotions and lacked empathy for the events affecting his wife and family who had been affected by his decisions and behaviors." Dr. Croom also found that

> "there is a strong indication that while he has a compulsion and has engaged in child pornography and appears to have sexual compulsion, he lacks a real understanding of what that conviction

> means and/or what it entails. He seems to distance himself from his emotions and/or intentions. Furthermore, he seems to be incredulous about the concerns his past behaviors have caused. Additionally, it seems that the only way he submits to rules required of him is when he is forced; even so, he often finds ways to get around them."

¶ 23 Dr. Croom stated that Michael Sr. appeared to have other specified paraphilic disorder (pornography addiction), adult antisocial personality disorder, narcissistic personality disorder with histrionic traits, problems related to legal circumstances, and past history of partner physical violence. Dr. Croom recommended that Michael Sr. be in sex offender specific treatment by a specialist in that field, couples counseling, and he might benefit from seeing a psychiatrist to discern if he might benefit from psychotropic medication.

¶ 24 Ramona Milam testified that she was employed as a public services administrator for DCFS. She has been the supervisor on Michael's case since December 2014. She stated that at the time of the hearing, Michael was 11 months old and placed with his paternal grandmother. The home was safe and appropriate. Michael was developing appropriately, with no medical concerns.

¶ 25 Milam stated that DCFS required respondent to undergo a psychological assessment, individual counseling, domestic violence counseling, parenting classes and parenting coaching, family counseling, ongoing couples counseling, and chaperone treatment, which related to living with a registered sex offender. At the date of the hearing, respondent had completed the psychological assessment, parenting classes, chaperone treatment, and was engaged in individual therapy. DCFS had not yet made referrals for parenting coaching, domestic violence counseling,

or family counseling. Milam explained that the referrals had not been made because DCFS had received the psychological evaluation the day before the hearing, but would make referrals as soon as possible.

¶ 26 Milam also testified that she did not have any information about respondent's progress in individual therapy. Milam stated that respondent and Michael Sr. attended supervised visits with Michael at DCFS twice a week. Respondent attends the visits approximately 50% of the time, while Michael Sr. attends 90% of the time. The visits went well and Michael enjoyed his visits with his parents. The only concern was a couple instances in which the lights were off during visitation with Michael Sr. Milam was unaware that respondent visited the children at their foster homes on a regular basis.

¶ 27 As for Michael Sr., Milam testified that DCFS required sex offender treatment, a psychological evaluation, parenting classes, parenting capacity assessment, and individual therapy. Milam stated that Michael Sr. had completed sex offender treatment, a psychological evaluation, but was unaware of Michael Sr.'s progress in individual therapy or parenting classes.

¶ 28 Milam stated that a current safety plan was not in place. Prior to hearing, DCFS tried to contact Savoy, but learned that he was no longer employed at Ford PC and they could not obtain Savoy's recommendations or safety plan. Milam said she would follow up and get reassigned at Ford PC or a new provider. Milam recommended that Michael be adjudicated a ward of the court because it was in his best interest since the family has not completed all recommended services.

¶ 29 Broadnax testified at the dispositional hearing that she continued to be assigned to Michael's case. She had visited with Michael in his placement with his paternal grandmother within the last 30 days. He appeared to be in a safe and appropriate environment.

¶ 30 Broadnax stated that she believed respondent was still engaged in therapy with Allen, but had no knowledge of respondent's progress. Broadnax had contacted Allen and requested quarterly reports on respondent's progress, but she never received a response from Allen. In July or August, respondent sent Broadnax a one-page progress report. The report had been given to respondent for the Champaign County court. This report did not contain sufficient information regarding respondent's progress. Broadnax did not know if respondent had been discharged successfully from therapy with Allen. DCFS would refer respondent to a new therapist if necessary.

¶ 31 Broadnax testified that both respondent and Michael Sr. needed the services recommended from their psychological evaluations. She stated that Michael Sr. had been referred for individual therapy the previous week. He also need to complete couples counseling, and a parenting capacity assessment. Respondent's new recommendations were domestic violence counseling, continued individual therapy, and a parenting capacity assessment.

