

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

<i>In re</i> S.A., S.A., S.H., and S.H., Minors)	Appeal from the Circuit Court
)	of Winnebago County.
)	
)	Nos. 14-JA-237
)	14-JA-238
)	14-JA-239
)	14-JA-240
)	
(The People of the State of Illinois,)	Honorable
Petitioner-Appellee v. Denelle A.,)	Francis Martinez,
Respondent-Appellant).)	Judge, Presiding.

JUSTICE JORGENSEN delivered the judgment of the court.
Justices McLaren and Birkett concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court's findings that respondent's two younger children were neglected were not against the manifest weight of the evidence. Affirmed.

¶ 2 Respondent, Denelle A., appeals from the trial court's order adjudicating her two younger children as neglected and awarding legal custody and guardianship to the Department of Children and Family Services (DCFS). For the following reasons, we affirm.

¶ 3 I. BACKGROUND

¶ 4 Respondent, who resides in Rockton, has four children: Shakeya H. (born April 2, 1999), Shakiya H. (born April 2, 1999), Serenity A. (born November 10, 2005), and Samaya A. (born August 22, 2008). During the period at issue, respondent worked full-time outside the home. Her spouse, C.A., the two older children's stepfather and the two younger children's biological father, was the primary caregiver in the home.

¶ 5 On July 3, 2014, the State filed four neglect petitions in this case. In case No. 14-JA-237, it alleged that Samaya was a neglected minor because her environment was injurious to her welfare, in that the minor's two older siblings had disclosed: (1) inappropriate conduct by C.A. toward the two older siblings; and (2) that they were struck by respondent and C.A. with belts and extension cords on multiple occasions. 705 ILCS 405/2-3(1)(b) (West 2014). In case Nos. 14-JA-238, 14-JA-239, and 14-JA-240, the State raised similar allegations as to Serenity, Shakeya, and Shakiya.

¶ 6 A DCFS report related that, on June 29, 2014, the agency received information concerning sexual abuse and exploitation by C.A. of respondent's two older daughters, age 15. A safety plan was put in place, C.A. was told to leave the home, and the children went to stay with their paternal grandmother, who lived next door. Detective Kiza Butler of the Rockton police department interviewed Shakeya and Shakiya on June 28, and 29, 2014. Shakiya reported that, one month earlier, Shakiya told a friend that C.A. was looking at her "butt" and stated that he liked her "butt." Six weeks earlier, C.A. asked her if she had had sex and if she masturbated. C.A. told Shakiya that he dreamed about her. He asked if he could smell her, and she said okay. C.A. pulled back Shakiya's pajama pants and underwear and put his face down in the opening of her clothing. Respondent explained that she and C.A. talk very openly about sex. In the winter 2012, Shakiya told Shakeya that C.A. walked in on her while she showered and told her that he

liked her body. Shakeya told respondent, who did nothing. The younger siblings, Serentity (age 8) and Samaya (age 5), were subsequently interviewed and made no disclosures of abuse.

¶ 7 The DCFS report further related that Shakeya had been living with her maternal grandmother, Daune H., for three months. Her siblings reported to DCFS that Shakeya wanted to leave the home. She reported to investigators that she wanted to leave due to being subjected to years of her stepfather's inappropriate behavior and comments. The siblings reported that Shakeya is not allowed to come home, which respondent denied. The older siblings told the investigator that they disclosed C.A.'s behavior to respondent on three occasions and that she stated that she would take care of it, which she did not do because it continued. C.A. denied the allegations to the agency, stating that the maternal grandmother was responsible for the situation and that her family had been trying to come between him and respondent. Respondent denied that her daughters informed her of anything that would cause them to be removed from the home and stated that her mother was not an appropriate placement because there were people in her home who used drugs. When asked why she allowed Shakeya to live there, respondent replied that it was her daughter's choice.

¶ 8 On July 3, 2014, a shelter care hearing was held, the parties appeared with counsel, and they were arraigned on the petitions. The parents waived their right to a hearing and acknowledged that there was probable cause and an immediate and urgent necessity for the removal of the children from their care. The trial court entered a temporary custody order, appointing DCFS as temporary legal guardian of children. On July 1, 2014, the children were placed with Daune.

¶ 9 A. Adjudicatory Hearing

¶ 10 1. Detective Kiza Butler

¶ 11 The adjudicatory hearing commenced on January 29, 2015. Detective Butler testified that, on July 28, 2014, she received a follow-up report about abuse at 12336 Old River Road in Rockton. Daune, Danesha (an aunt), and Shakeya came to the police department. Shakeya initially described to Butler a three-way phone conversation between herself, Shakiya, and a friend. (Shakeya had been on the phone with a friend, and Shakiya called in.) During the conversation, they spoke about abuse incidents involving Shakiya. Butler contacted DCFS to request an investigator.

¶ 12 That same day, Butler and investigator Pamela Langhoff went to respondent's home and met with respondent, C.A., the two younger siblings, and Shakiya. Respondent and C.A. told Butler that there had been some issues between them and Shakiya and Shakeya. They gave Butler permission to speak to Shakiya at the police station. There, Shakiya related that, six weeks earlier, she had been in the upstairs office of the family home with C.A. They sat in chairs across from each other and were having a father-daughter talk, during which C.A. asked if she had sex yet and if she was masturbating. He then explained a dream in which he could not see her and could only smell her. C.A. then asked if he could smell Shakiya. When Butler asked Shakiya what she meant by smelling her, she explained that he was referring to her vagina. She allowed him to do so. C.A. pulled open Shakiya's pajama pants and her underwear, lowered his head down, and smelled the inside of her pants and underwear.

