

No. 1-15-3382

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IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

In re: P.C. and K.C., Minors,)	Appeal from the
)	Circuit Court of
(THE PEOPLE OF THE STATE OF ILLINOIS,)	Cook County
)	
Petitioner-Appellee,)	
)	Nos. 13 JA 1091
v.)	13 JA 1092
)	
PERMEDIA B.,)	Honorable
)	Demetrios G. Kottaras,
Respondent-Appellant).)	Judge, Presiding.

JUSTICE HOFFMAN delivered the judgment of the court.
Presiding Justice Rochford and Justice Delort concurred in the judgment.

ORDER

¶ 1 *Held:* The judgment of the circuit court is affirmed where its findings of neglect are not against the manifest weight of the evidence.

¶ 2 The respondent, Permedia B., appeals from the orders of the circuit court of Cook County finding her children, P.C. and K.C., to be neglected minors, adjudicating them wards of the court, and placing them in the custody of the Department of Children and Family Services (DCFS). William C., the father of P.C. and K.C., has not contested the circuit court's orders and is not a party to this appeal. For the following reasons, we affirm.

¶ 3 On November 20, 2013, the State filed a juvenile petition alleging, *inter alia*, that P.C. (born March 4, 2012) was neglected pursuant to section 2-3(1)(a) of the Juvenile Court Act of 1987 (Act) (705 ILCS 405/2-3(1)(a) (West 2012)) because she was not receiving proper or necessary medical care, and was neglected pursuant to section 2-3(1)(b) of the Act (705 ILCS 405/2-3(1)(b) (West 2012)) because her environment was injurious to her welfare. The State filed a separate petition alleging, *inter alia*, that K.C. (born April 7, 2008) was neglected by reason of an environment injurious to his welfare. 705 ILCS 405/2-3(1)(b) (West 2012). The petitions were consolidated for an adjudicatory hearing.

¶ 4 At the adjudication hearing, the State entered into evidence the respondent's medical records from Stroger Hospital. The records indicate that, on February 10, 2012, the respondent was admitted to the labor and delivery unit for close monitoring of preeclampsia, a disorder related to her pregnancy with P.C. On February 11, 2012, Dr. Roman Puliaev noted that the respondent became angry and did not understand why she had to remain at the hospital. She complained about the hospital food and said she had "things at home she could be doing." The doctors informed the respondent that preeclampsia is a serious condition that could result in intrauterine fetal death and that, depending on test results, she may have to remain in the hospital for three weeks until she gives birth. According to a discharge summary, the respondent left the hospital against medical advice on February 12, 2012.

¶ 5 On March 4, 2012, the respondent gave birth to P.C. The records from Stroger Hospital state that the respondent tested positive for marijuana, but P.C.'s "UTox was negative." The medical records also contain notes from social worker Brenda Chandler. Chandler's notes reveal that the respondent was in and out of psychiatric hospitals and was diagnosed with depression and intermediate explosive disorder. The respondent told Chandler that she becomes very angry

and physically and verbally abusive to adults. The respondent stated she is not taking any medication, but believed she could benefit from medication to "mellow her out." Chandler also noted that the respondent was smoking 10 to 15 "blunts" of marijuana per day and that her son, K.C., tested positive for marijuana at his birth. Chandler wrote that the respondent is "homeless[,] living from place to place." Chandler's notes further state that the respondent's drug use, mental health history, and homelessness are high risk factors, but that the respondent is requesting help for her situation.

¶ 6 The State presented a Salvation Army intake form, dated June 25, 2013, wherein the respondent reported that she has been without housing "for about 4 to 5 years," has no source of income, and was "living from house to house."

¶ 7 Next, the State introduced into evidence, without objection, P.C.'s medical records from Mount Sinai Hospital. According to those records, at approximately 1 a.m. on November 6, 2013, the respondent took P.C. to the emergency room with burns on her left arm. Dr. Michael Slater's notes of that visit state that the incident giving rise to P.C.'s burns occurred two days earlier on November 4, 2013, at 11 a.m. The respondent gave a history that her seven-year-old nephew was cooking hot dogs in a bowl of water in the microwave oven and, as he was carrying the bowl, he tripped and spilled hot water on P.C. Physical examination of P.C. revealed sloughing (the shedding of dead skin tissue) and skin blistering on the left deltoid. Dr. Slater noted a primary impression of "[b]urn left shoulder, child neglect." P.C. was diagnosed with partial thickness second degree burns to her left arm.

¶ 8 The records from Mount Sinai Hospital also contain triage notes from various nurses. The notes reveal that the respondent was directed not to leave the hospital until approved by DCFS. The respondent became verbally abusive and agitated, stating, "Y'all need to f*** call

DCFS and tell them to come the f*** on s****" and "I'm about to snap off in this motherf***."

As a result, the respondent was asked to wait in the waiting room, and hospital security was told not to let her back in the examining room. P.C. was discharged from the hospital in good condition and was prescribed Ibuprofen for pain and silver sulfadiazine to help heal the burn.