¶ 32 Broadnax also stated that on October 14, 2015, a Child Endangerment Risk Assessment Protocol (CERAP) had been completed of respondent and Michael Sr.'s new home and nothing negative was reported. She noted that the home was sparsely furnished. Broadnax recommended that Michael be made a ward of court because of the outstanding services based on the psychological evaluations.

¶ 33 Terri Fondren testified for respondent that she is Michael Sr.'s mother and the foster parent for Michael. She stated that respondent visited Michael three times per week. Respondent interacts very well with Michael. She also said that visits were coordinated with the maternal grandmother so Michael could visit with his siblings. Fondren does not have any concerns over respondent's visits with Michael.

¶ 34 Linda Murdock testified for respondent that she is respondent's mother and the foster mother for three of her other children. She said that respondent's visits with the children were appropriate and she had no concerns about respondent.

¶ 35 Following arguments, the trial court found it was in Michael's best interest to be adjudged a ward of the court and found respondent and Michael Sr. unable only, to care for, protect, train, and discipline Michael. Michael was placed under DCFS guardianship. In reaching this finding, the court observed the question of risk to Michael, and found that the risk had not been adequately minimized. The court stated that it was "not comfortable at this point making a finding that this is the right time to return the child home to the parents." The court noted the lack of reports from respondent's therapist, and Michael Sr.'s need to begin individual therapy. The court indicated working with the parents and DCFS "in very short order" to get the additional services to return Michael to his parents.

¶ 36 This appeal followed.

¶ 37 On appeal, respondent first argues that the trial court's finding at the adjudication hearing that Michael was neglected due to an injurious environment was against the manifest weight of the evidence because the evidence showed that she was fit, willing, and able to care for Michael.

¶ 38 "[C]ases involving allegations of neglect and adjudication of wardship are *sui generis*, and must be decided on the basis of their unique circumstances." *In re Arthur H.*, 212 Ill. 2d 441, 463 (2004). It is the State's burden to prove allegations of neglect by a preponderance of the evidence. *Id.* at 463-64. "In other words, the State must establish that the allegations of neglect are more probably true than not." *Id.* at 464. On appeal, "a trial court's ruling of neglect will not be reversed unless it is against the manifest weight of the evidence." *Id.* "A finding is against the manifest weight of the evidence only if the opposite conclusion is clearly evident."

Id. Further, "due to the 'delicacy and difficulty of child custody cases,' it is well settled ' "that wide discretion is vested in the trial judge to an even greater degree than any ordinary appeal to which the familiar manifest weight principle is applied." ' " *In re Lakita B.*, 297 Ill. App. 3d 985, 994 (1998) (quoting *In re D.L.*, 226 Ill. App. 3d 177, 185 (1992), quoting *In re Martin*, 31 Ill. App. 3d 288, 293 (1975)).

¶ 39 Here, the trial court found Michael to be neglected based on an injurious environment under section 2-3(1)(b) of the Juvenile Court Act. 705 ILCS 405/2-3(1)(b) (West 2014). Respondent argues that the State failed to demonstrate that Michael's safety depended on the requirement that his parents undergo further sex offender treatment. According to respondent, it is not her burden to prove that her children are not at risk of harm. Further, respondent asserts that once she "satisfactorily remedied the issue which caused the children's removal from her care, *i.e.*, the failure to appreciate the risk of harm to her children that she undertook by allowing a viewer of child pornography and an untreated sex offender [Michael Sr.] to move into her home, the State had no further basis to proceed on the issues related to his status as a sex offender***."

¶ 40 The State responds the evidence presented showed that Michael was neglected due to an injurious environment. Further, although the court based its finding on the doctrine of anticipatory neglect, the court referred to the conditions of the home that placed Michael at risk, namely that the parents had not completed all of DCFS's recommended services. The guardian agrees with the State, the evidence showed that the parents had not completed services by the operative date of February 2015, when Michael was taken into custody.

