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2016 IL App (3d) 150376-U

Order filed January 11, 2016

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IN THE  
APPELLATE COURT OF ILLINOIS  
THIRD DISTRICT

A.D., 2016

<i>In re</i> M.D. & A.C.,	)	Appeal from the Circuit Court
	)	of the 10th Judicial Circuit,
Minors	)	Peoria County, Illinois,
	)	
(The People of the State of Illinois,	)	
	)	
Petitioner-Appellee,	)	Appeal Nos. 3-15-0376 and 3-15-0377
	)	Circuit Nos. 14-JA-322 and 14-JA-323
v.	)	
	)	
Georgette B.,	)	
	)	
Respondent-Appellant).	)	Honorable Albert L. Purham, Jr.,
	)	Judge, Presiding.

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JUSTICE SCHMIDT delivered the judgment of the court.  
Justices Carter and Lytton concurred in the judgment.

**ORDER**

- ¶ 1 *Held:* The trial court's finding of neglect based on an injurious environment was not against the manifest weight of the evidence.
- ¶ 2 The trial court found that M.D. and A.C. were neglected on the basis of an injurious environment. Respondent, Georgette B., the mother of the two children, appeals arguing that the neglect finding is against the manifest weight of the evidence. We affirm.

## FACTS

¶ 3

¶ 4

On December 26, 2014, the State filed separate but identical petitions alleging that M.D. and A.C. were neglected by respondent due to an injurious environment. Specifically, the petitions alleged that respondent had: mental health problems, including bipolar disorder and manic depression; a history of noncompliance with prescription medication; a history of self-medication; and substance abuse problems with prescription medication, alcohol, and cannabis. The petitions further alleged that respondent was hospitalized from December 12 to December 19, 2014, due to a prescription medication overdose and erratic behavior. A.C. was allegedly aware that her mother abused prescription medication and alcohol. The petitions also asserted that on December 16, 2014, the minors' house was dirty, had a foul odor, and contained eight empty prescription medication bottles throughout the house. Lastly, the petitions noted that respondent had a 2006 conviction for attempted obstruction of justice and a 2004 conviction for resisting a police officer and endangering the life or health of a child.

¶ 5

Respondent answered the petition, stipulating that the State would call witnesses that would support the allegations regarding her overdose of prescription medication on December 12, 2014, her resultant hospital stay, and her criminal history. Respondent denied the allegations that she had substance abuse problems and that A.C. was aware of said problems. She asserted that her children were living with a grandparent and not at the residence described in the petition.

¶ 6

An adjudicatory hearing was held on March 24, 2015. The State offered respondent's medical records from St. Francis Hospital as an exhibit. Respondent objected unless the records were properly certified. The trial record shows that the medical records in question were certified. The trial court then stated, "They're the mother's from OSF Medical Hospital." The

trial court then asked the prosecutor, "And these are Number 1, correct?" The State replied, "Yes."

¶ 7 The medical records revealed that respondent reported to the emergency room in August of 2012 intoxicated and complaining of suicidal thoughts. Respondent had a history of major depression, but was off her medication at that time. Respondent reported that her suicide plan was to jump off the nearest building. She reported using alcohol every day since she was 21 years old to relieve her pain and self-medicate her insomnia. Respondent reported having one past suicide attempt during which she took two bottles of over-the-counter sleep medication. Respondent tested positive for cannabis. Respondent was diagnosed with severe major depressive disorder with psychosis, alcohol abuse, and cannabis abuse.

¶ 8 In May of 2014, respondent again reported to the emergency room with symptoms of depression. Respondent reported that she had been crying for the past few days and could not stop crying around her children. She stated that she could not focus on anything that day and could not be around her children in that condition. She tried to use her coping mechanisms but was unable to do so. Respondent reported that she had been taking Paxil and Klonopin for the past three months. She was given Valium and was discharged after her symptoms improved.