¶ 13 Addressing another incident, Shakiya told Butler that her bedroom is in the basement of the family home and there is also a bathroom in the basement. While she was showering, C.A. was in the basement and saw her in the bathroom and made comments about her having a nice body. The comments made her feel scared, and she thought that C.A. had a crush on her.

¶ 14 Shakiya provided a written statement to Butler, which was admitted into evidence. Butler returned Shakiya to the residence. (C.A. had left pursuant to a safety plan.) There, Butler spoke to respondent, who stated that she was aware of the father-daughter talk and explained that they were very open about sex and that was the way they spoke in their home. She wanted any information about sex to come from the parents, not others.

¶ 15 A few days later, Butler spoke with Shakeya at the police department. She was alone. Shakeya related an incident that occurred when she was much younger (about five years earlier) and the family lived at the Apple Orchard apartment complex in Rockford. Shakiya was playing in her room, and Shakeya was in the living room with C.A., sitting on his lap. C.A. rubbed his hand underneath Shakeya's shirt, across her chest area, and told her it was okay. This made Shakeya uncomfortable. She wriggled away or slid off C.A.'s back, went to the bedroom, and told Shakiya what had happened. Shakeya later told respondent about the incident. Respondent was initially upset and spoke to C.A. about it. They fought and they later told her it was just a misunderstanding.

¶ 16 Shakeya also related an incident that occurred in March or April 2014, right before she moved out of the family residence. She was upstairs in C.A.'s office with C.A. The office door does not have a lock on it. C.A. was discussing sex with Shakeya and asked to see her "pussy." Shakeya said no. One of the younger siblings tried to enter the room, and C.A. held it closed until the younger sibling went downstairs. They continued their conversation, and Shakeya again told him no—she would not show him her body—and she eventually left the office. Shakeya provided a written statement that was admitted into evidence.

¶ 17 On cross-examination, Butler agreed that, on June 28, 2014, Shakiya was upset with the family because of an incident that evening where she was unable to accompany the family for

dinner because she did not have any money to pay for herself. (The children earned money for doing chores in the house, and Shakiya had not done her chores.) She stayed home and had the three-way conversation related above. (The three-way conversation occurred because the older girls were not allowed to speak to each other. C.A. was very controlling, according to Butler, and did not want the girls speaking to each other.) Shakiya stated that she could not take it anymore. Butler arrived at the residence in the early morning hours and spoke to respondent. Respondent told Butler that, three months earlier, Shakeya started living with Daune because Shakeya had allowed a boy into the home around her younger sisters while the parents were out. Shakeya had also been posting on Facebook inappropriate comments and photos. Respondent allowed Butler to take Shakeya to the police department; respondent was compliant and did not resist. Respondent was upset when she narrated the family dynamics to Butler.

¶ 18 Shakeya told Butler that she moved out of the house because C.A. told her to leave. C.A. also told respondent that, if she did not want Shakeya to leave, respondent could leave with her.

¶ 19 Respondent told Butler that she had concerns about Daune's home. Daune is a former drug user and allows drug users in her house. She is also more lenient about house rules than respondent and C.A. Also, Danesha, who lives with Daune, uses alcohol.

¶ 20 The younger siblings did not make allegations concerning inappropriate conduct by C.A. Butler tried to speak to respondent and C.A. on subsequent occasions, but they did not want to meet with her.

¶ 21 2. Shakiya H.

¶ 22 Shakiya, age 16, testified in chambers and outside her parents' presence. She is a sophomore in high school, and, although she did not do well during the first two quarters of her sophomore year, she passed all of her classes during the third quarter. She lives with Daune.

¶ 23 Her sister Shakeya had moved out earlier to live with Daune. C.A. had told her to get out because of something to do with Facebook. Shakiya was not allowed to have any contact with Shakeya afterwards because C.A. stated that she was a bad influence on Shakiya.

¶ 24 Shakiya further testified that, on the day in question, C.A. asked her to join the family for dinner, but he wanted her to pay for her own meal. She refused, and the family left. Shakiya called her friend, Sammy C., and told her that she was sick and tired of staying home. While she was on the phone with Sammy, Shakeya called Sammy as well, and Sammy connected everyone in the three-way conversation. When she heard her sister's voice, Shakiya started crying because she had not heard her voice in two months. Daune got on the phone and told her "all that stuff that went on that day."

¶ 25 Shakiya explained that this is the third time she is either living with her grandmother and/or that DCFS was contacted. The first time was when she was three or four years old and the family (respondent and the twins) lived in Rockford. She and Shakeya were outside playing alone, and the neighbors called DCFS. The incident resulted in Shakiya living with Daune for about one year. Addressing a second incident, Shakiya explained that, when she was eight or nine, C.A. beat her with an extension cord. It caused bruising and left a scar on her right hip. Her daycare contacted DCFS.

¶ 26 The third incident occurred in the early morning hours of June 29, 2014. (The three-way call occurred on the evening of June 28, 2014.) Respondent woke up Shakiya and told her that the police and DCFS were present because Daune had called the police. Respondent "told me that I better get my story straight before I went upstairs." Shakiya went to the police station with Butler. There, she told Butler about the beating and the father-daughter talk. The father-daughter talk occurred around sunset in C.A.'s office in the back of the single-story house.