¶ 41 "The concept of 'neglect' is not static; it has no fixed and measured meaning, but draws its definition from the individual circumstances presented in each case." *In re J.P.*, 331 Ill. App.

3d 220, 234 (2002). "Generally, 'neglect' is defined as the ' "failure to exercise the care that the circumstances justly demand." ' " *In re Arthur H.*, 212 Ill. 2d at 463 (quoting *In re N.B.*, 191 Ill. 2d 338, 346 (2000), quoting *People ex rel. Wallace v. Labrenz*, 411 Ill. 618, 624 (1952)). Neglect also encompasses " ' "wilful as well as unintentional disregard of duty. It is not a term of fixed and measured meaning. It takes its content always from specific circumstances, and its meaning varies as the context of surrounding circumstances changes." ' " *Id*. (quoting *In re N.B.*, 191 Ill. 2d at 346, quoting *Labrenz*, 411 Ill. at 624).

¶ 42 Similarly, "[n]eglect based on 'injurious environment' is a similarly amorphous concept not readily susceptible to definition." *In re J.P.*, 331 Ill. App. 3d at 234. Generally, "the term 'injurious environment' has been interpreted to include 'the breach of a parent's duty to ensure a "safe and nurturing shelter" for his or her children.' " *In re Arthur H.*, 212 Ill. 2d at 463 (quoting *In re N.B.*, 191 Ill. 2d at 346, quoting *In re M.K.*, 271 Ill. App. 3d 820, 826 (1995)).

¶ 43 "In any hearing under this Act, proof of the abuse, neglect or dependency of one minor shall be admissible evidence on the issue of the abuse, neglect or dependency of any other minor for whom the respondent is responsible." 705 ILCS 405/2-18(3) (West 2014). Sibling abuse may be *prima facie* evidence of neglect based upon an injurious environment, but this presumption weakens over time and can be rebutted by other evidence. *In re J.P.*, 331 Ill. App. 3d at 235. "There is no *per se* rule of anticipatory neglect in Illinois, and each case concerning the adjudication of minors must be reviewed according to its own facts." *Id*. "To determine whether a finding of anticipatory neglect is appropriate, the trial court should consider the current care and condition of the child in question and not merely the circumstances that existed at the time of the incident involving the child's sibling." *Id*. Nevertheless, "when faced with evidence of prior neglect by parents, 'the juvenile court should not be forced to refrain from

taking action until each particular child suffers an injury.' " *In re Arthur H.*, 212 Ill. 2d at 477 (quoting *In re Brooks*, 63 Ill. App. 3d 328, 339 (1978)).

¶ 44 In this case, the trial court's finding of neglect was supported by the manifest weight of the evidence. The evidence showed that respondent began dating Michael Sr., a registered sex offender, and he moved into her home, shared with six children from a previous relationship, around October 2013. Michael Sr. pled guilty to viewing and downloading child pornography while in the military. Respondent married Michael Sr. in June 2014. The trial court in Champaign County found the six minors neglected due to an injurious environment in October 2014. Michael was born in November 2014. DCFS took custody of Michael in February 2015.

¶ 45 As of February 2015, the parents were participating in DCFS services, including individual therapy for respondent, and sex offender treatment for Michael Sr. Michael Sr. had not completed his sex offender treatment at that time. Further, both parents were still in need of psychological evaluations, and neither one had completed sex offender reunification services. Savoy testified that Michael Sr. was considered a moderate risk for reoffending.

¶ 46 Additionally, the prior indicated reports from Champaign County showed two instances of refusing to allow police officers access to the home to check Michael Sr.'s computer and cell phone for child pornography. Michael Sr.'s sex offender evaluation revealed inconsistencies in how Michael Sr. described his conviction. At the court martial, Michael Sr. admitted to having downloaded child pornography, but at the evaluation, he said he did not know the content of the pornography that was being downloaded.