¶ 9 On December 12, 2014, respondent was taken to the emergency room after a prescription medication overdose. Respondent had a history of bipolar disorder. Respondent's mother told medical personnel that respondent had been acting erratically. Respondent had filled her prescriptions for Klonopin and Zyprexa on December 10. By December 12, respondent's Klonopin prescription bottle was empty and her Zyprexa prescription bottle was half full. Respondent's mother also reported that some of her own Gabapentin were missing. Respondent said that her mother gave her some Gabapentin for her back and neck pain.

¶ 10 Respondent appeared disheveled and smelled of body odor when she arrived at the hospital. Respondent reported that she slept approximately three hours per night, had not eaten in days, and had not been properly caring for herself. Respondent reported that she started taking her medications again two months earlier because she could not afford them before. Respondent initially denied taking Klonopin or Zyprexa, then reported that she took the medications as prescribed but she might have taken " 'a couple more throughout the day, maybe 5-6.' "

Respondent reported that she drank alcohol to cope with her depression. Respondent tested positive for cannabis. Respondent was subsequently transferred to another hospital, where she remained until December 19.

¶ 11 Nathan Basset, a child protection specialist with the Department of Children and Family Services, testified for the State. Basset spoke with 14-year-old A.C. at her grandmother's house while respondent was in the hospital. A.C. was concerned about respondent ingesting excessive amounts of prescription medication. A.C. stated that respondent had gone through an entire prescription bottle in one day and was also taking A.C.'s grandmother's prescription medication. Respondent had told A.C. that taking prescription medication and drinking alcohol made her feel better. A.C. also noted that respondent suffered from depression, and A.C. believed that respondent would benefit from counseling.

¶ 12 On December 16, 2014, Basset inspected respondent's apartment. The apartment had a foul odor, the kitchen was dirty, the bedrooms had piles of clothes and dishes with dried food on them, and the apartment's two toilets were unflushed and dirty. There were prescription medication bottles on the floor in one of the bedrooms and in one of the bathrooms. Some of the prescription bottles had respondent's name on them. Other bottles had respondent's mother's name and the name of respondent's previous boyfriend.

¶ 13 Basset spoke with respondent on December 22, 2014. Respondent told Basset that she had been off her medication for a few months prior to December 12 due to a change in her insurance, but was doing fine. On December 12, respondent stated that she consumed two pills that her doctor had prescribed. The prescribed dosage was one to two pills at a time. Respondent did not feel that the medication was working, so she consumed two more pills and then an additional two pills, totaling six pills. Respondent stated that her mother had given her some of her mother's prescription medication. Basset did not know if respondent consumed her mother's medication at the same time as the other medication.

¶ 14 Respondent told Basset the last day that she and her daughters lived at the apartment was December 12, but they were in the process of moving. The children were living with respondent's mother at the time Basset inspected the apartment.

¶ 15 The State rested following Basset's testimony.

¶ 16 Respondent testified that she took two Klonopin pills on December 12, 2014. She was still feeling anxious approximately two hours later, so she took two more. Two hours after that, she ingested two more pills, for a total of six pills. Six Klonopin pills was the maximum prescribed daily dosage, but she was not supposed to take all six in a four-hour span. After she ingested the final two pills, respondent fell asleep. She woke up in the hospital.

¶ 17 Respondent stated that on Thanksgiving of 2014, she and the children stopped living in the apartment that Basset inspected. Respondent never told Basset that she last lived in the apartment on December 12. Rather, respondent told Basset that she and her daughters had been living with her mother since Thanksgiving and that respondent went back to the apartment while the girls were at school to pack and clean. Respondent admitted that the cleanliness of the stove and microwave in the photographs taken by Basset was an accurate depiction of how they looked

when she was last in the apartment. One of the toilets was broken, but there were two toilets in the apartment. When respondent and the children lived there, the apartment looked like a "regular apartment with the clothes in the closets." Respondent had removed the clothes from the closets to pack and take to her mother's house, and had left things in the apartment that she needed to throw away.

¶ 18 On rebuttal, the State called Dorine Wright, respondent's mother, as a witness. Wright testified that respondent and Wright's two granddaughters began living with Wright on December 3, 2014.