¶ 9 Elisa Corona, an investigator with DCFS, testified that on November 6, 2013, she was assigned to investigate a hotline call reporting that a one-year-old child, P.C., was admitted to Mount Sinai Hospital with burns to her left arm. Corona arrived at the hospital at 3 a.m. and interviewed the respondent about the cause of P.C.'s burns. The respondent explained that her seven-year-old nephew was cooking hot dogs in a bowl of water when he tripped and spilled hot water on P.C. The respondent told Corona that she treated P.C.'s burns with "Neosporin and grease." When Corona asked the respondent why she waited two days before bringing P.C. to the hospital, the respondent stated that she did not think "it was going to be this bad." Corona testified that she observed P.C. and took pictures of the burns on her left arm. The photograph, which was admitted into evidence, depicts burns extending from P.C.'s left shoulder down to her elbow. On cross-examination, Corona admitted she did not see blisters on P.C.'s skin, and that P.C. appeared well-nourished, clean, and appropriately dressed.

¶ 10 Patricia Pinkney testified that she was the primary investigator assigned to P.C.'s and K.C.'s cases. On November 6, 2013, she spoke with the respondent by telephone and inquired about the events leading up to P.C.'s burns. The respondent told Pinkney that she, P.C., and K.C. were staying at her brother's apartment. The respondent explained that P.C., K.C., and her seven-year-old nephew were in the kitchen cooking hot dogs in the microwave when her nephew tripped and spilled hot water on P.C. Although the respondent and her brother were in the apartment, they were not in the kitchen at the time of the accident. The respondent told Pinkney

that she treated P.C.'s burn with Neosporin and Vaseline, but by the next day, P.C.'s skin was "shaded" and "leaking fluid," and she did not know what to do. The respondent admitted that she did not properly care for P.C.'s burns. Pinkney testified that she asked the respondent if P.C. and K.C. had a safe place to stay and the respondent said they could stay at her mother's house.

¶ 11 Pinkney testified that, following her telephone conversation with the respondent, she went to P.C.'s and K.C.'s maternal grandmother's house for a home visit. There, she examined the burns to P.C.'s left arm and noticed that the skin was peeled off. Pinkney also interviewed the respondent and learned that she had a history of substance abuse, mental health problems, was diagnosed with postpartum depression and intermittent explosive disorder, and had been psychiatrically hospitalized three times in the past. The respondent informed Pinkney that she stopped taking her medication about a year ago and it had been "a long time" since she had seen a therapist.

¶ 12 Pinkney further testified that she kept P.C. and K.C. at their maternal grandmother's house under a "safety plan" because she needed more time to complete her investigation. Under the terms of the safety plan, the respondent was to stay at the maternal grandmother's house, help care for P.C. and K.C., and use the money on her government assistance card to purchase food. According to Pinkney, the safety plan failed. She explained that the respondent moved out of the maternal grandmother's home, was living with a friend, and failed to purchase food for P.C. and K.C. Pinkney testified that, because the respondent failed to comply with the terms of the safety plan, she brought the matter to juvenile court.

¶ 13 Pinkney also testified about the concerns she had following her investigation. She explained that she was troubled by the respondent's lack of supervision, her delay in seeking

medical help, and failure to call 911 or ask an adult for help. Pinkney was also concerned about the respondent's mental health diagnosis and the fact that she had stopped taking her medication.

¶ 14 On cross-examination, Pinkney conceded that she observed no visible signs of abuse or neglect on K.C. and that he appeared well-nourished and well-cared for. He also appeared comfortable in his grandmother's house, and was appropriately dressed. Aside from the burns to P.C.'s arm, Pinkney testified that she did not observe any other marks or bruises on P.C.

¶ 15 At the conclusion of the adjudicatory hearing, the trial court found that the State proved by a preponderance of the evidence that P.C. was neglected based upon lack of medical care and an injurious environment. The court also found that K.C. was neglected due to an injurious environment.

¶ 16 On November 2, 2015, a dispositional hearing was held to determine whether P.C. and K.C. should be made wards of the court. Following the hearing, the trial court found that the respondent was unable to care for P.C. and K.C, adjudicated the minors to be wards of the court, and placed them in the custody of DCFS. This appeal followed.

¶ 17 The respondent argues that the trial court's finding that P.C. and K.C. are neglected minors is against the manifest weight of the evidence and, as a result, both its adjudication order and subsequent disposition order should be reversed.

¶ 18 The Act provides a two-step process that trial court's must utilize to decide whether a minor should become a ward of the court. *In re A.P.*, 2012 IL 113875, ¶ 18. Step one of the process is the adjudicatory hearing, at which the court considers only whether the minor is abused, neglected, or dependent. *Id.* ¶ 19. If the trial court determines the minor is abused, neglected, or dependent at the adjudicatory hearing, a dispositional hearing is held, at which the court determines whether it is consistent with the health, safety, and best interests of the minor

and the public that the minor be made a ward of the court. *Id.* ¶ 21. Here, the respondent challenges only the first step, the trial court's neglect finding.

