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2016 IL App (3d) 150141-U
Consolidated with
2016 IL App (3d) 150146-U

Order filed February 10, 2016

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

A.D., 2016

<i>In re</i> D.N., a Minor,)	Appeal from the Circuit Court
)	of the 13th Judicial Circuit,
(The People of the State of Illinois,)	LaSalle County, Illinois
)	
Petitioner-Appellee,)	Appeal Nos. 3-15-0141
)	3-15-0146
v.)	Circuit No. 10-JA-43
)	
Paul S. and Chrystal R.,)	Honorable
)	Cynthia M. Racculgia
Respondents-Appellants).)	Judge, Presiding

PRESIDING JUSTICE O'BRIEN delivered the judgment of the court.
Justices Lytton and Wright concurred in the judgment.

ORDER

¶ 1 *Held:* Trial court did not err in finding minor neglected and both parents unfit, and in making minor a ward of the court. This court was without jurisdiction to consider father's challenge to trial court's visitation order.

¶ 2 The minor, D.N., was placed in shelter care shortly after he was born and the State sought a wardship adjudication for D.N., alleging neglect due to an injurious environment. Both mother

and father were ordered to perform various tasks, but neither parent consistently complied with the court order. The trial court found D.N. neglected and both parents unfit, and ordered that D.N. be made a ward of the court. The parents each appealed. We affirm.

¶ 3

FACTS

¶ 4

The minor, D.N. was born on August 23, 2010, and placed in the protective custody of the Department of Children and Family Services (DCFS). The Youth Service Bureau (YSB) acted as an agent of DCFS in handling the case. On August 27, 2010, the State petitioned for an adjudication of wardship, alleging that D.N. was subjected to an injurious environment as a result of D.N.'s mother, Chrystal R., having physically abused one of her other children. That child and his brother were placed in foster care in January 2008, and Chrystal remained unfit as a parent as to them. Chrystal appeared at an August 27 hearing on the State's petition, but the father of D.N. was unknown at that time and did not appear. The trial court granted the State's petition and awarded temporary custody of D.N. to DCFS and he was placed with a foster family. Chrystal was awarded two hours of visitation with D.N. twice a week at the YSB office.

¶ 5

Chrystal was appointed counsel on August 30, 2010, and the State filed an amended petition for wardship the same day. The petition presented substantially the same allegations and the father remained "unknown." Service by publication was made on the "unknown" father. A third amended petition was filed on September 10, 2010, alleging the same injurious environment, but naming Paul S. as a possible father. After personal service on Paul was unsuccessful, service was made by publication.

¶ 6

A service plan initiated in October 2010 required Chrystal to attend appointments with her clinician, control her anger, stop physically punishing her children, sign releases, participate in counseling, and remove herself from volatile situations. Chrystal was also required to obtain

appropriate housing, maintain her medications, participate in regular visits with her children, and obtain a means of income. A third amended petition for wardship was filed on October 26, 2010, asserting the same allegations as in the earlier petitions. Paul S. was named as a possible father. A November 2010 update to the DCFS report indicated that Chrystal was working but had not provided verification of her employment. She was without a place to live, but was continuing with counseling and visitation. D.N. was doing well with his foster family.

¶ 7 Paternity test results filed on December 1, 2010 established Paul as D.N.'s father. An integrated assessment dated December 15, 2010, provided that Paul was homeless, financially unstable and without a source of income. Other information regarding Paul's background included that he had a felony hate crime pending against him in DeKalb County and a prior conviction for driving under the influence (DUI). The assessment also reflected that Paul became loud and argumentative during the interviews, expressing anger at the situation and D.N.'s mother.

¶ 8 A service plan entered into the court file on January 21, 2011, required that Paul perform the following tasks: participate in a parenting class; refrain from further legal involvement; obtain housing; cooperate with DCFS and its agency, YSB; undergo an anger management assessment and follow its recommendation; participate in a drug and alcohol assessment; attend visitation with D.N.; and undergo mental health and in-depth psychological assessments. A visitation plan was entered awarding Paul two-hour visits with D.N. one day a week at the YSB offices. Chrystal's tasks remained the same. Caseworker updates reported that visits were going well but that Chrystal would become frustrated with D.N. and yell at him. She would also physically discipline D.N.