Serentity and Samaya were in the living room in the front of the house; respondent was not home. C.A. had called up Shakiya from her basement room and stated that he wanted to talk. They started talking about boys. C.A. asked Shakiya if she was having sex, and she replied in the negative. He asked her if she was ready, to which she replied no. He also asked if she had any crushes. C.A. told Shakiya that he had a dream about her, but it was a scent and asked her if she had a scent, to which Shakiya replied that she did not know. C.A. asked if he could smell her. He pulled down her pants and underwear and sniffed. Also during this conversation, after C.A. asked her if she was having sex, he kissed an area to the right side of her hip bone “[b]y my vagina.” Shakiya thought it was weird, and she felt uncomfortable. She left the office and went to her room. She did not tell respondent about the incident.

¶ 27 Shakiya testified that the first inappropriate incident with C.A. occurred when she was seven years old. The family (respondent, C.A., Shakeya, and Serentity) lived in Rockford. It occurred during the evening, and respondent was not home. While Shakiya was on the couch watching television, C.A. sat down next to her and put his hand down her pants, but not inside her underwear, for about five seconds. She did not know what he was doing, thought it was weird, and left. A few days later, Shakiya told Shakeya about the incident after Shakeya related an inappropriate incident to her. When asked what incident Shakeya related that prompted Shakiya’s disclosure, Shakiya could not recall. Shakeya told Shakiya that she would inform respondent about the hands-in-the-pants incident the following day. Respondent reportedly stated that she would take care of it, and she cried. When asked what respondent did to take care of it, Shakiya testified that she did not know. “All I heard was yelling and screaming” by respondent and C.A.

¶ 28 Shakiya related another inappropriate incident concerning C.A. She testified that she was 13 or 14 years old. Shakiya and C.A. were in the office, and C.A. asked her if he could feel her “butt” and he offered her \$5. She replied no, and C.A. offered \$10. Shakiya again said no and left the room. She told her friend Jasmine about the incident. Shakiya later learned from respondent that respondent learned about the incident after Jasmine told Shakeya about it, who, in turn, related the incident to an aunt, who related it to the grandparents. Respondent told Shakiya that she would handle it. Respondent told C.A.’s mother, P.A., about it. Neither respondent nor P.A. did anything.

¶ 29 Addressing another incident, Shakiya testified that it occurred when she was in middle school. One evening, after respondent had left for work, Shakiya took a shower. C.A. entered the room, “used the bathroom,” and then opened the shower door and looked up and down at her while she was in the shower. He thought Shakiya did not see him because she had a washcloth over her face; however, Shakiya was able to see through the cloth. After he looked at her, C.A. closed the shower door and left.

¶ 30 For one year after the hands-in-the-pants incident, C.A. was “distant” and did not speak to the twins as much as he used to. After that year, however, C.A. told respondent to beat the girls with extension cords, leather belts, and tree switches when they acted badly. Shakiya was seven or eight years old at this time. Both respondent and C.A. hit Shakiya about three times per month. The girls could choose either 100 lashes with a belt or 50 with an extension cord. The beatings left bruises, and Shakiya has a scar on her right hip area.

¶ 31 Shakiya testified to several instances of physical abuse. First, she recounted an episode where she was supposed to be reading a book, but fell asleep. C.A. had Shakeya check on her and then he came into the room with an extension cord and started beating Shakiya. She ran

away from him, but C.A. grabbed her by the ankles and continued beating her. Addressing another incident, Shakiya testified that C.A. beat her after he accused her and Shakeya of using Serenity's hat to wipe their "butts." Another incident involved the family dog. Shakiya did not take out the dog, and he "pooped" on the floor. She was struck with a belt.

¶ 32 According to Shakiya, all of her sisters were physically abused. Respondent hit Shakeya for 10 minutes with an extension cord one day before Shakeya went to live with Daune. C.A. struck Samaya one month before the children were removed from the home. She had thrown a basketball at the television, and it fell over. C.A. struck Samaya with a leather belt for a couple of minutes; her legs and "butt" were purple afterwards. Shakiya also related an incident involving Serenity. While the family lived in Rockford and Serenity was age four or five, C.A. struck Serenity after she poured out some of C.A.'s hair product while playing in the bathroom. He beat her with a hanger and then a belt. Respondent was in the kitchen during the beating, but Shakiya did not know what she was doing. Respondent switched off with C.A. in beating the younger children, but respondent beat them more often, although C.A., too, beat them "a lot." Three or four "times" per beating instead of 50 or 100, but it depended. When Samaya broke the television, "she got it bad, but it was with a belt. She didn't get the cord."

¶ 33 Shakiya testified on cross-examination that, when she was unable to go to dinner with the family, she was upset and cried. During the three-way conversation, Shakiya told Shakeya that she was "sick and tired of it," referring to the "beatings" and "punishments." She was also mad that she could only go to dinner if she paid for herself. Her cousin Quinton, who had also been invited to the dinner, stayed with her.

¶ 34 Shakiya further testified that C.A. is very controlling of respondent. Respondent is not strict, but she told the older girls that they could not date. When C.A. was not around, Shakiya

goes along with respondent. Respondent is a different person around C.A.; she is mad. C.A. tells respondent to “beat us and she does it. She listens to him.”