¶ 19 Generally, "neglect" has been defined as the failure of a responsible adult to exercise the care that circumstances justly demand. *In re Arthur H.*, 212 Ill. 2d 441, 463 (2004). Neglect is not a term of fixed and measured meaning. Rather, "[i]t takes its content always from specific circumstances, and its meaning varies as the context of surrounding circumstances changes. [Citations]." (Internal quotation marks omitted.) *A.P.*, 2012 IL 113875, ¶ 22. Pertinent to this appeal, a neglected minor includes any minor under 18 years of age who "is not receiving the proper or necessary *** medical or other remedial care" or "whose environment is injurious to his or her welfare." 705 ILCS 405/2-3(1)(a), (b) (West 2012). Thus, our courts have held that a child who does not receive appropriate medical evaluations or care is neglected. See *In re Stephen K.*, 373 Ill. App. 3d 7, 20 (2007). Likewise, the term "injurious environment" is an amorphous concept that cannot be defined with particularity, but has been interpreted to include the breach of a parent's duty to ensure a safe nurturing shelter for her children. *A.P.*, 2012 IL 113875, ¶ 22.

¶ 20 "[C]ases involving allegations of neglect and adjudication of wardship are *sui generis*, and must be decided on the basis of their unique facts." *Arthur H.*, 212 Ill. 2d at 463. The State bears the burden of proving a neglect allegation by a preponderance of the evidence, which means it must show the allegations are more probably true than not. *A.P.*, 2012 IL 113875, ¶ 17. A trial court's finding of neglect will not be overturned on appeal 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.*

¶ 21 Applying these principles to the instant case, we cannot say that the trial court's finding that P.C. was neglected based upon lack of medical care was against the manifest weight of the evidence. The evidence presented at the adjudicatory hearing established that P.C. sustained second degree burns to her left arm on November 4, 2013, and did not receive medical treatment until two days later on November 6, 2013. Although the respondent treated P.C.'s burns with Neosporin and Vaseline, the trial court was troubled by her lack of judgment and delay in seeking medical help. The court observed that, on a prior occasion, the respondent sought emergency treatment for an insect bite to her knee, but that she nonetheless failed to appreciate the seriousness of the burn to P.C.'s arm, which was "leaking fluid." Indeed, the medical records from Mount Sinai Hospital state that P.C.'s skin was blistering and "sloughing." The medical records further indicate that the respondent interfered with the hospital staff's treatment of P.C. and was told to leave the examination room so doctors could continue treating P.C.'s burns. The trial court could reasonably conclude that the respondent's failure to obtain prompt medical care for P.C.'s burns demonstrated neglect due to lack of medical care.

¶ 22 The record also supports the trial court's finding that P.C. was neglected due to an injurious environment. The record shows that the respondent had a lengthy history of substance abuse and mental illness and has struggled with homelessness. The respondent did not follow the recommendations of medical doctors, she stopped taking her medication, and she left Stroger Hospital against medical advice, despite being told that her preeclampsia could result in the death of her fetus. The respondent also failed to comply with the terms of the safety plan and failed to use her government assistance card to pay for food for P.C. and K.C. Accordingly, based upon the record before us, we are unable to conclude that the trial court's finding that P.C. was neglected due to lack of medical care and neglected due to an injurious environment, was

against the manifest weight of the evidence. See *In re Adam B.*, 2016 IL App (1st) 152037, ¶ 44 (affirming the trial court's findings of neglect due to lack of care and neglect due to injurious environment, where the minor did not receive prompt medical treatment for second degree burns).

¶ 23 With respect to K.C., the trial court's finding that he was neglected based upon an injurious environment is not against the manifest weight of the evidence. In this case, the court's neglect finding was premised upon an anticipatory neglect theory.

¶ 24 Under the theory of anticipatory neglect, "the State seeks to protect not only children who are the direct victims of neglect or abuse, but also those who have a probability to be subject to neglect or abuse because they reside, or in the future may reside, with an individual who has been found to have neglected or abused another child." *In re Arthur H.*, 212 Ill. 2d 441, 468 (2004). The theory flows from the concept of an "injurious environment" set forth in the Juvenile Court Act. *Arthur H.*, 212 Ill. 2d at 468. Although the neglect of one child does not conclusively show the neglect of another child, the neglect of one minor is admissible as evidence of the neglect of another minor under a parent's care. *Arthur H.*, 212 Ill. 2d at 468-69.

¶ 25 Here, evidence that the respondent failed to obtain prompt medical care for P.C.'s second degree burn was admissible as evidence concerning an injurious environment for K.C. In considering this evidence, the trial court took into account the circumstances surrounding the neglect of P.C., but also evidence that the respondent had a history of mental illness and substance abuse, struggled with homelessness, failed to comply with the safety plan, and failed to purchase food for K.C. and P.C. The trial court's finding that it need not wait for something else to happen to K.C. to find that he was neglected was justified. See *In re Adam B.*, 2016 IL App (1st) 152037, ¶ 49 (holding that minor child's sibling was neglected because he lived in an

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injurious environment in which sibling was not receiving proper medical care). We, therefore, conclude the trial court's finding that K.C. was neglected as a result of an injurious environment was not against the manifest weight of the evidence.

¶ 26 For the foregoing reasons, the judgment of the circuit court is affirmed.

¶ 27 Affirmed.