¶ 9 A fourth amended petition for wardship was filed on March 28, 2011, naming Paul as D.N.'s father. The petition alleged that D.N. was neglected in that Chrystal's two older children were in DCFS custody as a result of her physical abuse, that she had not completed her service plan requirements and she remained unfit as to those children. The petition further alleged Chrystal was bipolar and on medication and was living with her mother who had numerous prior indicated reports. The petition also alleged that the parenting capacity assessment indicated Chrystal lacked the ability to parent D.N.

¶ 10 As to Paul, the petition asserted that he failed to follow the service plan by refusing to obtain assessments for drug and alcohol and anger management or to attend parenting classes; he had a pending felony hate crime charge in DeKalb County; he had not contributed to D.N.'s support; and he was unemployed. The petition further asserted that Paul's weekly visits with D.N. "have not gone well," noting Paul's anger with the agency, his displeasure with D.N. napping during his visits, and Paul's refusal to call D.N. by his first name rather than nicknames. The petition also asserted that Paul violated rules for visitation, including using his cell phone, making negative remarks about YSB and using profanity. The petition further stated that Paul fed D.N. in an inappropriate manner by laying D.N. on the table and using his cell phone while feeding him.

¶ 11 Caseworker reports stated that Chrystal was living with friends, waiting for housing, and working. Her attendance at counseling was irregular due to her work schedule. She continued with visitation, which generally went well. Paul refused all services but agreed to do an in-depth psychological assessment. The felony charge in DeKalb County remained pending. Paul was unemployed and told the caseworker that he was behind on his bills. He continued to be disruptive and cause problems during visitation and with YSB.

¶ 12 An adjudicatory hearing took place on April 6, 2011. Chrystal stipulated to the allegations in the petition, including that she had been previously found unfit and not thereafter determined to be fit. Dawn Frazier, the caseworker assigned to D.N.'s case, testified. She explained that since D.N. was in temporary custody before Paul's paternity was established, she was required to do an integrated assessment with him. Frazier prepared the assessment with Paul, and as a result, created a service plan with the tasks Paul was required to complete in order to obtain custody of D.N. She explained Paul was required to have a drug and alcohol assessment because he had a prior conviction for driving under the influence; parenting classes to help him "brush up" on his parenting skills since his other children were considerably older; obtain a mental health assessment and an anger management assessment because she had observed him to be "angry at times"; and to have a legal means of support and proof of income. She acknowledged he had obtained housing and Paul assured her that the house would soon be his. She had not yet determined whether the house was safe for D.N. Aside from visiting D.N., Paul refused to do anything on the service plan except he agreed to participate in an in-depth psychological assessment.

¶ 13 Paul testified that he was self-employed but had other future prospects to make money. He had a house that was appropriate for himself and D.N. He had some medical issues that limited his ability to make money but he anticipated he would be able to meet his expenses in the future. He had raised two children, including approximately three years of physical custody, without incident. He explained the felony hate crime charge in DeKalb County alleged that he threatened the lives of a former boss, and the bosses' wife and daughter.

¶ 14 The trial court informed Paul that there were certain rules to be followed whether he agreed with them or not, which included "cooperation on the part of the parent to do certain

things that parents would not have to do normally.” It found that Paul failed to give D.N. priority or consideration as evidenced by Paul’s failure to follow the service plan. The trial court entered an adjudicatory order following the hearing, finding D.N. neglected based on an injurious environment. The finding was based on the following facts: “To date father has refused to give minor priority by failing to follow service plan in that he refused drug + alcohol evaluation, refused parenting classes and refused anger management and mental health assessment.” The order further found that the neglect was inflicted by both Chrystal and Paul. The order required Paul to cooperate with a psychological evaluation, a drug and alcohol evaluation, parenting classes, and anger management and mental health assessments.

