2019 IL App (1st) 181477-U

SIXTH DIVISION
JANUARY 25, 2019

No. 1-18-1477

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

In re A.B., a Minor	)	Appeal from the
	)	Circuit Court of
(The People of the State of Illinois,	)	Cook County.
	)	
Petitioner-Appellee,	)	No. 16 JD 2873
v.	)	
	)	Honorable
A.B.,	)	Patricia Mendoza,
Respondent-Appellant).	)	Judge Presiding.

JUSTICE CUNNINGHAM delivered the judgment of the court.
Justices Connors and Harris concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court did not abuse its discretion in precluding defense counsel from attempting to impeach a witness; the trial court's judgment ordering the minor respondent to residential placement was not against the manifest weight of the evidence.

¶ 2 The respondent-appellant, A.B., a minor, appeals from the judgment of the circuit court of Cook County finding him guilty of aggravated unlawful use of a weapon and unlawful possession of a weapon, sentencing him to two years' probation, and ordering him to residential

placement in the custody of the Department of Children and Family Services (DCFS)[1]. For the following reasons, we affirm the judgment of the circuit court of Cook County.

¶ 3 BACKGROUND

¶ 4 A.B. was charged with two counts of aggravated unlawful use of a weapon and one count of unlawful possession of a weapon arising out of an incident that occurred on December 22, 2016. A.B. was 13 years old at the time.

¶ 5 **Pre-Trial**

¶ 6 Prior to trial, A.B. told the court that he lived at both his mother's house and his paternal grandmother's house. The court released him on electronic monitoring to his grandmother. The court admonished A.B. that electronic monitoring is house arrest, and that he was only allowed to be at his grandmother's house or school. The court then set the trial for March 9, 2017.

¶ 7 On January 31, 2017, A.B.'s grandmother appeared in court without A.B. She explained that she wanted to address the court regarding issues she was having with A.B. She told the court that A.B. had been refusing to go to school, that he was smoking marijuana in her house, and that he was disrespecting any rules she set for him. A.B.'s grandmother stated that she did not want A.B. in her house anymore, and had been trying to contact his mother to see if she could take him. She also said that she could not get A.B. to come to court with her that day. Defense counsel[2] informed the court that he had reached out to A.B.'s mother to find out if A.B. could live with her, but that his mother showed no interest in taking him because she did not have a

[1] Persons ordered to residential placement through DCFS are placed at one of DCFS' residential facilities, which means "all non-foster care or relative home care placement." Title 89: Social Services, Part 301, Placement and Visitation Services, Section 301.20. See https://www2.illinois.gov/dcfs/aboutus/notices/Documents/rules_301.pdf (visited Jan. 2019).

[2] Although A.B. is represented by the Appellate Defender's office on appeal, he was represented by private counsel in the trial court.

stable place to live herself. The court then issued a shelter juvenile arrest warrant for A.B in order to ensure he would appear for his next court appearance.

¶ 8 A.B. was subsequently arrested and appeared before the court. The court determined that there was no need to hold him in custody because he had not violated his electronic monitoring. He was again released to his grandmother. His grandmother refused to take him, however, and no other family members came to court to take him. Accordingly, A.B. continued to be held in custody. Defense counsel sent an investigator to A.B.'s mother house to let her know that she needed to be present for court on February 9, 2017. The investigator informed defense counsel that A.B.'s mother appeared enthusiastic and planned to appear in court. However, she was not present in court on February 9, 2017. The court acknowledged that it could no longer hold A.B. in its custody because he had already been held for 30 days. See 705 ILCS 405/5-710 (West 2016) (a juvenile defendant shall not be placed in detention for a period exceeding 30 days unless the court determines that the minor is a danger to himself or others). Based on the investigator's conversation with A.B.'s mother, the court released A.B. to his mother with electronic monitoring.