¶ 35 Shakiya further testified that she did not feel safe in the family home because C.A. made her feel uncomfortable and respondent cannot protect her. Serenity and Samaya told Shakiya that they did not feel safe in the family home due to the beatings; they feel safe at Daune’s house.

¶ 36 3. Daune H.

¶ 37 Daune testified that she is the minors’ maternal grandmother and their current foster parent (since July 2014). The entire family previously lived with Daune in 2012 for two to three months due to financial difficulties. Daune worked and did not observe the parents striking the children. When the twins were five or six years old, they were brought to live with Daune for about one year because DCFS had become involved.

¶ 38 Daune has observed marks on Shakiya’s right hip that are still present. She described them as dark lines. Shakiya, who was about nine years old, reported that C.A. had struck her with an extension cord. Daune did not have contact with the girls for a while after this incident.

¶ 39 Addressing C.A., Daune testified that he is controlling and demanding. Respondent does what he asks her to do. C.A. uses respondent to do most of the disciplining of “Shakeya, Shakiya, all of ‘em.” She knows this through the girls. During the summer of 2012, Daune observed respondent strike Shakiya in the chest and then on her arms. She struck her about six or seven times during that incident. Respondent hit Shakiya for eating in the living room instead of the dining room. Before Shakeya moved in with Daune, the older girls told Daune that they were beaten with extension cords and made to stay in the basement for hours. On the day Shakeya came to live with Daune, she told Daune that respondent had beaten her because she

had a Facebook page. She was not allowed to have a Facebook page. Daune conceded that Shakeya had posted suggestive photos of herself.

¶ 40

4. Claude Webster

¶ 41 Claude Webster has lived with Daune for 20 years. He confirmed the incident of respondent hitting Shakiya, but added that he observed C.A. nodding toward Shakiya while looking at respondent; respondent quickly responded by hitting Shakiya four or five times. Once with her fist in the chest and then several times with an open hand to the upper body. Webster has not observed any other incidents of physical abuse. Webster has been sober for 19 months.

¶ 42

5. Michelle Bunch

¶ 43 Michelle Bunch, a DCFS investigator, testified that a Rockton detective contacted her concerning allegations of sexual exploitation. Bunch was present for the victim sensitive interviews of Serenity and Samaya. These minors did not raise allegations of abuse of any kind. After the minors were taken into protective custody, they were medically examined. No marks or bruises were found.

¶ 44 Bunch testified that she spoke with Shakiya, who related the events described in her statement to police. Shakiya stated that she had informed respondent of the father-daughter-talk incident, but respondent told her that it was a misunderstanding; respondent did not take any action.

¶ 45 Bunch also spoke to Shakeya, who would not verbalize anything. She nodded her head and cried. “She couldn’t catch her breath.”

¶ 46 After the minors were taken into protective custody, Bunch called respondent to explain what had occurred. Respondent told Bunch that it was a misunderstanding. “So again, it was as if she was familiar with the situation that I was talking about because I didn’t have to clarify.”

Respondent did not tell Bunch if she did anything to address the minors' concerns about C.A.'s behavior.

¶ 47 The medical examination did not document any marks or bruises on Shakiya's or Shakeya's bodies. While in the waiting room, Bunch heard one of the older girls tell Samaya to sit down, and Serenity stated " 'Or you get a whopping with the belt.' " Bunch attempted to follow up on this comment, but the girls changed the subject.

¶ 48 According to Bunch, DCFS computer records reflected that neither parent had previous involvement with DCFS.

¶ 49 6. Shakeya H.

¶ 50 Shakeya, age 16, testified in chambers and outside her parents' presence. She has lived with Daune for about one year. C.A. and respondent kicked her out of the family home because Shakeya was communicating with Daune on Facebook. Shakeya had not had contact with Daune for two years. She was not allowed to do so because respondent believed that Daune needed to change. C.A. and respondent found about about Shakeya's Facebook page and confronted Shakeya about it. C.A. told Shakeya that he was tired of her and that she had to leave. Respondent did not want her daughter to leave, and C.A. stated " 'Well, you can go with her.' " The next day, when she came home from school, Shakeya learned that C.A. and respondent had been arguing. The following morning, Shakeya was blamed for causing the arguments, and respondent beat her for 15 minutes with an extension cord. Respondent took Shakeya to Daune. Shakeya did speak to Shakiya while Shakeya lived with Daune, except for the three-way conversation, which occurred two months after Shakeya left the family residence. During that conversation, Shakiya told Shakeya that she also wanted to leave the family home because C.A. had touched her "butt," she was beaten for one week, and they went to dinner

without her. At some point, Daune got on the phone and spoke to Shakiya, who was crying. Afterwards, Daune, Shakeya, and her aunt went to Rockton to get Shakiya. Daune also contacted the police.

¶ 51 Shakeya related an incident that occurred when she was seven years old. She was watching television, and C.A. told her to sit on his lap. Shakeya did so, and C.A. put his hand up her shirt and started rubbing her chest area for one or two minutes. After respondent returned home from work, Shakeya told her about the incident, and respondent cried. Then, respondent went upstairs to speak to C.A., and Shakeya overheard her say “ ‘You touched my baby.’ ” C.A. responded that it was a misunderstanding. Later, respondent came to Shakeya’s room and told her that it was a misunderstanding. Afterwards, C.A.’s behavior changed and he stayed away from Shakeya.

