



State failed to prove Redmon suffered from a mental illness. After a September 2015 dispositional hearing, the court awarded custody to Zander but appointed the Department of Children and Family Services (DCFS) as Y.Z.'s guardian.

¶ 3 Respondents appeal, asserting the trial court's adjudicatory finding was against the manifest weight of the evidence. Zander also asserts the court's dispositional finding was against the manifest weight of the evidence. For the following reasons, we affirm.

¶ 4 I. BACKGROUND

¶ 5 In June 2015, the State filed a petition for adjudication of neglect and shelter care, alleging Y.Z. was neglected by being subjected to an injurious environment pursuant to section 2-3(1)(b) of the Juvenile Court Act of 1987 (Juvenile Act) (705 ILCS 405/2-3(1)(b) (West 2014)) "when she resides with [Redmon] because of said parent's history of mental illness."

¶ 6 A. Adjudicatory Hearing

¶ 7 Over the course of a two-day adjudicatory hearing in July 2015, the trial court heard the following evidence.

¶ 8 Jeffrey Steinberg, an Urbana police officer, testified, on June 4, 2015, he responded to a domestic call from Zander. Upon arrival at the residence, Officer Steinberg discovered a deceased dog burned inside the oven. An autopsy later determined the puppy died from hyperthermic injuries due to being placed in the heated oven. The home also had an overwhelming smell of dog feces and urine and the presence of bugs and cockroaches. According to Zander, he and Redmon shared the residence until recently, when they ended their relationship and Zander moved out of the house. However, he would visit the house periodically to walk his dog.

¶ 9 That day, Zander said he received a call from Redmon, telling him his dog was in the oven at the home. Although the phone number was traced to Carle Hospital, he recognized the voice of the caller as Redmon and knew she often placed calls from Carle Hospital's public phone. Zander also disclosed two previous incidents, one in which Redmon had thrown the dog across the room and a second where she burned his mattress. Additionally, Zander told police Redmon was seeing a psychiatrist for mental-health issues.

¶ 10 After speaking with Zander, Officer Steinberg reviewed security footage from Carle Hospital, which showed Redmon at the hospital at the time the calls were placed, although no footage depicted her placing a phone call. Later that day, Officer Steinberg arrested Redmon on an unrelated warrant when she returned to Carle Hospital. He noted she smelled "like she had been around animals." Redmon thereafter remained incarcerated throughout the pendency of the proceedings at issue here.

¶ 11 Michelle Paisley, a child-protection investigator with DCFS, testified, on June 4, 2015, she received a hotline report with respect to Y.Z. During the investigation, she interviewed respondents. Zander described his relationship with Redmon as " 'chaotic.' " They were living together in his apartment until Redmon's behavior became erratic, at which time he moved out and allowed her to remain. Zander believed Redmon had been seeing a psychiatrist and had been prescribed medication, but he was unaware of her diagnosis. During the investigation, Paisley learned Y.Z. had been living with Redmon's parents for approximately two to three weeks prior to the June 4 incident. Zander told another DCFS caseworker, Heather Forrest, he made the arrangements for Y.Z. to stay with Redmon's parents out of concern for Y.Z.'s safety due to Redmon's recent "erratic and aggressive" behavior.

¶ 12 According to Paisley, Redmon denied any wrongdoing. When asked about her history of mental illness, Redmon said she had been diagnosed with anxiety.

¶ 13 Kent Redmon, Redmon's father, testified he was aware of Redmon's behavioral issues, but he was unaware of any mental-health issues. Kent recalled Redmon seeing a psychologist for behavior-modification therapy as a teenager to decrease her outbursts, hitting, and disrespect to her elders. Although Redmon did not live with her parents, they saw her weekly with Y.Z.

¶ 14 In the two weeks preceding June 4, 2015, Kent testified Y.Z. had been residing with him and his wife because respondents were having difficulty finding child care. She also stayed with them on occasion throughout the first year of her life. When interviewed by Paisley, Kent admitted he was concerned Redmon might harm Y.Z. He was aware she had been in anger-management classes about 60 days before the June 4 incident. To his knowledge, the classes were part of a court order after she shoved someone down a set of stairs.