¶ 15 Both Chrystal and Paul made some progress on their service plans, although Paul continued to refuse to participate in various tasks. In May 2011, Paul spent a week in jail in DeKalb County for failing to appear on his pending felony hate crime charge. He was sentenced to 18-months’ probation on the hate crime and court ordered by DeKalb County to receive an in-depth psychological assessment. Those results recommended he undergo a full scale psychological assessment. Paul finished an anger management assessment but refused to participate in the recommended six anger management classes. Paul continued to behave aggressively toward YSB.

¶ 16 By July 2011, Paul had completed parenting class, as well as the drug and alcohol, mental health and psychological assessments, and participated in two anger management classes, but he was homeless and without verifiable income. He still needed to have a parenting capacity assessment done. While Paul maintained regular weekly visitation with D.N., there were issues in that Paul continually became upset with and threatened the caseworker and visitation aides.

The State moved to terminate visitation based on the troubles that occurred during Paul's visits with D.N. Paul, in turn, moved for extended and less restrictive visitation.

¶ 17 Paul underwent a psychological evaluation and a parenting capacity assessment. The assessment concluded that Paul was not fit to parent, specifically finding that Paul lacked the emotional, social, and practical resources needed to provide a "safe, stable and nurturant [*sic*]" environment for himself and D.N. His housing and employment remained unstable and there continued to be issues at visits, with Paul's negative and aggressive behavior toward YSB escalating. Chrystal's housing and employment also remained unstable. She continued with counseling and visits. In January 2012, the case went to legal screening, which recommended that Paul have a psychiatric assessment and Chrystal have an updated parenting capacity assessment.

¶ 18 A March 2012 update provided that Chrystal said she was engaging in counseling at a new location and had stopped taking her medications without incident. However, an incident took place a few days earlier where Chrystal told the case aide during visitation she could spank D.N. on his diaper. In May 2012, Paul assaulted a caseworker during his visitation with D.N. His visitation was terminated and Paul was banned from YSB. Paul was arrested and jailed on the charge but visits resumed in August 2012. Subsequent caseworker reports indicated that Chrystal was living with her boyfriend/fiancé and earning an income but had not done a required mental health assessment. She was no longer in counseling or taking medication. Paul was compliant with his probation in DeKalb County but now had a pending battery in LaSalle County from his attack on the caseworker. Paul presented proof of his disability income and a letter from his counselor indicating that he completed the recommended counseling, including communication skills and anger management.

¶ 19 Chrystal participated in a parenting capacity assessment, which concluded that she had an unacceptably high potential for physical child abuse, that her parenting was unpredictable and inconsistent, that she had a limited and inadequate ability to parent, and that it was in D.N.'s best interests to terminate her parental rights. Paul continued to have issues with visits and YSB. He refused a psychiatric assessment. Paul, who was living in a homeless shelter, sought guardianship rather than custody of D.N. because he could not care for D.N. on a fulltime basis. Chrystal and Paul each continued to be unstable as to housing and employment.

¶ 20 Caseworker reports informed that while Chrystal was able to parent and interact appropriately with D.N. as demonstrated in visitation observations, the caseworker agreed with the updated parenting capacity assessment that Chrystal had a "vanishingly small" possibility to develop the skills necessary to parent. After a meeting to discuss Chrystal's inappropriate behavior during visits, Chrystal became upset and said derogatory comments to the caseworker. There were no more incidents of corporal punishment after a meeting with Chrystal and her fiancé in September 2013.

¶ 21 In February 2014, the caseworker update provided that Chrystal had submitted to a mental health assessment, which concluded that there were no service recommendations. Subsequent updates to the caseworker's report established that Chrystal was still living with her fiancé and was pregnant with his child. They scrapped metal for income. Paul participated in a psychosocial assessment administered by Leo Meagher, which indicated no treatment needs or services but recommended Paul participate in a psychological assessment.

¶ 22 In March 2014, the trial court named a court-appointed special advocate (CASA). The CASA report in September 2014 indicated that Chrystal and her fiancé complained about CASA involvement and made inappropriate comments about the trial judge during a visit with D.N. and

at an earlier visit had asked the CASA to leave. A July 2014 service plan update stated that Chrystal was cooperating with YSB, had income and housing, and had completed her parenting class. However, her parenting remained unsatisfactory.