¶ 47 This evidence was sufficient to show that respondent and Michael Sr. breached their duty to provide a safe environment for Michael. After the six other children had been found to be neglected, DCFS outlined the services required by the parents for reunification. While the

parents had begun to make progress and were compliant with DCFS required services, the evidence showed that they had not completed these services at the time Michael was removed from their care. The trial court was cognizant of the ongoing risk of Michael Sr.'s status as a sex offender, and the need to minimize that risk for harm to Michael, which included completion of the required services from DCFS. Accordingly, we conclude that the trial court's finding that Michael was neglected based on an injurious environment was not against the manifest weight of the evidence.

¶ 48 Next, respondent contends that the trial court at the dispositional hearing erred in finding the parents were unable to care for Michael and adjudged him a ward of the court. Specifically, respondent argues that it was against the manifest weight of the evidence to find that all services aimed at family preservation and family reunification were unsuccessful.

¶ 49 If a child has been found neglected or abused, the court proceeds to a dispositional hearing to determine whether it is consistent with the health, safety and best interests of the child and the public that he be made a ward of the court. 705 ILCS 405/2-21(2), 2-22 (West 2014). Section 2-27 of the Juvenile Court Act authorizes the circuit court to determine whether "a parent is unfit or unable, for some reason other than financial circumstances alone, to care for, protect, train or discipline the minor or are unwilling to do so." 705 ILCS 405/2-27(1) (West 2014). Such finding of the circuit court will be reversed on appeal only if the findings of fact are against the manifest weight of the evidence or if the trial court committed an abuse of discretion by selecting an inappropriate dispositional order. *In re Lakita B.*, 297 Ill. App. 3d at 994. Because the trial court is in a much better position to assess the credibility of witnesses and weigh the evidence, a reviewing court will not overturn the trial court's findings merely because the reviewing court might have reached a different decision. *Id.* "Moreover, due to the 'delicacy and

difficulty of child custody cases,' it is well settled 'that wide discretion is vested in the trial judge to an even greater degree than any ordinary appeal to which the familiar manifest weight principle is applied.' " *Id*. (quoting *In re D.L.*, 226 Ill. App. 3d 177, 185 (1992)).

¶ 50 Respondent asserts that reasonable efforts were not made because DCFS gave the parents little time to comply before the dispositional hearing when additional recommendations for services were set after the adjudication hearing. Essentially, respondent's argument is that DCFS did not set service requirements within a reasonable time frame and "no reasonably achievable goal" was set for her to meet prior to the dispositional hearing.

¶ 51 We disagree with respondent's interpretation of the progress of the case through the court system. First, we point out that the Juvenile Court Act requires the trial court to conduct a dispositional hearing not later than 30 days after the finding of neglect at the adjudication hearing. See 705 ILCS 405/2-21(2) (West 2014). Second, and significantly, Milam and Broadnax testified that they received respondent's and Michael Sr.'s psychological evaluations the day before the dispositional hearing. The report date for respondent's psychological evaluation was listed as September 24, 2015. DCFS cannot be faulted for its receipt of the psychological evaluation. The report also indicated that respondent's test occurred on August 21, 2015, but we note that a psychological evaluation had been a part of the case service plan for several months prior to that date. It is reasonable that the results of the evaluations would impact the services required to be completed by DCFS. As a result of the psychological evaluations by Dr. Croom, DCFS added additional required services, including domestic violence counseling, parent capacity assessment, and individual and couples counseling. Further, respondent's therapist failed to provide requested reports to DCFS, nor even respond to their request. DCFS

had no measure by which to ascertain what progress respondent was making in her individual therapy.

¶ 52 The psychological evaluations themselves continued to present questions about Michael's safety in the home. In respondent's evaluation, Dr. Croom found that respondent "minimized and denied many of the events surrounding her involvement with her husband's conviction and its impact on her life. She defended him and tried to explain away his behaviors." As for Michael Sr.'s evaluation, Dr. Croom concluded that while "there is a strong indication that while he has a compulsion and has engaged in child pornography and appears to have sexual compulsion, he lacks a real understanding of what that conviction means and/or what it entails." These psychological evaluations were extremely relevant to the question of Michael's best interest.