¶ 52 However, about one year later, twice per week, C.A. started beating Shakeya with an extension cord, including for forgetting to take out the trash, leaving a dish in the sink, or leaving on a light or the television. However, respondent beat her more often than C.A. did. Shakeya further testified that both of her parents also beat Serenity, Samaya, and Shakeya. Serenity and Samaya started being beaten with belts and extension cords when they were four years old. When asked who hit the younger siblings more often, Shakeya replied, “[C.A.] mostly hit them.”

¶ 53 Next, Shakeya testified about another incident of inappropriate behavior by C.A. She stated that she was 13 years old, and C.A. called her into his office. He asked Shakeya if she was ready to have sex. She replied in the negative, and respondent asked if he could see her “pussy.” Shakeya responded in the negative. C.A. replied, “ ‘See, that’s how I know you’re not ready to have sex.’ ” Shakeya left the room. She told Shakiya about the incident, but could not recall if she told respondent about it.

¶ 54 When Shakeya was 12 years old, the family had financial issues and went to live with Daune. During this stay, respondent hit Shakiya in the face on one occasion for eating in the living room. Serenity was also hit (presumably by respondent, as this incident is related immediately after the Shakiya incident) about five or six times because she had problems using the bathroom.

¶ 55 Shakeya further testified that she was kicked out of the family house for contacting her grandmother and aunt via Facebook. She did post photographs of herself in a cropped top on Facebook, but, at the time she was kicked out, her parents did not mention the photos. In addition to the contact with her relatives, they mentioned that Shakeya was being kicked out because she had boy in the home when respondent and C.A. were not there. They found out about it two weeks later because Serenity wrote about it in her diary, and C.A. read it. Respondent beat Shakeya with a cord after this while C.A. watched.

¶ 56 Describing her parents' relationship, Shakeya stated that C.A. controls respondent and makes decisions for her. He is also violent with her (*i.e.*, throwing her against a wall and choking her).

¶ 57 The beatings left marks on her legs, buttocks, and hands, but Shakeya hid them. The State rested its case.

¶ 58 7. Quentin Harris

¶ 59 C.A.'s counsel called Quentin Harris, age 15 and Shakiya's cousin. Harris was present during the dinner incident. He was also invited to dinner, but decided to stay with Shakiya. Harris saw Shakiya make the phone call to her friend, and he heard some of the conversation. Harris overheard the friend yell, " 'I'm gonna call the cops on that dude. I'm gonna call the cops on that guy.'" Shakiya started crying.

¶ 60

8. Antonio Horton

¶ 61 Antonio Horton, a family friend, testified that he socializes with C.A. and respondent on a regular basis and has known the twins most of their lives. Shakiya and Shakeya helped take care of Horton's daughter, who was born in 2012. Horton testified that he never observed physical marks on the girls at any time, nor did he observe inappropriate discipline in the home. The twins never related to him any concerns they had about being physically disciplined or any other inappropriate contact with C.A. or respondent.

¶ 62

9. C.A.

¶ 63 C.A. testified that he works as a roofer and runs a shirt business out of the family home. He denied any inappropriate conduct between himself and any minor. Addressing the father-daughter talk, C.A. stated that he had a conversation with Shakiya, but denied inappropriate conduct. He denied smelling any portion of Shakiya or kissing her anywhere on her body during this conversation.

¶ 64 Addressing the shower incident, C.A. explained that it was an accident and that Shakiya had never before taken a shower in that bathroom. He did not expect anyone to be in that room when he walked in. C.A. acknowledged that he saw Shakiya, and he walked out. He apologized to her. C.A.'s office was in the basement at the time.

¶ 65 C.A. denied rubbing Shakeya's chest while she was sitting on his lap. He also denied ever observing respondent slap Shakiya. C.A. also denied ever hitting any of the children between 50 and 100 times with an extension cord or a belt.

¶ 66 C.A. admitted to corporal punishment, including Serenity (twice), Samaya (once), and Shakiya (once). He never struck Shakeya. Addressing respondent, C.A. testified that he never observed her strike any of the children. He conceded that, when he found out a boy had been in

the house the night before, the following morning, he smelled the older girls' stomach areas, but not down their pants, to ascertain if they smelled like sex. Addressing respondent, C.A. denied pushing her during fights, but conceded that he would grab/hug her during these incidents to calm her down.

¶ 67

10. Respondent

¶ 68 Respondent testified that she has been married to C.A. for nine years, and the twins call him "dad." Prior to Shakeya moving in with Daune, Shakeya was acting out a lot, including doing inappropriate things on social media. Respondent and C.A. spoke to Shakeya about this and took away her phone for a period; however, the behavior continued. About six months before she moved out, the situation escalated with Shakeya posting inappropriate pictures and having conversations with boys. She also had a boy over to the house. Respondent and C.A. spoke to her about it and let her know what the rules were and the consequences of not following them. Respondent denied that Shakeya was told to leave. Rather, it was her decision. As to the dinner incident, Shakeya got mad not because she could not go out to eat with the family but because respondent and C.A. scolded her about having spent her money on junk food.

¶ 69 Addressing the shower incident, C.A. told respondent about it and then respondent asked Shakiya about it. Shakiya told respondent that it was an accident and that C.A. did not know that Shakiya was in the room. She was not upset about it. At that time, C.A.'s office was in the basement. As to the chest-rubbing incident, respondent testified that she was a stay-at-home mom at the time and was with her children all the time. It was not possible that the incident could have occurred. Addressing the living room eating incident at Daune's house, respondent stated that she struck Shakiya once in the shoulder with an open hand.