¶ 15 Since May 2015, Kent noticed erratic behavior in Redmon, such as outbursts after a conflict with Zander. Calming her down after a confrontation would be "a chore." He described respondents' relationship as "tumultuous" and "volatile."

¶ 16 At the request of Zander's attorney, the trial court took judicial notice of Zander's testimony from the shelter-care hearing. In that hearing, Zander stated he had not resided in his apartment for weeks after ending his relationship with Redmon. He agreed the home had cockroaches and an overwhelming smell of dog urine and feces. As a result, he agreed the apartment was not an ideal place for his daughter to be residing. Since that time, however, he stated he had taken steps to clean the home, including replacing the floors. Though temporarily displaced while the work was ongoing, Zander hoped to be back in the home soon.

¶ 17 Following the presentation of evidence, the trial court found the State had met its burden of proving the petition. The court found the State had proved Y.Z. was in an injurious environment when residing with Redmon. At the same time, the court also determined the State failed to prove Redmon had a mental illness. Despite the State's failure to prove Redmon had a mental illness, the court determined her erratic behavior—burning a bed, killing the dog—and her contentious relationship with Zander presented sufficient evidence of an injurious environment to meet the State's burden.

¶ 18 B. Dispositional Hearing

¶ 19 In September 2015, the case proceeded to a dispositional hearing. The parties presented no evidence; however, DCFS filed a dispositional report for the trial court's consideration. The report stated Zander had a certificate in custodial maintenance and had completed training to become a chef. Although he had prior criminal convictions and had previously served time in prison, he had no pending charges. Zander denied any drug use, and his drug tests yielded negative results. Zander had a two-bedroom home that was appropriate for Y.Z., and both his and Redmon's families provided a support system. The report also noted Zander had been cooperative with DCFS from the beginning. Ultimately, DCFS recommended the court grant custody and guardianship to Zander, with DCFS providing and monitoring services.

¶ 20 Following hearing recommendations by the parties, the trial court determined Y.Z. was neglected. The court further found Redmon was unfit and unable, for reasons other than financial circumstances alone, to care for Y.Z., and that it was not in the best interest of Y.Z. to be in her custody. As to Zander, the court found him to be fit, willing, and able to exercise custody of Y.Z. The court therefore determined placing Y.Z. in Zander's custody was

not against Y.Z.'s best interest. However, the court also found it to be in the best interest of Y.Z. to place guardianship with DCFS despite physical custody remaining with Zander. Particularly, the court noted, by granting DCFS guardianship, Redmon's visitation would be supervised by DCFS rather than Zander in order to avoid a volatile exchange between respondents.

¶ 21 Both parties filed timely notices of appeal. We docketed Zander's appeal as 4-15-0749 and Redmon's appeal as 4-15-0750. We have consolidated respondents' cases for review.

¶ 22 II. ANALYSIS

¶ 23 On appeal, respondents argue the trial court's adjudicatory finding was against the manifest weight of the evidence. Additionally, Zander asserts the court's dispositional finding was against the manifest weight of the evidence.

¶ 24 A. Adjudicatory Finding

¶ 25 Respondents contend the trial court erred in adjudicating Y.Z. neglected pursuant to section 2-3(1)(b) of the Juvenile Act (705 ILCS 405/2-3(1)(b) (West 2012)). " 'Neglect' is defined as the failure to exercise the care that circumstances justly demand and encompasses both willful and unintentional disregard of parental duty." *In re Kamesha J.*, 364 Ill. App. 3d 785, 792-93, 847 N.E.2d 621, 628 (2006). The issue before the court is not whether the parents neglected the child, but whether the child was neglected. See *In re Arthur H.*, 212 Ill. 2d 441, 465, 819 N.E.2d 734, 748 (2004). A parent has a duty to shield his or her child from harm. *Kamesha J.*, 364 Ill. App. 3d at 793, 847 N.E.2d at 628.

¶ 26 When the petition for adjudication of neglect alleges the minor has been subjected to an injurious environment, the case should be reviewed based on the specific circumstances of that case. *Arthur H.*, 212 Ill. 2d at 477, 819 N.E.2d at 754. The court's findings of fact are afforded great deference and will not be overturned unless those findings are against the manifest

weight of the evidence. *In re R.S.*, 382 Ill. App. 3d 453, 459, 888 N.E.2d 542, 548-49 (2008).