¶ 9 On February 21, 2017, the court vacated its electronic monitoring order because A.B. had been shot and was in the intensive care unit of a hospital. On March 9, 2017, the day that the trial was to have commenced, the court learned that A.B. had been recently released from the hospital and was receiving outpatient care. The court appointed an expeditor to check on A.B. The following day, the court learned that the expeditor went to A.B.'s house[3], but A.B. was not home, and neither his grandmother nor his mother knew his whereabouts. Each woman also told

[3] It is unclear from the record whether the expeditor went to A.B.'s grandmother's house, A.B.'s mother's house, or both.

the expeditor that she did not want A.B. living with her. The court then issued a juvenile arrest warrant.

¶ 10 A.B. was arrested on March 13, 2017 and put into custody[4]. A.B.'s grandmother appeared in court and told the court that A.B.'s aunt was interested in taking him. A few weeks later, however, his grandmother told the court that his aunt was not answering the phone. A.B. was held in custody until his trial commenced on June 7, 2017.

¶ 11 **Trial**

¶ 12 A bench trial commenced. The State presented one witness: Chicago Police Officer Joseph Antico. Officer Antico testified that he was on duty on December 22, 2016 with his partner, Officer Serrano. Officer Serrano was driving the unmarked police car, Officer Antico was in the passenger seat, and both officers were wearing plain street clothes. At approximately 1:44 p.m., the officers responded to "an assist-police call, a flash message" near 3801 West Harrison Street. When the officers arrived on the scene, they saw a silver car that had just crashed into another car in the parking lot of a hot dog stand. The officers's unmarked car was about 100 feet away from the silver car. Officer Antico saw three males, including A.B., jump out of the silver car and run to a fence less than three feet away. The three males then attempted to climb the ten-foot-high fence.

¶ 13 The officers quickly drove southbound on Independence Boulevard so that they were parallel to the three males as they landed on the other side of the fence. When A.B. landed on the other side of the fence, Officer Antico was about 25 feet away from him, still in the unmarked police car. Officer Antico then saw A.B. "make a spin move" facing him "with his right arm extended" and with a "blue steel pistol in his hand." Officer Antico further testified that as

[4] A.B. was arrested on March 13, 2017, for a new gun charge. He was later acquitted of that charge. That case is not related to the instant matter.

"[A.B.] was spinning, he placed [the blue steel pistol] underneath a board that was leaning against the fence." A.B. then ran southbound through a vacant lot. The officers chased him in their unmarked car, only losing sight of him for about two seconds. A few seconds later, Officer Antico "jumped" out of the unmarked car and began pursuing A.B. on foot while Officer Serrano pursued the other two males in the unmarked car.

¶ 14 As Officer Antico pursued A.B. through the vacant lot, he announced his office and ordered A.B. to stop and get down on his knees with his hands showing. A.B. complied with the commands. Another police officer then appeared and handcuffed A.B. While A.B. was being placed into custody, Officer Antico walked back to the fence that the three males had jumped over. Officer Antico saw the board where A.B. had placed the blue steel pistol. He checked behind the board and recovered the same firearm he previously saw A.B. holding. It was a .40 caliber Glock 30, four-inch barrel. It was not loaded. Officer Antico then transported A.B. to the police station and inventoried the firearm.

¶ 15 On cross-examination, Officer Antico testified that he spoke with Officer Katsantones at the police station and told him the details of the incident. Officer Katsantones then filled out the arrest report. During his direct examination, the State had provided Officer Antico with the police report authored by Officer Katsantones to refresh his recollection as to A.B.'s date of birth. The following exchange then took place during Officer Antico's cross-examination:

> "[Defense Counsel:] And you told [Officer Katsantones] what you saw; right?
>
> [Officer Antico:] Yes.
>
> [Defense Counsel:] He was responsible for filling out the paperwork?

[Officer Antico:] Yes.

[Defense Counsel:] Did you tell that police officer that you saw [A.B.] discard an unknown object [behind the board]?

[The State:] Objection, hearsay.

The Court: Any response?

[Defense Counsel:] It's to perfect impeachment, your Honor. It's a prior statement of the witness that he made to another officer. I'm trying to lay the foundation for impeachment.