¶ 70 Respondent denied ever striking her children with a belt or extension cord 50 to 100 times. However, when they were younger, respondent spanked them, including with a belt, “according to their age” (*i.e.*, as many “licks” as their age in years, including Serenity and Samaya). The girls never had marks or bruises. After age 10 or 11, however, there was no corporal punishment. Respondent would have the girls do about 20 pushups when they were 10 or 11 years old; later, she took away privileges. Respondent denied any prior DCFS involvement.

¶ 71 C.A. disciplined Shakiya one time with corporal punishment. She was eight or nine years old, and he whipped her with a belt because she was allowing boys to touch her at school during recess, acting out in school, talking during class, and other things. C.A. disciplines Serenity and Samaya with spankings.

¶ 72 11. Trial Court’s Findings

¶ 73 On September 15, 2015, the trial court found that the State had met its burden of proof on each petition, which alleged that the children were neglected based on injurious environment. The court found the twins’ testimony credible and further found that the conditions that defined the household environment were pervasive and continuous and, thus, all four children were at risk. The court also noted that the evidence concerning corporal punishment reflected that it was excessive and inappropriate. It set the matter for disposition.

¶ 74 B. Dispositional Hearing

¶ 75 The dispositional hearing commenced on October 28, 2015. Holly Babcock, the case manager from Children’s Home and Aid, testified that respondent had signed all consents, was involved in individual therapy, and was attending sexual assault counseling sessions. Respondent had attended individual therapy for about six months. She was “making efforts, but

the progress is very limited,” according to her therapist. Respondent viewed the sessions as accusatory rather than therapeutic. Babcock further testified that respondent had not made any progress in becoming a protective parent because she does not believe the allegations. She is not able to empathize with the children. None of the family members are ready yet for family counseling. Both parents are denying the allegations.

¶ 76 Addressing the minors, Babcock stated that they are doing well in their placement, are comfortable there, and have not expressed any concerns about being placed with the grandparents. Daune and Webster married, and the children participated in the wedding and “had a great time.” The children are involved in individual counseling. Serenity is indifferent to returning home; she feels stuck in the middle, with loyalty to grandma and to mom and dad. However, Samaya (the youngest) had expressed the desire to return home to her parents.

¶ 77 Maxine Cain, the children’s Sunday school teacher, testified that Serenity and Samaya attend church with respondent and C.A. and they are in Cain’s Sunday school class. They appear to be happy to see their parents.

¶ 78 Respondent testified that she completed individual counseling with Children’s Home and Aid and had completed an assessment for Clarity Counseling. She also signed a consent for a psychological evaluation, attended sexual assault counseling, and completed an assessment for counseling through Helping Abusive Parents at Clarity Counseling.

¶ 79 On January 12, 2016, the trial court found that respondent and C.A. had not cured the conditions that created the injurious environment for their children. The court determined that they had not accepted responsibility for the conduct. Respondent was making efforts, but not progress. Thus, she was not fit or able to be a proper and protective parent to her children. The court noted that, after an extended adjudicatory hearing, it found that C.A. engaged in conduct

that essentially constituted excessive corporal punishment and, as to Shakiya, sexual exploitation of a child; thus, the environment was injurious and created a risk of harm to the children. The court set the goal for the two younger siblings as return home and set it as independence for the twins. It ordered custody and guardianship of the four siblings be placed with DCFS.

¶ 80 Respondent appeals the neglect findings as to Serenity and Samaya.

¶ 81 II. ANALYSIS

¶ 82 Respondent argues that the trial court's finding that Serenity and Samaya were neglected due to an injurious environment was against the manifest weight of the evidence. For the following reasons, we disagree.

¶ 83 The Juvenile Court Act of 1987 (Act) (705 ILCS 405/1-1 *et seq.* (West 2014)) provides a two-step process the circuit court must utilize to decide whether a minor should become a ward of the court. *In re A.P.*, 2012 IL 113875, ¶ 18. First, the trial court must conduct a hearing on the State's petition for adjudication of wardship to determine whether the minor is abused, neglected, or dependent. See 705 ILCS 405/2-18(1) (West 2014); *A.P.*, 2012 IL 113875, ¶¶ 18-19. At this stage of the proceedings, the court determines "whether the child is neglected, and not whether the parents are neglectful." *In re Arthur H.*, 212 Ill. 2d 441, 467 (2004). The second step is the dispositional hearing, where the court determines whether it is consistent with the minor's and the public's health, safety, and best interests to make the minor a ward of the court. *A.P.*, 2012 IL 113875, ¶ 21; 705 ILCS 405/1-3(6), 2-22 (West 2014). This appeal essentially involves only the first step.