¶ 23 The hearing continued in September 2014. Paul's eldest son, who was 24 years old and married with an infant, testified that Paul did not have any issues with anger with children and that he allowed Paul to babysit his child. Meagher testified. He was a licensed clinical professional counselor, a certified criminal justice specialist, a certified domestic violence and drug and alcohol counselor, and a licensed sex offender evaluator and treatment provider. He administered the following tests to Paul: functional intelligence quotient (IQ), personality inventory, addictive traits and drug and alcohol issues, and anger expression inventory. Based on the results, he counseled Paul on communications skills, in part. As a followup, Meagher administered a violence risk assessment and concluded Paul exhibited a low risk. He did not believe a psychiatric evaluation was needed.

¶ 24 A December 10, 2014, update to the caseworker report established that Chrystal was still living with her fiancé and several of his children, as well as their child, who was born in December 2014. Chrystal and Justin were "scrapping" as a means to earn income and Chrystal was engaging in weekly supervised visits with D.N., which were going fine. Paul was refusing to cooperate with either the caseworker or YSB. He had found housing but his home remained without hot water or gas due to an outstanding bill. Paul participated in weekly supervised visits with D.N. and there continued to be issues resulting from the visits. At the visits, Paul would tell D.N. that the child was going home with Paul and would repeatedly make improper comments to and about the caseworker. D.N. was doing well in his foster placement.

¶ 25 At a December 2014 hearing, Chrystal's fiancé testified. He had seven children, the youngest with Chrystal. He and Chrystal lived in a three bedroom apartment with four children as well as his daughter, her child and boyfriend. He and Chrystal had been together for three years and he had seen her grow and develop as a mother, describing that she was "amazing" with his children. He had complete trust in her ability to parent. He attended visitations with D.N. and loves him. In his view, the visits between D.N. and Chrystal continued to improve. Between him and Chrystal, they make sufficient income to support their family. He and Chrystal plan to marry after she is divorced from her husband.

¶ 26 Chrystal testified regarding the circumstances that resulted in the removal of her two older children. After they were removed, she participated in counseling and took medication so she could do what she was required to do by YSB. Her thinking had improved and her mental health was positive. In her view, she could effectively parent D.N. and should be awarded custody. She did not think she was bipolar any longer or needed medication. She was released from her mental health evaluation, stopped her therapy and medication. She still had anxiety and became overwhelmed but she did not need further treatment or medication. She was parenting D.N. better during visits and managing her fiancé's children without incident. She admitted that she would be frustrated with D.N. when he was aggressive towards her and that she would also become upset when her fiancé's children would not listen to her.

¶ 27 She also admitted that she spanked D.N. but that he was no longer aggressive during their visits. She acknowledged that she had been physically aggressive to D.N., spanking and "smacking" him, grabbing his wrists, yelling at him and calling him inappropriate names, and putting him in excessive time-out periods. After her visits were decreased to two hours, she had a better relationship with D.N. because the visits were shorter. She acknowledged that the

mental health evaluation indicated that she denied all symptoms and did not want treatment, had a poor prognosis, and refused treatment.

¶ 28 A January 2015 service plan update stated that the case remained open because neither Paul nor Chrystal could parent adequately, according to the conclusions from their parenting capacity assessments. Chrystal was cooperative with YSB. She had a source of income, housing and was able to pay her bills. She completed her parenting class and while she cooperated with CASA, she did not agree with the CASA reports, which raised concerns about her parenting skills. The caseworker described that Chrystal created a stable environment during visits, while noting that the CASA described the environment as “chaotic” and indicated that Chrystal called D.N. inappropriate names.

¶ 29 The caseworker report established that Paul remained uncooperative with the agency and that a recent visit was terminated early because Paul refused to follow the rules. The report also stated that Paul was leaving “borderline” threatening voicemails for the caseworker that were derogatory and hostile. The report also provided that D.N. was exhibiting behavior changes before and after his visits with Paul. The behaviors correlated with the escalation in Paul’s behavior and his inappropriate comments to D.N. He was fearful, and experiencing nightmares and nighttime accidents. The report further provided that D.N. said he was scared of Paul, that he did not want to visit, and that his stomach hurt after the visits. D.N. was having angry outbursts and exhibiting a need for comfort. Counseling and play therapy were recommended for him. Chrystal’s circumstances remained the same.