* * *

[The State:] It's my belief that [defense] counsel is trying to impeach this witness with an arrest report that was written by another officer, which he has established himself. What statements this officer made to another officer outside of court are hearsay statements. To perfect impeachment with a police report he didn't write would not be appropriate, so that wouldn't be an exception to hearsay.

[Defense Counsel:] Judge, he just adopted the report by looking at the birth date on there. He refreshed his recollection with that very same report, so you can't have it both ways. Either it's a good report or it's not.

[The State:] Judge, the Rules of Evidence indicate that your memory can be refreshed by anything including any item anywhere at any point, but to ask him for the statements that are

written in the report that he didn't write and statements that were made outside of court to -- one other to another officer is out-of-court hearsay testimony.

[Defense Counsel:] Judge, two things. One, I'm asking them to refresh his recollection with what he told that officer by looking at the report that officer made. Number two, I think by being part of this team that arrested the defendant and recovered the gun, he adopted this report; but we haven't gotten to that point yet.

The Court: But, Counsel, are you asking him to refresh his recollection by looking at that document?

[Defense Counsel:] Yes.

The Court: Because what I thought you were doing was basically reading the statement and asking him if he said it, which is different.

[Defense Counsel:] And I want to refresh his – he said he didn't remember and he needed the report to be able to tell, so I wanted to show him the report.

The Court: Well, you can show him the report, but you can't read it into the record.

* * *

The Court: Prior inconsistent statements, Counsel, are if they're sworn to – not this. So, as I said, you could -- in order to perfect your impeachment, you'd have to have the officer that prepared

that statement.

[Defense Counsel:] I don't know if I have to do that at this point. The officer said he doesn't recall making the statement; but if he saw the police report, he'd know if he made this statement. And I want to show him the police report and refresh his recollection just like the State refreshed his recollection about the birth date that he said he was present for but couldn't remember.

[The State:] Judge, to clarify, we are not objecting to Counsel refreshing the officer's --

The Court: Right.

[The State:] -- recollection. We are objecting to the question that calls for hearsay about a prior statement that was made from one officer to another outside of court.

[Defense Counsel:] But this is the witness, Judge. This is the witness that made the statement. Either he made it or he didn't.

[The State:] That's still out-of-court hearsay.

The Court: It is.

[Defense Counsel:] It's not hearsay, Judge, because the witness is --

The Court: It is.

[Defense Counsel:] -- on the stand and he answered questions about it and it discredits his prior in-court statement.

The Court: No. Actually, Counsel -- and I don't have it any more, it's somewhere here – that is a misconception that many of us

> have. There was actually a treatise made on it and that any out of court statement is hearsay.
>
> [Defense Counsel:] If it's being offered for the truth of the matter asserted. I'm offering it for prior inconsistent statement. It doesn't have to be sworn. It's in the – it's the statement that he made.
>
> The Court: Okay. Again, initially, Counsel -- now I don't even remember what you initially were trying to do -- but now you're saying you want to refresh his recollection, which as I said you can do.
>
> [Defense Counsel:] I can do both, Judge. I said I was going to do both.
>
> [The Court:] Okay. Well, I still stand by the out-of-court statement is hearsay, so you cannot rely on that to perfect impeachment and that you'd have to have the other officer here."

The court then instructed defense counsel to move on with his cross-examination of Officer Antico. After some more questioning, defense counsel again asked Officer Antico if he told Officer Katsantones that A.B. had discarded an unknown object behind the board. The State again objected based on its earlier hearsay arguments and the court sustained the objection.

¶ 16 Following Officer Antico's testimony, the State rested its case. A.B. made a motion for a directed finding, which was denied.

¶ 17 Chicago Police Officer Oscar Serrano then testified for the defense. He testified substantially similar to Officer Antico, except that he did not see the three males land on the

other side of the fence because he was driving. He did not see A.B. with a firearm, but he did hear Officer Antico say "something about [']he just tossed it[’] or something to that regards."