¶ 84 The State must prove its allegations of neglect or abuse by a preponderance of the evidence. *In re N.B.*, 191 Ill. 2d 338, 343 (2000). "The trial court has the best opportunity to observe the demeanor and conduct of the parties and witnesses and, therefore, it is in the best

position to determine the credibility and weight of the witnesses' testimony." *In re E.S.*, 324 Ill. App. 3d 661, 667 (2001). The trial court is afforded broad discretion in determining whether a child has been abused or neglected, and this court will not disturb the trial court's findings unless they are against the manifest weight of the evidence. *A.P.*, 2012 IL 113875, ¶ 17. A trial court's finding is against the manifest weight of the evidence only if "the opposite conclusion is clearly evident." *Id.*

¶ 85 The Act states, in part, that a minor "whose environment is injurious to his or her welfare" is neglected. 705 ILCS 405/2-3(1)(b) (West 2014). "Because the concepts of 'neglect' and 'injurious environment' have no fixed meaning and take their content from the particular circumstances of each case, each case involving such allegations must be decided on the basis of its unique facts." *In re Malik B.-N.*, 2012 IL App (1st) 121706, ¶ 52. "In general, however, 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.' [Citations.]" *Arthur H.*, 212 Ill. 2d at 463. Further, a parent has the right to corporally punish his or her child, but it must be exercised in a reasonable manner. *In re Interest of J.P.*, 294 Ill. App. 3d 991, 1002 (1998).

¶ 86 Here, the State's petitions as to Serentity and Samaya alleged that the younger siblings were neglected due to injurious environment, in that Shakeya and Shakiya had disclosed: (1) inappropriate conduct by C.A. toward the two older siblings; and (2) that the older siblings were struck by respondent and C.A. with belts and extension cords on multiple occasions. Thus, the State's allegations relied on the theory of anticipatory neglect. The doctrine of anticipatory neglect recognizes that a parent's treatment of one child is probative of how that parent may treat his or her other children. *In re T.S-P.*, 362 Ill. App. 3d 243, 248-49 (2005). "Under the anticipatory neglect theory, the State seeks to protect not only children who are 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.” *Arthur H.*, 212 Ill. 2d at 468. The doctrine of anticipatory neglect is codified in section 2-18(3) of the Act, which states in relevant part that “proof of the abuse, neglect or dependency of one minor shall be admissible evidence on the issues of the abuse, neglect or dependency of any other minor for whom the respondent is responsible.” 705 ILCS 405/2-18(3) (West 2014). However, the mere admissibility of evidence does not constitute conclusive proof of neglect of another minor. *Arthur H.*, 212 Ill. 2d at 468. Further, such neglect should be measured not only by the circumstances surrounding the sibling, but also by the care and condition of the child in question. [Citation.]” *In re Edward T.*, 343 Ill. App. 3d 778, 797 (2003). Cases involving the adjudication of abuse, neglect, and wardship must be decided on their own distinct facts and circumstances. *Id.* at 468-69.

¶ 87 Respondent argues that the court’s findings were against the manifest weight of the evidence. Turning first to the sexual abuse allegations, she notes that the evidence did not show any inappropriate conduct directed at Serenity or Samaya. Respondent further points to the allegations concerning C.A.’s inappropriate conduct toward Shakiya when she was seven years old, noting that Samaya and Serenity were not born at the time of this incident. Although respondent agrees that some of the subsequent sexual abuse of the older siblings occurred when Serenity and Samaya were very young, she contends that there was no evidence that she herself perpetrated any of the sexual misconduct or was present when C.A. committed the alleged acts. We reject these arguments.

¶ 88 Respondent relies on *In re S.S.*, 313 Ill. App. 3d 121 (2000). In *S.S.*, the State sought an adjudication of neglect of a child born 20 months after the neglect and abuse of an older sibling

by the father, where the older sibling had died. The State's theory was anticipatory neglect. The parents were no longer living together at the time of the adjudicatory hearing. The trial court found the child neglected and made him a ward of the court. On appeal, the court concluded that the evidence was insufficient to establish the mother's neglect. *Id.* at 128-31. It found that: (1) no evidence showed that the mother disregarded a DCFS protection plan concerning the older sibling; (2) domestic violence counseling had resolved the prior domestic violence issues; (3) no evidence showed that anything the mother did or failed to do in connection with the sibling's death created a substantial risk to S.S.; (4) the parents no longer lived together; and (5) the mother was not allowing unauthorized visits by the father with S.S. or leaving S.S. unattended, and if the custody was returned, would not allow the father to visit without being present. *Id.* The court concluded that there was no reason to find that the mother neglected S.S. and reversed the trial court's contrary findings. *Id.* at 132-33.

¶ 89 We find S.S. distinguishable. In S.S., unlike here, the mother acted to minimize any risk of harm to the younger sibling, including attending counseling, no longer living with the father, and disallowing future unsupervised visits between the father and the minor. Furthermore, the mother in S.S. did not engage in any actions in connection with the sibling's death that created a risk to the younger sibling.

¶ 90 We conclude that the trial court did not err in finding Serentity and Samaya neglected as to the sexual abuse allegations. Although some of the incidents that involved Shakiya and Shakeya occurred before Serentity and Samaya were born, other incidents occurred afterwards and when the younger siblings were present in the home. Specifically, Shakiya testified that the younger siblings were in the living room during the father-daughter talk. Similarly, Shakeya related to Butler that, in early 2014, one of the younger siblings tried to enter the office while

C.A. discussed sex with her and asked to see her “pussy.” Thus, there was sufficient evidence from which the trial court could reasonably find, under an anticipatory-neglect theory, that the younger siblings were neglected due to an injurious environment, specifically, the sexual abuse of the older siblings while all of the children resided in the home. *In re A.W.*, 231 Ill. 2d 92, 103 (2008) (history of sexual abuse of minors supported the trial court’s neglect finding). Furthermore, as to respondent’s argument that she herself did not engage in sexual abuse and was not present at the time C.A. committed the abuse, the focus is not on which parent is responsible for the abuse, but on whether the children were neglected. *Arthur H.*, 212 Ill. 2d at 467. Nevertheless, we note that Shakiya and Shakeya, whom the trial court found credible, testified that respondent was made aware of C.A.’s inappropriate acts and, in contrast to the circumstances in *S.S.*, either did nothing or dismissed them as a misunderstanding.

