

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).

2016 IL App (4th) 160088-U

NO. 4-16-0088

FILED

May 26, 2016
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re: R.W., a Minor,)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,)	Circuit Court of
Petitioner-Appellee,)	Vermilion County
v.)	No. 15JA79
SHARON WATSON,)	
Respondent-Appellant.)	Honorable
)	Claudia S. Anderson,
)	Judge Presiding.

PRESIDING JUSTICE KNECHT delivered the judgment of the court.
Justices Turner and Steigmann concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court affirmed, concluding the trial court's finding of neglect was not against the manifest weight of the evidence.

¶ 2 In August 2015, the State filed a petition for adjudication of wardship of R.W. (born January 12, 2000), the minor child of respondent, Sharon Watson. Following a November 2015 adjudicatory hearing, the trial court found R.W. neglected, and in February 2016, it made him a ward of the court and granted guardianship and custody to the Department of Children and Family Services (DCFS). Respondent appeals, arguing the trial court's finding of neglect was against the manifest weight of the evidence. We affirm.

¶ 3 I. BACKGROUND

¶ 4 On August 5, 2015, the State filed a petition for adjudication of wardship of R.W.,

alleging two counts of neglect. Count I alleged R.W. was a neglected child as defined by section 2-3(1)(b) of the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/2-3(1)(b) (West 2014)) because he was subject to an injurious environment due to respondent's house being "unkempt, not clean, and animal feces throughout the home, unsanitary conditions for the minor to reside." Count II alleged R.W. was a neglected child as defined by section 2-3(1)(a) of the Juvenile Court Act (705 ILCS 405/2-3(1)(a) (West 2014)) because respondent failed "to provide the proper and necessary support, education, and other remedial care required for [R.W.'s] welfare."

¶ 5

A. Adjudicatory Hearing

¶ 6 In November 2015, the trial court held an adjudicatory hearing. The court took judicial notice of an August 5, 2015, order in Vermilion County case No. 13-JA-81, which allegedly provided for R.W.'s brother, E.W., to be "taken into protective custody and placed." Respondent has failed to include this order in the record on appeal.

¶ 7

Brooke Lanter, a DCFS investigator, testified DCFS received a July 30, 2015, hotline report regarding the condition of respondent's home. On July 31, 2015, Lanter visited respondent's home, concluded it met minimum standards, and left. At her supervisor's request, Lanter later returned to the home to take pictures, but respondent denied access. Lanter sought police assistance, and respondent eventually allowed Lanter and an officer to enter her home. When Lanter began taking pictures of the home, respondent, who was wearing only a towel, "flash[ed]" Lanter and stated, "Take pictures of this." Lanter testified, while the home appeared to meet the minimum standards, respondent's behavior raised mental-health concerns. R.W. was not present during this incident.

¶ 8 On August 6, 2015, after the trial court entered an order granting DCFS temporary custody of R.W., Lanter asked respondent if she knew of R.W.'s location, to which respondent indicated she did not. R.W. was eventually located and taken into care. Lanter again observed respondent's home, which she concluded met minimum standards.

¶ 9 Lanter later learned of an August 5, 2015, court hearing for E.W., wherein respondent's behavior at the hearing itself also raised mental-health concerns. Lanter also learned, through accessing information in E.W.'s case, respondent was not participating in ordered mental-health services. Lanter attempted to speak with respondent regarding her mental health, but respondent refused to participate.

¶ 10 Lanter discussed with R.W. an incident where it was alleged respondent was harboring E.W., who was under DCFS guardianship and residing at Webster-Cantrell Hall (Webster-Cantrell). R.W. indicated respondent picked E.W. up after he fled Webster-Cantrell and brought him back to the house. E.W. stayed in the home for a couple of weeks.

¶ 11 E.W. testified respondent's home was mostly clean, and respondent took very good care of him. E.W. acknowledged previously testifying to the contrary. E.W. further acknowledged, since his previous testimony, he had not returned to the home. E.W. acknowledged previously indicating he had concerns regarding how respondent was caring for R.W., such as having R.W. fend for himself and being unaware of R.W.'s whereabouts. E.W. indicated respondent picked him up from Webster-Cantrell, and in July and August 2015, he stayed with respondent and R.W. for two to three weeks.