"A finding is against the manifest weight of the evidence only if the opposite conclusion is clearly evident." *Id.* at 459, 888 N.E.2d at 549.

¶ 27 Respondents make two arguments with respect to the trial court's adjudicatory finding. First, they assert the evidence did not support the court's finding that Y.Z. was subjected to an injurious environment. Second, they assert the court improperly found the State need not prove the neglect as alleged in the petition.

¶ 28 *1. Sufficiency of the Evidence*

¶ 29 Respondents first argue the trial court erred by finding Y.Z. was subject to an injurious environment where none of the evidence suggested Y.Z. was ever actually exposed to the acts Redmon was accused of committing. Specifically, respondents note Y.Z. was not present when Redmon allegedly (1) set fire to a mattress, (2) threw the puppy across the room, (3) placed the puppy in the oven, or (4) had volatile exchanges with Zander. In making this argument, respondents overlook case law stating "the trial court need not wait until the child becomes a victim or is permanently emotionally damaged to remove the child from the household." *In re M.K.*, 271 Ill. App. 3d 820, 826, 649 N.E.2d 74, 79 (1995). Here, Redmon's father and Zander expressed concern over Y.Z.'s welfare when she was in Redmon's care due to her erratic behavior, which included killing a dog by placing it in a hot oven. To reach its decision, the court clearly found Redmon committed these acts, despite her protestations of innocence. Just because Y.Z. had not yet become the victim of Redmon's violent outbursts did not mean Y.Z. would remain unscathed as Redmon's unpredictable behavior continued.

¶ 30 Respondents also assert Y.Z. could not have been exposed to Redmon's erratic behavior because Y.Z. was residing with Redmon's parents. We disagree. Although respondents

made a choice to temporarily place Y.Z. with Redmon's parents, either parent could choose to assume custody at any given time. See *In re B.C.*, 262 Ill. App. 3d 906, 909, 635 N.E.2d 570, 572 (1994). Therefore, Y.Z.'s temporary placement in her grandparents' home does not preclude the court from finding she was subject to an injurious environment when residing with Redmon. *Id.* Thus, we find respondents' first argument unpersuasive.

¶ 31 *2. Grounds for Neglect*

¶ 32 Respondents next argue the trial court erred by determining the State need not prove the neglect as alleged in the petition.

¶ 33 In support of their argument, respondents argue a petition for the adjudication of neglect "must set forth \*\*\* facts sufficient to bring the minor under [s]ection 2-3 or 2-4 and to inform respondents of the cause of action, including, but not limited to, a plain and concise statement of the factual allegations that form the basis for the filing of the petition." 705 ILCS 405/2-13(2)(a) (West 2014). In this case, while the petition alleged Y.Z. was subject to an injurious environment due to Redmon's mental illness, the trial court determined a finding of neglect only required the court to find an injurious environment, not that respondent suffered from a mental illness.

¶ 34 *In re Sharena H.*, 366 Ill. App. 3d 405, 852 N.E.2d 474 (2006), provides us with guidance in addressing this issue. In *Sharena H.*, the State's petition alleged the minor was neglected due, in part, to being subjected to an injurious environment. *Id.* at 407, 852 N.E.2d at 476. The trial court subsequently found the minor was subject to an injurious environment due, to some extent, to domestic violence within the home. *Id.* at 417, 852 N.E.2d at 484. On appeal, the respondent mother asserted the court improperly considered evidence of domestic violence because it was not raised in the petition. *Id.* The appellate court disagreed, noting the State had



alleged the minor was subject to an injurious environment, and the trial court's consideration of domestic-violence evidence went toward its finding of an injurious environment. *Id.* In other words, the central allegation was that the minor had been subjected to an injurious environment; therefore, the court could consider any facts relevant to that determination, even those not specifically alleged in the petition.

¶ 35 Here, the State alleged Y.Z. was subjected to an injurious environment while in Redmon's care due to Redmon's mental illness. Although the trial court determined the State failed to show Redmon had been diagnosed with a mental illness, it found the underlying facts related to the allegation—burning the bed, killing the dog—were sufficient to place Y.Z. in an injurious environment. Accordingly, the petition placed respondents on notice that Redmon's erratic behavior was the cause of Y.Z.'s injurious environment, regardless of whether the behavior could be attributed to a formal diagnoses of a "mental illness." We therefore conclude the court's finding of neglect was not against the manifest weight of the evidence.