¶ 53 The trial court clearly took the timeframe and the addition of new services into account in its finding, as well as the gravity of its findings on the family and Michael, specifically.

> "Then you have the psychological reports that raise some questions. It raises questions relative to whether for example with [Michael Sr.] whether or not he has completely internalized responsibility for what happened. The psychological report speaks to a number of issues that the psychologist, the reviewing psychologist felt needed to be addressed and delve into further.
>
> So I guess my point is is that while no one is saying that [Michael Sr.] clearly poses [an] immediate risk, I think it is also fair to say that no one is saying that he doesn't either. And the issue becomes for me, the Court to try to get a handle on what if any risk there is and how it can be handled and dealt with.

I do not believe that – and I don't place any fault on the parents. It appears to a great extent they have been asked – they've done what they've been asked to do to a great extent. On the other side of the coin I don't see anything nefarious or problematic with the fact that based on new information[] *i.e.* the psychological that new recommendations are being raised. I don't believe that it is simply the agency and its employees covering themselves and putting up obstacles or barriers just for the sake of putting up obstacles or barriers, but there exist a real concern that you don't want to put minors in jeopardy unless you're reasonably sure that no harm will come to them.

My problem is is that sitting here having listened to all the testimony and given the state of where we are in terms of services, I'm not so sure that I can say that. I'm not so sure that I can say it is reasonable to return Michael to the home because I don't believe that he's at any risk or probably more accurately yes it is true you're never going to eliminate the question of risk. The question is whether you can reasonably say that you're exposing the child to a known risk.

The way the cases developed, the way the services have been put in place, the way the evaluations have been made, I'm simply not comfortable at this point making a finding that this is the right time to return the child home to the parents."

¶ 54 Given the totality of the evidence, we find that the trial court's decision to adjudge Michael a ward of the court was not against the manifest weight of the evidence. The evidence showed that both respondent and Michael Sr. needed to continue and complete the required services with DCFS, especially those that arose following the psychological evaluations.

¶ 55 Finally, respondent argues that the law of the case doctrine should be applied in this case because the Champaign County court found respondent fit, able, and willing to exercise custody of her children. We reject respondent's argument.

¶ 56 "The law of the case doctrine bars relitigation of an issue that has already been decided in the same case such that the resolution of an issue presented in a prior appeal is binding and will control upon remand in the circuit court and in a subsequent appeal before the appellate court." (Citations omitted.) *American Service Insurance Co. v. China Ocean Shipping Co. (Americas) Inc.*, 2014 IL App (1st) 121895, ¶ 17. "The doctrine applies to questions of law and fact and encompasses a court's explicit decisions, as well as those decisions made by necessary implication." *Id.* However, "a ruling will not be binding in a subsequent stage of litigation when different issues are involved, different parties are involved, or the underlying facts have changed." *Id.*

¶ 57 The law of the case doctrine is inapplicable in the instant case because different parties are involved and the underlying facts have changed. Michael's case is not the same case as his six siblings. Michael's case originated in Cook County and he was not a party to the Champaign County case. Further, Michael Sr. was not a party to the Champaign County case because he is not the natural father of those minors. Additionally, the underlying facts have changed based on the psychological evaluations that were provided at the dispositional hearing. The Champaign County case was issued prior to the release of these evaluations. These evaluations significantly

impacted the ruling in this case as well as the progress within DCFS. Accordingly, we hold that the law of the case doctrine does not apply to this case. We point out that the trial court in this case was aware of and considered the decision of the Champaign County case, but relied on the underlying facts in the present case to reach its decision.

¶ 58 Based on the foregoing reasons, we affirm the decision of circuit court of Cook County.

¶ 59 Affirmed.