¶ 12 Respondent testified she did not drop the towel on purpose. Respondent acknowledged she picked E.W. up after he fled Webster-Cantrell, but she did so because she was

afraid for his safety. Respondent testified E.W. did not stay at her home, but he may have been in and out without her knowledge due to the size of her home.

¶ 13 Following this evidence, the trial court found R.W. was neglected as alleged in counts I and II. In the oral pronouncement of its decision, the trial court noted it was particularly concerned with count II because E.W. was placed at Webster-Cantrell for remedial care, and respondent's actions of harboring E.W. in her home placed R.W. at risk.

¶ 14 B. Dispositional Hearing

¶ 15 In January 2016, the trial court held a dispositional hearing. The court found respondent was unfit to care for R.W. and it was in R.W.'s best interest to be removed from her custody. The court made R.W. a ward of the court, granted guardianship and custody to DCFS, and set a goal of independence.

¶ 16 This appeal followed.

¶ 17 II. ANALYSIS

¶ 18 On appeal, respondent argues the trial court's finding of neglect was against the manifest weight of the evidence. Specifically, respondent asserts the State failed to demonstrate R.W.'s environment was injurious to his welfare as Lanter testified her home met the minimum standards.

¶ 19 Under the Juvenile Court Act, the State must prove its allegations of neglect by a preponderance of the evidence, or, in other words, the State must establish the allegations of neglect are more probably true than not. *In re Arthur H.*, 212 Ill. 2d 441, 463-64, 819 N.E.2d 734, 747 (2004). "Neglect" is generally defined as the failure to exercise the care that circumstances justly demand. *Arthur H.*, 212 Ill. 2d at 463, 819 N.E.2d at 746. On review, a

trial court's finding of neglect will not be disturbed unless it is against the manifest weight of the evidence, which means it will be reversed "only if the opposite conclusion is clearly evident."

Arthur H., 212 Ill. 2d at 464, 819 N.E.2d at 747.

¶ 20 The trial court found R.W. was neglected as he was (1) residing in an environment injurious to his welfare (705 ILCS 405/2-3(1)(b) (West 2014)), and (2) not provided with the proper and necessary care (705 ILCS 405/2-3(1)(a) (West 2014)). Respondent does not address the court's second basis for finding R.W. neglected. Only a single ground for a finding of neglect is necessary if it is supported by a preponderance of the evidence. See *In re Abel C.*, 2013 IL App (2d) 130263, ¶ 28, 998 N.E.2d 175 ("Only a single ground for neglect need be proven; when a trial court has found a minor neglected on more than one ground, this court may affirm the trial court's judgment if any of the bases of neglect is upheld."); *In re Faith B.*, 216 Ill. 2d 1, 15, 832 N.E.2d 152, 160 (2005). By challenging only one of the two grounds on which the court found R.W. neglected, respondent has conceded neglect on the unchallenged ground and forfeited any argument she may have had on the unchallenged ground by failing to raise it in her brief. See Ill. S. Ct. R. 341(h)(7) (eff. Feb. 6, 2013).

¶ 21 Forfeiture aside, the trial court's finding of neglect based on respondent's failure to provide R.W. with the proper and necessary care was not against the manifest weight of the evidence. See 705 ILCS 405/2-3(1)(a) (West 2014). The evidence demonstrated respondent placed R.W. at risk by harboring E.W. in her home and failing to maintain knowledge or control of R.W.'s whereabouts. Given this evidence, the trial court's finding of neglect under count II was not against the manifest weight of the evidence, and we need not address the other ground for the trial court's ruling. See *Abel C.*, 2013 IL App (2d) 130263, ¶ 28, 998 N.E.2d 175.

¶ 22

III. CONCLUSION

¶ 23

We affirm the trial court's judgment.

¶ 24

Affirmed.