¶ 30 An update on January 30, 2015, provided that Chrystal’s situation continued unchanged and that Paul continued to make inappropriate comments regarding the caseworker. Another visit was terminated early. The caseworker included reports documenting her observations of the

visits, which revealed that D.N. said he was scared of Paul and would ask for his foster mother during visitation with Paul.

¶ 31 On February 4, 2015, the hearing continued. The caseworker testified that Paul continued to be uncooperative and to leave threatening phone messages. The recorded messages were played for the court. A case aide also testified to Paul's failure to follow the visitation rules and his inappropriate behavior. Paul testified to the visitation issues and the reasons he could not follow the rules. A video he made of the Christmas visit he had with D.N. was played for the court. The guardian *ad litem* testified. D.N., who appeared to be a normal four-year-old child, told him Paul scared him.

¶ 32 The trial court made the following findings. It had admonished Paul early in the case that he was required to follow the rules, even if they were unfair, and that he was required to cooperate with DCFS and provide a stable home for D.N. Instead, Paul created disturbances during his visits, causing D.N. to now be afraid of him. The trial court considered that Paul loved D.N. but could not parent, did not have a stable home, and acted too irresponsibly and irrationally to parent. Finally, the trial court determined that Paul was unfit and not in a position to provide a stable environment for D.N. The trial court additionally found that Chrystal was unable to parent without the support of her boyfriend, she could not parent by herself because of her mental issues, and that her life remained chaotic. The trial court concluded that Chrystal was not fit and that she was unable to establish a stable home for D.N. The trial court granted custody and guardianship to DCFS and ordered that visitation remain the same pending a hearing.

¶ 33 A visitation hearing took place. The evidence demonstrated that Chrystal had done the necessary tasks to continue visitation and the trial court ordered her to submit to a new parenting

capacity/psychological evaluation and follow any recommendations. Paul continued to remain uncooperative and visitation was awarded for two hours a week at the sheriff's department. He was ordered to submit to a parenting capacity/psychological evaluations and follow any recommendations. Paul and Chrystal each appealed the unfitness finding and the cases were consolidated on appeal. Following filing of the appeals, the State moved to suspend or modify Paul's visitation, alleging that he continued to make threats toward YSB employees, raising safety concerns for them and D.N. The petition asked that visitation be suspended pending Paul's completion of a parenting capacity/psychological assessment.

¶ 34

ANALYSIS

¶ 35

There are several issues on appeal. Both parents argue that the trial court erred in finding D.N. neglected and the parents unfit, in making D.N. a ward of the court and in awarding guardianship to DCFS. In addition, Paul argues that the trial court's decisions were biased and that the trial court erred when it restricted Paul's visitation.

¶ 36

After a minor is placed in shelter care on the trial court's finding that "it is a matter of immediate and urgent necessity for the safety and protection of the minor," he cannot be returned home until the trial court enters an order finding that temporary custody is no longer needed for the minor's protection. 705 ILCS 405/2-10(2) (West 2010); *In re Arthur H.*, 212 Ill. 2d 441, 462 (2004). Following the minor's placement in temporary custody, the trial court must find abuse, neglect or dependence before it adjudicates wardship. 705 ILCS 405/2-21 (West 2010); *In re N.B.*, 191 Ill. 2d 338, 343 (2000). A minor may not be returned home until the court enters a subsequent order that such a placement is no longer needed for the protection of the minor. 705 ILCS 405/2-21 (West 2010); *N.B.*, 191 Ill. 3d at 343.

