

NOTICE

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2016 IL App (4th) 150993-U

NO. 4-15-0993

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

March 29, 2016

Carla Bender

4th District Appellate

Court, IL

In re: A.C., S.C., and T.S., Minors,)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,)	Circuit Court of
Petitioner-Appellee,)	Champaign County
v.)	No. 15JA43
TATIANA MYLORD,)	
Respondent-Appellant.)	Honorable
)	John R. Kennedy,
)	Judge Presiding.

JUSTICE TURNER delivered the judgment of the court.

Justices Harris and Pope concurred in the judgment.

ORDER

¶ 1 *Held:* Where the latest incident of domestic violence involved a physical altercation in a moving vehicle with the minor children in the vehicle, the circuit court's finding respondent was unfit and unable to care for, protect, train, or discipline the minor children was not against the manifest weight of the evidence.

¶ 2 In July 2015, the State filed a petition for adjudication of wardship as to A.C. (born in 2007), S.C. (born in 2010), and T.S. (born in 2012), the children of respondent, Tatiana Mylord. After an October 2015 adjudicatory hearing, the Champaign County circuit court found the minor children were neglected. In December 2015, the court (1) found respondent unfit and unable to care for, protect, train, or discipline the minor children; (2) made the minor children wards of the court; and (3) appointed the Department of Children and Family Services (DCFS) as the minor children's guardian and custodian.

¶ 3 Respondent appeals, contending the circuit court erred by finding her unfit and

unable to care for, protect, train, or discipline the minor children. We affirm.

¶ 4

I. BACKGROUND

¶ 5

The alleged father of A.C. and S.C., Cleveland Combs, was not involved in the minor children's lives and is not a party to this appeal. T.S.'s father is Brandon Shinaul, who filed a separate appeal in case No. 4-15-0994. The July 2015 petition for adjudication of wardship alleged the minor children were neglected because they were under 18 years of age and their environment was injurious to their welfare when they resided with respondent and Shinaul, in that said environment exposed them to domestic violence. See 705 ILCS 405/2-3(1)(b) (West 2014). The petition also contended the minor children were abused under section 2-3(2)(ii) of the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/2-3(2)(ii) (West 2014)) because they were under 18 years of age and respondent created a substantial risk of physical injury to such minors by other than accidental means, which would likely cause death, disfigurement, impairment of the physical or emotional health, and/or loss or impairment of any bodily functions of the minors.

¶ 6

On October 23, 2015, the circuit court held the adjudicatory hearing. Jessica Lee, a DCFS child investigator, testified that she investigated a July 2015 incident, involving respondent and Shinaul. Respondent was driving a minivan on Interstate 74 with all three children in it when she and Shinaul got into an argument. Respondent reported Shinaul hit her, and she pulled the vehicle over. Respondent then stabbed Shinaul with a pair of keys. A.C. and S.C. told Lee respondent stabbed Shinaul with scissors. Shinaul denied striking respondent first. Respondent, A.C., and S.C. all reported previous physical altercations had taken place between respondent and Shinaul.

¶ 7

Police officer Ed Wachala testified he responded to a call regarding a domestic

dispute. Respondent denied stabbing Shinaul and told the officer Shinaul punched her. A.C reported respondent had stabbed Shinaul with scissors. Shinaul told Officer Wachala he and respondent had gotten into an argument and she hit him in the face. He then went to the backseat to get away from her, and the argument continued. Respondent turned the radio up, and when Shinaul reached forward to turn it off, she started swinging blindly at him with the scissors. Shinaul put his arms up in a defensive position and got stabbed in the arm. When Officer Wachala searched the minivan, he found a small pair of scissors in the center console between the two front seats.

¶ 8 The circuit court took judicial notice of respondent's domestic battery conviction in Champaign County case No. 14-CF-218. The information in that case alleged that, on February 13, 2014, respondent knowingly made physical contact of an insulting or provoking nature with Shinaul by striking him with her vehicle.

¶ 9 Respondent testified she and Shinaul got into an argument about finances while she was driving to the mall. She described Shinaul as "a gigantic toddler," who was "throwing a fit and a tantrum." She pulled the vehicle over to give Shinaul time to calm down. He did not calm down and was shouting so loud the minor children began to yell, scream, and cry. Respondent decided to start the vehicle again and turned up the radio. Shinaul turned the radio down and struck respondent once on the face with his fist. She drove to the mall and parked the vehicle. Respondent removed the keys from the vehicle and then feared Shinaul would strike her in the stomach. Since respondent was pregnant, she put her arms up with the keys in her hands, and that was how Shinaul got hurt on the arm. She denied stabbing Shinaul with scissors.

¶ 10 Shinaul testified that, during the incident, two of the children were in the third row and one child was directly behind respondent. Shinaul denied striking respondent and

testified he went to the backseat because she struck him in the face. He testified respondent stabbed him with scissors. The incident was not the first time respondent had been aggressive toward him. Shinaul admitted he had been charged once for domestic battery against respondent.

¶ 11 At the conclusion of the hearing, the circuit court found the State had proved the minor children were neglected based on an injurious environment but did not find they were abused.