¶ 18 A.B. then testified on his own behalf. He testified that at the time of trial, he was 14 years old and lived with both his mother and his grandmother, going back and forth between the two houses. On December 22, 2016, around 1:30 p.m., he was in the front passenger seat of an Impala with Deandre Walker, who was driving, and Manya Chappel, who was in the back passenger seat. Both Walker and Chappel were 18 years old at the time, and A.B. knew them from his neighborhood. As they were driving, Chappel started shooting a firearm out of the back passenger window, shattering it. When A.B. looked up, he saw an unknown person in the street walk up behind the Impala and start shooting into the back window.

¶ 19 A.B. heard about 30 gun shots, but was not struck. Walker then started driving the car away. After a few turns, he crashed into a parked car in the parking lot of a hot dog stand off Independence Boulevard. All three of them then exited the car. Walker and Chappel jumped the nearby fence because they were taller, but A.B. went through a hole in the fence. He kept running until he heard the police order him to stop. He testified that he never possessed a firearm that day. He denied placing the firearm behind the board. He testified that only Chappel ever had possession of the firearm. He did not see what happened to the firearm when they were exiting the Impala. The defense then rested.

¶ 20 The court took the matter under advisement and continued the case to July 20, 2017. A.B. was released to his grandmother with electronic monitoring. On June 23, 2017, the State filed a motion to revoke the electronic monitoring, claiming that A.B. had violated it. A.B. told the court that he had received permission from a probation officer to attend a memorial service. The probation officer was called to court and verified that A.B. was initially given permission to

attend the memorial, but that permission was later withdrawn. The court noted that there had been some confusion, and gave A.B. another chance with the electronic monitoring.

¶ 21 On July 20, 2017, the court found A.B. delinquent on all three counts. The court stated that it found the testimony of Office Antico to be credible and that it was "satisfied that the State has met its burden of proving beyond a reasonable doubt that [A.B.] unlawfully possessed a firearm."

¶ 22 **Post-Trial**

¶ 23 After the court issued its findings of guilt, the State requested that A.B. be held in custody until his sentencing. The State reminded the court that A.B. had previously been held in custody "for some time while we were waiting for family members" to pick him up, and that when he was released to his family, he was shot and taken to the hospital. The State also noted to the court the multiple times that A.B. had violated his electronic monitoring. Defense counsel responded by stating that there had not been any electronic monitoring violations and requested that A.B. be allowed to remain on electronic monitoring because he was scheduled to begin school soon. When the trial court asked A.B.'s grandmother if A.B. would continue to live with her if he was released, she replied: "I really don't want him to, to be honest, I don't because he's very disrespectful. His mother is right here. We were just arguing right outside. If his mother can -- if she don't have no place for him, I guess he has to stay [with me] but I need rules." She further told the court that A.B. needed anger management and substance abuse treatment.

¶ 24 The court admonished A.B. that he was not allowed to have any contact with gangs, guns, or drugs, and that if he did, he would be removed from his grandmother's house and would be taken into custody. The court then released A.B. to his grandmother with electronic monitoring and set sentencing for September 13, 2017.

¶ 25 The next day, July 21, 2017, the State informed the court that A.B.'s whereabouts were unknown. The court issued a juvenile arrest warrant "in light of the fact that [A.B.] has been shot twice, was just found guilty on a gun case, is just 14 years old and was just released yesterday."

¶ 26 On July 25, 2017, A.B. was arrested. When the court admonished A.B. for leaving his grandmother's house not even 24 hours after being convicted, A.B. told the court that he left his grandmother's house because his uncle came over and tried to "put his hands" on him. A.B. asked the court to place him in his mother's house, but the court denied his request and re-released him to his grandmother's house with electronic monitoring.