¶ 37 Neglect includes the minor being subjected to an environment that is injurious to his welfare. 705 ILCS 405/2-3(1)(b) (West 2010); *In re A.W.*, 231 Ill. 2d 92, 102 (2008). Proof of the neglect of one minor is evidence regarding the abuse of another minor for whom the respondent is responsible. 705 ILCS 405/2-18(3) (West 2010); *A.W.*, 231 Ill. 2d at 102-103. Neglect is generally considered as the failure by a responsible adult to exercise the care demanded under the circumstances. *In re S.S.*, 313 Ill. App. 3d 121, 126 (2000). It includes both the willful and the unintentional disregard of one's parental duty. *S.S.*, 313 Ill. App. 3d at 126. Where the court finds only one parent was responsible for the circumstances resulting in the neglect finding, the other parent is entitled to custody over a third party if he is otherwise fit, able and willing to care for the minor. *S.S.*, 313 Ill. App. 3d at 131. The trial court's findings regarding neglect will not be reversed on appeal unless they are against the manifest weight of the evidence. *In re R.R.*, 409 Ill. App 3d 1041, 1045 (2011).

¶ 38 Both Chrystal and Paul challenge the trial court's finding of neglect. The fourth amended petition alleged that D.N. was neglected due to an injurious environment. It stated that Chrystal had physically abused her other children and was not compliant with the service plan in that case, that she was bipolar, and that per her parenting capacity assessment, she lacked the "emotional, social or practical resource that would enable her to parent her children on a consistent daily basis." Chrystal stipulated to the allegations at the adjudicatory hearing, including that she previously was found unfit regarding her older children and had not been found fit. We thus will not address her argument. *Kapsouris v. Rivera*, 319 Ill. App. 3d 844, 853 (2001) (party waives argument when she stipulates to the facts at issue).

¶ 39 The petition alleged that Paul failed to follow the service plan, had a pending felony charge, was not supporting D.N., and was unemployed. In addition, it alleged that Paul had

threatened the case aid during visits, became upset, and violated visit rules. The trial court found that Paul “failed to give [D.N.] priority or any consideration”, pointing to Paul’s refusal to cooperate with YSB or comply with the service plan requirements. Paul submits that the trial court was biased against him, pointing to the lack of recommendations for him in the initial integrated assessment he took in December 2010, and the inclusion of service tasks in the service plan created in January 2011.

¶ 40 We agree the assessment did not specify any recommended services for Paul but it did reveal that he had two older children, whom he had custody of for several years when the boys were pre-teen and teenagers; he had a prior DUI and a pending felony charge in a neighboring county; was unemployed, and lacked permanent housing. The assessment also stated that Paul displayed inappropriate anger during the interview. The service plan required Paul to undergo drug and alcohol, mental health, in-depth psychological, and parenting assessments. Paul was further required to attend parenting classes, obtain a job and housing, avoid further legal problems, cooperate with YSB and DCFS; participate in visitation; and control his temper and submit to an anger management assessment.

¶ 41 We consider that all the services Paul was required to comply with were supported by the integrated assessment. Because D.N. was already in DCFS custody when Paul was determined to be his father, Paul was required to participate in the service plan. He initially refused to comply with any services and behaved contrary to the visitation rules, consistently causing disruptions and directing anger at the YSB caseworker and aides. That behavior and the pending felony further support the service plan requirements. The parenting class recommendation was made so he could brush up on his parenting skills, since his other children were now in their late teens and early 20s.

¶ 42 In addition to the service plan requirements correlating with the results of the integrated assessment, Paul was repeatedly admonished by the trial court of the need for him to comply with the service plan. The trial court ultimately determined that Paul's refusal to comply with the service plan evidenced his failure to make D.N. a priority and supported the neglect finding. This conclusion and other comments made by the trial court to which Paul takes offense do not exhibit bias by the trial court but merely indicate the trial court's frustration with Paul's refusal to cooperate with YSB and the service plan. We find there was no bias and the trial court's determinations were not partial against Paul. We further find the trial court's finding that D.N. was neglected was not against the manifest weight of the evidence.

¶ 43 The next issue concerns the trial court's unfitness findings. Both Chrystal and Paul argue the trial court erred in finding they were unfit. Chrystal argues the trial court relied on her surrendering her parental rights to her two older children as sufficient grounds and did not take into account her progress, including that she had a stable home with her fiancé, she was working numerous jobs and caring for her fiancé's children, and she could properly care for D.N. Paul maintains that he made satisfactory progress on his service tasks sufficient to negate the unfitness finding and that the trial court erred when it made D.N. a ward of the court and granted guardianship to DCFS.