¶91 Turning next to the allegations of physical abuse, respondent notes that Shakiya recounted only one incident of C.A. hitting Samaya, which occurred when she broke the television set. Also, Shakiya related only one incident of physical abuse of Serenity, which occurred when she was four or five years old and had wasted C.A.’s hair product. Shakiya further testified that the younger siblings were not beaten excessively. Respondent also notes that, although she and C.A. acknowledged disciplining the children with corporal punishment, she herself did so only until the children were about 10 years old. She also points to Bunch’s testimony that Samaya and Serenity did not make any disclosures about physical abuse, and their medical examinations did not reveal any evidence of such abuse. Finally, respondent points to Cain’s testimony, which related that, at Sunday school, Samaya and Serenity did not show any apprehension and interacted normally with both parents. We find these arguments unavailing.

¶ 92 As to corporal punishment, the evidence (C.A., respondent, Shakiya, and Shakeya) reasonably showed that both respondent and C.A. disciplined all of their children in such a manner and used it repeatedly and excessively, at a minimum with respect to Shakiya and Shakeya. Accordingly, under the anticipatory-neglect theory, we conclude that the trial court did not err in finding Serenity and Samaya neglected on the basis of injurious environment due to physical abuse of their older siblings. Shakiya testified that, when she was seven or eight years old, C.A. told respondent to beat the girls with extension cords, leather belts, and tree switches when they acted badly. She stated that both parents hit her about three times per month and that the girls could choose either 100 lashes with a belt or 50 with an extension cord. (This testimony was corroborated by Shakeya.) The beatings left bruises, and she has a scar on her right hip. Shakiya also recounted an episode where she was supposed to be reading a book, but fell asleep. C.A. had Shakeya check on her and then he came into the room with an extension cord and started beating Shakiya. She ran away from him, but C.A. grabbed her by the ankles and continued beating her. Addressing another incident, Shakiya testified that C.A. beat her after he accused her and Shakeya of using Serenity's hat to wipe their "butts." Another incident involved the family dog. Shakiya did not take out the dog and he pooped on the floor. She was struck with a belt.

¶ 93 The younger siblings were also physically abused. Shakeya testified that Serenity and Samaya started being beaten with belts and extension cords when they were four years old. Shakiya testified that respondent beat the younger children more often than C.A. beat them; however, Shakeya testified that C.A. "mostly hit them." Shakiya testified that Serenity and Samaya were hit three or four "times" per beating instead of 50 or 100, but it depended. According to Shakiya, C.A. also beat the younger siblings on a "lot" of occasions.

¶ 94 Daune also testified that respondent disciplined the girls. Bunch, the DCFS investigator, testified about an incident during the girls' medical examinations. While in the waiting room, Bunch heard one of the older girls tell Samaya to sit down. Serenity stated, " 'Or you get a whopping with the belt.' " Serenity and Samaya told Shakiya that they did not feel safe in the family home due to the beatings. Although this testimony conflicts with respondent's testimony that she spanked the girls, including, Serenity and Samaya, with a belt, "according to their age," up until only age 10, the trial court found the girls' testimony credible and we cannot conclude that its resolution was erroneous.

¶ 95 As to Samaya, Shakiya testified that, about one month before all of the children were removed from the home, C.A. struck Samaya after she threw a basketball at the television. Samaya, "got it bad, but it was with a belt. She didn't get the cord." Her legs and "butt" were purple afterwards.

¶ 96 As to Serenity, Shakiya related an incident that occurred when Serenity was four or five years old. During this incident, C.A. struck Serenity after she poured out C.A.'s hair product. According to Shakiya, C.A. beat Serenity with a hanger and a belt. Respondent was in the kitchen during the beating, but Shakiya did not know what she was doing. Additionally, Shakiya testified that respondent hit Serenity about five or six times because she had problems using the bathroom.

¶ 97 Under the anticipatory-neglect doctrine, this evidence, in our view, reflects that the environment was injurious for Serenity and Samaya. It reasonably showed that the physical abuse of the older siblings created an injurious environment for the younger siblings. Respondent herself engaged in the physical abuse. The evidence also showed that the younger siblings were arguably not yet subjected to the more excessive physical abuse sustained by

Shakeya and Shakiya. See, *e.g.*, *In the Interest of L.M.*, 189 Ill. App. 3d at 398-99 (beating with a belt and stick and causing “whip marks” are not reasonable forms of corporal punishment). However, in light of respondent’s inaction (*i.e.*, her failure to remove them from an injurious environment) and disbelief of the older girls’ sexual abuse allegations, the trial court need not have waited until the younger siblings experienced more excessive abuse. See *In re Adam B.*, 2016 IL App (1st) 152037, ¶ 48 (“Under this theory, when faced with evidence of prior neglect by parents, the trial court should not be forced to refrain from acting until another child is injured”).

¶ 98 In summary, the trial court’s findings that Serentity and Samaya were neglected were not against the manifest weight of the evidence.

¶ 99

III. CONCLUSION

¶ 100 For the reasons stated, the judgment of the circuit court of Winnebago County is affirmed.

¶ 101 Affirmed.