¶ 27 On September 13, 2017, the date of sentencing, sentencing was delayed because the social investigation could not be completed, which was required to be presented to the court before sentencing. See 705 ILCS 405/5-705 (West 2016) ("No order of commitment to the Department of Juvenile Justice [DJJ] shall be entered against a minor before a written report of social investigation *** [is] considered by the court."). The probation officer had been unable to contact to A.B.'s mother or grandmother to interview them for the social investigation. On September 27, 2017, the probation officer informed the court that A.B.'s grandmother's phone had been disconnected, and that "I don't even know where [A.B. will] be staying at. So that's the only reason why I cannot go forward" with the social investigation. The court acknowledged that A.B. was "probably beyond the control of either" his mother or grandmother, and that the "parental involvement seem[ed] to wane." The court noted that it might be best for A.B. to "get DCFS involved" due to all the "acting out," all the "danger", and the mostly-absent parental involvement. Sentencing was continued.

¶ 28 On November 20, 2017, the court learned that no one had been able to meet with A.B. or his family to conduct the interviews for the social investigation. A.B. had been released to his

mother's house on electronic monitoring. His mother appeared in court that day and told the court that A.B. "has to go [back into custody]. He cannot come to my house." A.B.'s electronic monitoring was revoked and a juvenile arrest warrant was issued. A.B. was arrested on November 23, 2017. On November 27, 2017, A.B.'s mother appeared in court and asked that he be released back to her, stating that "He was a little angry. He's okay now." A.B. was again released to his mother with electronic monitoring.

¶ 29 On December 6, 2017, A.B. appeared in court, but none of his family members or his defense counsel appeared. The probation officer again informed the court of the issues with contacting A.B.'s mother to schedule an interview for the social investigation. The State told the court that there was an electronic monitoring report indicating that A.B.'s whereabouts were unknown on December 4, 2017. A.B. responded that his probation officer had given him permission to attend a funeral that day, but the court confirmed with his probation officer that he never received such permission. The court noted that although A.B. never received permission to leave the house on December 4, 2017, he did appear in court that day, so the court allowed him to remain on electronic monitoring with a warning.

¶ 30 **Sentencing**

¶ 31 After several more continuances and electronic monitoring violations, the court held a sentencing hearing on June 22, 2018. A.B.'s mother was not in court, and neither was his grandmother as she was in a car accident on the way to court. His cousin appeared with him. The social investigation report was presented to the court. The report indicated that A.B.'s father was currently incarcerated on a federal charge, that his mother became pregnant with him when she was 14 years old, and that his parents had separated because his father was abusive. A.B.'s mother described her relationship with A.B. as "good," but A.B. described it as "okay." A.B.

acknowledged that he did not follow the rules at home and that he had run away multiple times. A.B. was hospitalized when he was 12 years old after he ingested pills and attempted to commit suicide. Based on this report and the clinical evaluation, the probation officer recommended that A.B. be sentenced to two years' probation, as well as residential placement, given his "significant emotional and behavioral disturbances, including his history of trauma."

¶ 32 A.B. asked the court to not order residential placement because he had a family that cared about him, and that he would go to psychiatric treatment "willingly." His cousin told the court that A.B.'s mother and grandmother agreed to "a split" to take care of him. The court told A.B. that it was not questioning the love of his family, stating: "That's not the issue really. The issue is that you are out of their control, and I'm not blaming them." The court also acknowledged that A.B. had come to court first "at the tender age of 13" and had already been shot twice by then. A.B. asked the court for "one more chance." The court responded that "this is not, like, a standard recommendation. This is actually an extraordinary recommendation. We don't often get recommendations for residential [placement] precisely because resources are limited, and we are all aware of that." The court further told A.B. "this isn't jail. This is treatment."

¶ 33 The court then sentenced A.B. to two years' probation and ordered him into residential placement. The court ordered A.B. to be placed under the guardianship of DCFS until he reaches 21 years of age. In doing so, the court stated: "the court finds that it's in the best interest and welfare of [A.B.] and the public that [A.B.] be adjudged a ward of the court, that the *** parent, guardian, or legal custodian is unable for some reason other than financial circumstances alone to care for, protect, train, or discipline [A.B.]; that appropriate services aimed at family preservation and family reunification have been unsuccessful; that reasonable efforts have been made to

prevent or eliminate the need for the removal of [A.B.] from the home; and it's in the best interest of [A.B.] to take him from such custody."