¶ 19 Ultimately, the trial court ruled that the evidence at the adjudicatory hearing established neglect based on an injurious environment. The trial court noted that the medical records showed respondent had a history of mental health problems, including bipolar disorder and manic depression. The medical records also showed that respondent had a history of noncompliance with prescription medication, self-medication through the use of cannabis since the age of 16, and using alcohol to induce sleep. The medical records also described suicide attempts. The trial court accepted that respondent's overdose on December 12 was not a suicidal act. Based on Basset's testimony, the trial court found that A.C. was concerned about her mother's use of prescription drugs and alcohol. The trial court found that respondent's criminal history was proven. The trial court found Wright's testimony that respondent and the children moved in with her on December 3 to be credible, and, consequently, did not find that the uncleanliness of the apartment contributed to the injurious environment. The trial court opined that some of the filth seen in the photographs was likely there on December 3, but the court would not speculate as to how the apartment may have looked on December 3.

¶ 20 Following a dispositional hearing, the trial court ruled that respondent was unfit and ordered that M.D. and A.C. be made wards of the court.<sup>1</sup>

¶ 21 ANALYSIS

¶ 22 On appeal, respondent argues that the trial court's finding of neglect was against the manifest weight of the evidence. Under section 2-3(1)(b) of the Juvenile Court Act of 1987 (705 ILCS 405/2-3(1)(b) (West 2014)), a minor is neglected if the minor's "environment is injurious to his or her welfare." Illinois courts have recognized that "an '[i]njurious environment' is an 'amorphous concept which cannot be defined with particularity.'" *In re N.B.*, 191 Ill. 2d 338, 346 (2000) (quoting *In re M.Z.*, 294 Ill. App. 3d 581, 593 (1998), quoting *In re M.K.*, 271 Ill. App. 3d 820, 826 (1995)). "Generally, however, our courts have interpreted 'injurious environment' to include the breach of a parent's duty to ensure a 'safe and nurturing shelter' for his or her children." *Id.* (quoting *M.K.*, 271 Ill. App. 3d at 826). On appeal, a trial court's finding of neglect will not be reversed unless it is against the manifest weight of the evidence. *In re Arthur H.*, 212 Ill. 2d 441, 464 (2004). "A finding is against the manifest weight of the evidence only if the opposite conclusion is clearly evident." *Id.*

¶ 23 We hold that the trial court's finding of neglect was not against the manifest weight of the evidence. Here, the evidence showed that respondent had a history of mental health problems, including depression and bipolar disorder. More importantly, the evidence showed that respondent had a history of coping with her mental health problems by abusing prescription medication, alcohol, and cannabis. Additionally, the evidence showed that respondent had a history of noncompliance with her prescription medication. As a result of her substance abuse

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<sup>1</sup>Respondent does not challenge the trial court's finding of dispositional unfitness on appeal.

problems, respondent was hospitalized for eight days in December of 2014 due to a drug overdose. When she was admitted to the hospital, respondent reported that she had been sleeping approximately three hours per night, had not slept in days, and had not been properly caring for herself. Respondent's daughter, A.C., was aware that her mother abused prescription medication and alcohol to cope with her depression. Under these circumstances, respondent's abuse of prescription medication, alcohol, and cannabis created an environment injurious to her children's welfare.

¶ 24 We reject respondent's conclusory argument that her medical records were never formally admitted into evidence and should not have been considered by the trial court. Respondent apparently bases her argument that the records were not admitted on the fact that the trial court did not explicitly state that the medical records were admitted. Respondent cites no authority supporting this proposition. A review of the record shows that the parties understood the medical records to be admitted. When the State offered the records into evidence, respondent's attorney objected to the admission of the medical records unless they were certified and delegated. Respondent's medical records are contained in the trial record and are marked as "State's Exhibit 1." The trial record shows that the medical records were certified and delegated. We also note that both the State and the respondent's attorney discussed the contents of the medical records during closing arguments. Additionally, the respondent did not object when the trial court discussed its consideration of the medical records in reaching its finding of neglect.

¶ 25 CONCLUSION

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

¶ 27 Affirmed.