¶ 44 After the trial court adjudicates a child as neglected, it then determines whether the minor must be made a ward of the court because the parent is unfit to care for him. 705 ILCS 405/2-21(2), 2-27(1) (West 2012); *Arthur H.*, 212 Ill. 2d at 464. The trial court considers whether the health, safety and best interest of the minor require that he be made a ward of the court. 705 ILCS 405/2-21(2) (West 2012); *N.B.*, 191 Ill. 2d at 343. At this stage in the proceedings, the minor's best interest is of paramount importance and the parent's rights must yield to it. *In re*

William H., 407 Ill. App. 3d 858, 870 (2011). This court will not reverse a trial court's dispositional order unless its findings of fact are against the manifest weight of the evidence or it committed an abuse of discretion in choosing an inappropriate disposition. *In re Stephen K.* 373 Ill. App. 3d 7, 25 (2007).

¶ 45 The trial court found that Chrystal “cannot parent [D.N.] without support of boyfriend. She is unable to parent by herself because of her mental problems” and that Paul “cannot provide a stable home because of his making disturbances and not acting reasonably and rationally and lack of cooperation with services of court.” Both findings are supported by the evidence. The results of both Chrystal’s and Paul’s parenting capacity assessment indicated that neither parent had the ability to care for D.N. and that they were unlikely to obtain the skills necessary to parent in the future. Their inconsistent attempts to comply with the service plan directives were insufficient to overcome their inability to consistently parent D.N.

¶ 46 Throughout the proceedings, both parents were unable to sustain permanent housing or employment. We acknowledge that Paul ultimately was approved for disability benefits, which did provide him a regular source of income and that Chrystal was engaged in “scrapping” with her fiancé at the time of the dispositional hearing. We further acknowledge that Paul was no longer homeless and had secured a house and that Chrystal and her fiancé were renting an apartment together. However, Paul’s home was without gas and lacked heat, while Chrystal was reliant on her boyfriend in maintaining housing and income. Moreover, throughout the proceedings, neither Paul nor Chrystal were able to maintain longterm housing or employment. The lack of safe and permanent housing and employment does not provide a stable environment for D.N.

¶ 47 Significantly, both Paul and Chrystal have exhibited an inability to sustain any consistency in their lives. The failure is further aggravated by Paul's failure to control his anger or to direct it appropriately and by Chrystal's mental illness. Although Chrystal believes that she completed her treatment for mental illness, the caseworker updates indicate that she was unwilling to continue with counseling and her medications, not that she successfully completed the services. Importantly, the caseworker and CASA reports reflect that Chrystal continued to become frustrated and express inappropriate anger toward D.N. during visits. Her lifestyle stabilized with the assistance of her fiancé but the caseworker, CASA and Chrystal all expressed concerns about her inability to parent without his help. Chrystal's chaotic lifestyle resulted in the surrender of two of D.N.'s siblings. Paul's inappropriate behavior eventually caused D.N. to be fearful of him and not want to visit. The evidence throughout the proceedings demonstrates that neither Chrystal nor Paul were capable of parenting D.N. on a consistent daily sustained basis. In contrast, D.N. was faring well in his foster placement. His foster family provided a stable environment and housing and was able to meet D.N.'s emotional, mental, and physical needs. We find the trial court did not err in finding both Paul and Chrystal unfit and making D.N. a ward of the court and granting guardianship to DCFS.

¶ 48 Finally, Paul asserts the trial court erred when it reduced his visitation. At the dispositional hearing, the trial court order that visitation was to remain as scheduled pending a visitation hearing. At the hearing two weeks later, the trial court granted Paul two hours visitation per week to take place at the sheriff's department. The trial court also provided that it would revisit the issue in one month. In addition, after the notice of appeal were filed, the State moved to suspend or modify Paul's visitation. Because this issue has not been finally decided by the trial court, we are without jurisdiction to consider it. *In re Brandon S.*, 331 Ill. App. 3d 757,

761 (2002) (jurisdiction of the appellate court is limited to the review of final judgments and reviewing court is without jurisdiction to decide nonfinal orders).

¶ 49 For the foregoing reasons, the judgment of the circuit court of Peoria County is affirmed.

¶ 50 Affirmed.