¶ 34 The court acknowledged that there would be a short wait while they found residential placement for A.B., and that A.B. would be held in custody in the Juvenile Temporary Detention Center (JTDC) until he was released upon request of the court. A week later, upon request of the court, A.B. was released from the JTDC and to DCFS for residential placement. This appeal followed.

¶ 35 ANALYSIS

¶ 36 We note that we have jurisdiction to review the trial court's judgment, as A.B. filed a timely notice of appeal. Ill. S. Ct. R. 603 (eff. Feb. 6, 2013); R. 606 (eff. July 1, 2017).

¶ 37 A.B. presents two arguments on appeal: (1) that the trial court erred in precluding defense counsel from impeaching Officer Antico; and (2) that the trial court erred in ordering residential placement.[5] We take each argument in turn.

¶ 38 A.B. first argues that the trial court erred in precluding defense counsel from impeaching Officer Antico. He claims that he should have been allowed to impeach Officer Antico because the State's case against him "depended entirely on its sole witness, [Officer Antico]," and his theory at trial was that Officer Antico's account of the incident was unreliable. A.B. argues that he was prejudiced "when the trial court prevented defense counsel from confronting [Officer] Antico with a prior inconsistent statement he made to another officer – that he had seen A.B. with an 'unknown object' " and not a "blue steel pistol." He asks us to reverse his conviction and remand the case for a new trial.

[5] We note that although A.B. did not file a post-trial motion arguing these claims, which would normally result in forfeiture, a minor is not required to file post-trial motions in order to preserve claims. *In re Samantha V.*, 234 Ill. 2d 359, 368 (2009).

¶ 39 The general rule is that hearsay, defined as an out-of-court statement offered to prove the truth of the matter asserted, is inadmissible at trial. *People v. Wilson*, 2012 IL App (1st) 101038, ¶ 38 (quoting *People v. Gonzalez*, 379 Ill. App. 3d 941, 954 (2008)). There is an exception to the hearsay rule which allows for prior inconsistent statements of a testifying witness to impeach the witness's credibility. *Id*. "Before a witness can be impeached with a prior inconsistent statement, a proper foundation must be laid." *People v. Burgess*, 2015 IL App (1st) 130657, ¶ 137. Proper foundation is generally established by directing the witness to the time, place, and date of the statement and asking the witness whether he made the statement. *People v. Evans*, 2016 IL App (3d) 140120, ¶ 32. The purpose of laying the proper foundation is to protect a witness against unfair surprise and to provide the witness with an opportunity to explain the statement with which he is confronted. *People v. Lopez*, 2012 IL App (1st) 101395, ¶ 79. A trial court's rulings on hearsay testimony are reviewed for an abuse of discretion, which occurs when the trial court's ruling is arbitrary, fanciful, or unreasonable or when no reasonable person would take the view adopted by the trial court. *People v. Cook*, 2018 IL App (1st) 142134, ¶ 29, *reh'g denied* (Mar. 14, 2018).

¶ 40 Here, defense counsel asked Officer Antico if he told Officer Katsantones that he saw A.B. with an "unknown object" in his hand, which is an out-of-court statement. Defense counsel attempted to use the arrest report authored by Officer Katsantones to prove that Officer Antico said the inconsistent statement and to impeach him. However, it is well established that the testimony of a police officer cannot be impeached by the contents of a police report which he neither prepared nor signed. *People v. Currie*, 84 Ill. App. 3d 1056, 1060 (1980); *People v. Beard*, 271 Ill. App. 3d 320, 331 (1995). We note that both parties were allowed to use Officer's Kasatones arrest report to *refresh Officer Antico's recollection*, such as the State did when they

asked him about A.B.'s birthday. The court even explained to defense counsel "You can show [Officer Antico] the report" to refresh his recollection, "but you can't read it into the record." Defense counsel nevertheless continued to attempt to get Officer's Antico prior inconsistent statement into the record through Officer Kasatones's arrest report, without laying any proper foundation first.