¶ 12 At the December 2, 2015, dispositional hearing, respondent testified and presented two documents showing she had attended three sessions of the Options program for domestic violence and complied with expectations and a certificate of attendance for a parenting program at the Crisis Nursery. Respondent testified she had given birth to another child, who was still in the hospital due to prematurity. Respondent had also recently been in the hospital due to her sickle-cell anemia, with which she was diagnosed at nine years of age. Respondent explained she gets monthly treatments in Chicago for the sickle-cell anemia and has been hospitalized for months with it in the past. Respondent always made arrangements for the minor children when she was hospitalized. Additionally, respondent admitted the police were called during an incident she had with Combs. She denied it was a physical altercation.

¶ 13 The home and background report indicated respondent rented a three-bedroom home with no safety concerns and she had resided there since 2012. Respondent had support from her brother, friends, and the community. She was not in a romantic relationship with anyone at the time of the report. Respondent occasionally did hair at Urbana Hair Lounge. She denied a history of substance abuse and the sickle-cell anemia was her only medical problem. The report noted respondent had completed six sessions of the domestic-violence classes. The children were all healthy and up-to-date on their well-child examinations and immunizations.

T.S. appeared to have some developmental delays, which were being monitored by Head Start. The report recommended the minor children's guardianship be placed with DCFS and their custody be retained by respondent.

¶ 14 During closing arguments, the guardian *ad litem* and the State asserted respondent and Shinaul were unfit and unable to parent the minor children due to the domestic-violence incidents.

¶ 15 On December 14, 2015, the circuit court entered a written order (1) making the minor children wards of the court; (2) finding respondent and Shinaul were unfit and unable to care for, protect, train, or discipline the minor children; and (3) appointing DCFS as the minor children's guardian and custodian. On December 17, 2015, respondent filed a timely notice of appeal in sufficient compliance with Illinois Supreme Court Rule 303 (eff. Jan. 1, 2015). See Ill. S. Ct. R. 660(b) (eff. Oct. 1, 2001) (providing the rules governing civil cases govern appeals from final judgments in all proceedings under the Juvenile Court Act, except for delinquency cases). Thus, this court has jurisdiction under Illinois Supreme Court Rule 304(b)(1) (eff. Feb. 26, 2010). See *In re Austin W.*, 214 Ill. 2d 31, 43-44, 823 N.E.2d 572, 580 (2005) (noting "dispositional orders are generally considered 'final' for the purposes of appeal").

¶ 16 II. ANALYSIS

¶ 17 Respondent's sole argument on appeal is the circuit court's finding she was unfit and unable to care for, protect, train, or discipline the minor children was against the manifest weight of the evidence and, thus, the dispositional order was incorrect.

¶ 18 Cases involving neglect allegations and the adjudication of wardship are *sui generis*, and thus, courts must decide them based on their unique circumstances. *In re A.P.*, 2012 IL 113875, ¶ 17, 981 N.E.2d 336. The Juvenile Court Act provides a two-step process the circuit

court must utilize to decide whether the minors should become wards of the court. *A.P.*, 2012 IL 113875, ¶ 18, 981 N.E.2d 336. Step one of the process is the adjudicatory hearing, at which the court considers only whether the minors are abused, neglected, or dependent. See 705 ILCS 405/2-18(1) (West 2014); *A.P.*, 2012 IL 113875, ¶ 19, 981 N.E.2d 336. The second step is the dispositional hearing. *A.P.*, 2012 IL 113875, ¶ 21, 981 N.E.2d 336.

¶ 19 Under section 2-27(1) of the Juvenile Court Act (705 ILCS 405/2-27(1) (West 2014)), the circuit court can remove minor children's custody from their parents only after determining (1) the parents are either unfit or unable, for some reason other than financial circumstances alone, to care for, protect, train, or discipline the minor children or are unwilling to do so; and (2) the minor children's health, safety, and best interests will be jeopardized if the minor children remain in the custody of their parents. With a section 2-27 finding of unfitness that does not result in a complete termination of all parental rights, the State's burden of proof is a preponderance of the evidence. *In re April C.*, 326 Ill. App. 3d 225, 238, 760 N.E.2d 85, 96 (2001). A reviewing court will reverse the circuit court's determination only if the findings of fact are against the manifest weight of the evidence or if the circuit 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).

¶ 20 This case involves an escalating domestic-violence situation. Respondent first admitted having such a loud argument with her former paramour, Combs, that the police were called to investigate. Then, with Shinaul, she was convicted of domestic battery for striking him with her vehicle. Shinaul was also charged with domestic battery against respondent, but he was not convicted. The incident for which the wardship petition was based was in the minor children's presence and placed them in great physical danger. With that incident, respondent

allowed her anger to override her responsibility to protect the minor children both emotionally and physically. Moreover, when DCFS investigated the July 2015 incident, A.C. and S.C. reported previous physical altercations had occurred between respondent and Shinaul. Shinaul testified the July 2015 incident was not the first time respondent had been aggressive toward him. Accordingly, the facts indicate respondent has a significant history of domestic violence, and the violence has gotten to the point where respondent has put the minor children's lives in danger. Under the facts of this case, we find the circuit court's finding respondent was unfit and unable to care for, protect, train, or discipline the minor children was not against the manifest weight of the evidence.

¶ 21

III. CONCLUSION

¶ 22

For the reasons stated, we affirm the judgment of the Champaign County circuit court.

¶ 23

Affirmed.