¶ 36 B. Dispositional Finding

¶ 37 Zander next asserts the trial court erred by making Y.Z. a ward of the court and granting guardianship of Y.Z. to DCFS. Redmon does not raise this issue in her brief.

¶ 38 Following an adjudication of neglect, the trial court must conduct a dispositional hearing where it has to determine if the minor should be made a ward of the court. 705 ILCS 405/2-22 (West 2014). In considering the appropriateness of wardship, the court must decide whether it is in the best interest of the minor and public that the minor be made a ward of the court. The best-interest factors contained in section 1-3(4.05) of the Juvenile Act (705 ILCS 405/1-3(4.05) (West 2014)) support the trial court's decision to make Y.Z. a ward of the court.

¶ 39 By making Y.Z. a ward of the court, the trial court was able to ensure Y.Z. would be able to maintain the stability of residing with Zander, where all her needs were met, as well as maintain ties with her extended family. Moreover, while she would continue to have contact with her mother, that contact would be regulated in an effort to avoid confrontation, violence, and erratic behavior. Also, the record in this case supports imposing wardship to ensure the court would be advised if Zander failed to continue to embrace his recent role as Y.Z.'s primary caretaker. In addition, ensuring Y.Z. is provided with appropriate care while under the watchful eye of the court is in the best interest of the public, which has an interest in the care and protection of minor children. As we see it, the court was required to make Y.Z. a ward of the court if it desired to have the power to regulate Y.Z.'s and Zander's future contact with Redmon, and to ensure Zander continued to act in the best interest of Y.Z. Thus, we find no error in the court's decision to make Y.Z. a ward of the court.

¶ 40 If the child is made a ward of the court, the trial court then looks to section 2-23 of the Juvenile Act (705 ILCS 405/2-23 (West 2014)), which outlines the types of dispositional orders a court may enter. The court shall determine the proper disposition best serving the health, safety, and interest of the minor and the public. 705 ILCS 405/2-23(1)(a) (West 2014)). The court's central concern in fashioning a dispositional order is the best interest of the child. *In re M.P.*, 408 Ill. App. 3d 1070, 1073, 945 N.E.2d 1197, 1200 (2011). "The court's decision will be reversed only if the findings of fact are against the manifest weight of the evidence or the court committed an abuse of discretion by selecting an inappropriate dispositional order." *In re J.W.*, 386 Ill. App. 3d 847, 856, 898 N.E.2d 803, 811 (2008).

¶ 41 In this particular case, Redmon was incarcerated at the time of the proceedings, so placing custody or guardianship with her would have been impossible. That left the possibility

of the trial court placing custody and guardianship with Zander. During the pendency of the proceedings, Zander had passed all drug screens, was financially stable, maintained custody of Y.Z., and parented Y.Z. sufficiently for DCFS to recommend both custody and guardianship be placed with him. Redmon's parents continued to provide day-care services as necessary. The court found Zander fit, willing, and able to care for Y.Z. and therefore granted custody to Zander. Thus, the court's decision to continue Y.Z. in the care of Zander was consistent with the evidence. Also consistent with the evidence was the court's legitimate concern about the environment to which Y.Z. had been exposed while in Redmon's care, and Redmon's conduct toward Zander.

¶ 42 The trial court recognized that placing both guardianship and custody with Zander would require Zander to supervise Y.Z.'s visits with Redmon. Given the volatile relationship between respondents, the court found the best solution would be to grant guardianship to DCFS for the primary purpose of allowing DCFS to maintain and facilitate Y.Z.'s visitation with Redmon. The record also supports the reasonableness of having the ability to oversee Zander's continued care of Y.Z, given his new role as a single father with sole custody. In considering all the information before the court, we cannot say this decision was against the manifest weight of the evidence.

¶ 43 Accordingly, we conclude the trial court's decision to grant DCFS guardianship of Y.Z. while awarding custody to Zander was not against the manifest weight of the evidence.

¶ 44 **III. CONCLUSION**

¶ 45 For the foregoing reasons, we affirm the trial court's judgment.

¶ 46 Affirmed.