¶ 41 Curiously, defense counsel did not call Officer Kasatones as a witness. Officer Kasatones could have testified to the contents of his police report and then defense counsel could have used that sworn testimony as proper foundation to impeach Officer Antico. A rebuttal witness who testifies for the purpose of proving another witness made a prior statement contrary to the testimony is proper foundation for impeachment. *People v. Lewis*, 2017 IL App (4th) 150124, ¶¶ 55, 56.

¶ 42 Defense counsel simply asked Officer Antico "Did you tell [Officer Kasatones] that you saw [A.B.] discard an unknown object?" and relied solely upon the arrest record authored by Officer Kasatones. He made no other attempts to lay proper foundation in order to impeach Officer Antico with a prior inconsistent statement. It therefore cannot be said that no reasonable person would take the view adopted by the trial court in precluding defense counsel from attempting to impeach Officer Antico. Accordingly, we find that the trial court did not err.

¶ 43 A.B. next argues that the court erred in ordering him to residential placement and under the guardianship of DCFS. The primary focus of his argument is that the court erred in finding that he was a dependent minor under the Act when he had a "caring family" that could take care of him. He also claims that the court failed to consider any other sentencing options that would have allowed him to receive the recommended treatment without being removed from his home. A.B. additionally argues that "the practical effect of the court's residential placement order was

to place A.B. in the JTDC for an indeterminate amount of time," which was "essentially equivalent to an order committing [him] to the DJJ without the requisite findings for such a commitment." He asks us to order a new sentencing hearing.

¶ 44 Section 2–4(1)(c) of the Act provides that a dependent minor includes any minor under 18 years of age "who is without * * * other care necessary for his or her well being through no fault, neglect, or lack of concern by his parents." 705 ILCS 405/2-4(1)(c) (West 2016). The court may place the minor under DCFS guardianship if the court determines that the minor's parents are unfit or are unable, for some reason other than financial circumstances alone, to care for, protect, train or discipline the minor or are unwilling to do so, and that the health, safety, and best interest of the minor will be jeopardized if the minor remains in the custody of his parents. *In re Davon H.*, 2015 IL App (1st) 150926, ¶ 58 (quoting *In re Jennifer W.*, 2014 IL App (1st) 140984, ¶ 42). We will not reverse a trial court's determination unless the findings are against the manifest weight of the evidence. *In re Christopher S.*, 364 Ill. App. 3d 76, 86 (2006). A trial court's finding is against the manifest weight of the evidence only if the opposite conclusion is clearly evident from the record. *Id.*

¶ 45 From the first time A.B. was brought into court until his sentencing, over a year and a half later, there were numerous times when no family members came to court. Further, the family members repeatedly (arguably for good reason) refused to take A.B. into their care. There were ongoing difficulties with scheduling the social investigation interviews. Often, A.B.'s family did know his whereabouts and had difficulty getting him to follow their rules. He repeatedly refused to attend school. The record is replete with instances of this behavior, which shows that A.B. was out of control and his family was powerless to do anything about it. He frequently violated the terms of his electronic monitoring while living with family members. As

time went on, none of his family members were willing or able to have A.B. reside with them. As the trial court noted, these issues are not related to the love A.B.'s family had for him, but rather to their *ability to control and discipline him*. The record is more than sufficient for the court to find that A.B. is a dependent under Section 2–4(1)(c) of the Act.

¶ 46 The record demonstrates A.B.'s history of emotional and behavioral disturbances, traumas, and substance abuse. The record further shows that his family has struggled to help him manage these issues. The residential placement facility is structured to help A.B. treat and manage these issues where his family could not. We emphasize, as the trial court did, that residential placement is a rather extraordinary sentence which will likely inure to A.B.'s benefit.

¶ 47 We also reject A.B.'s argument that the court was first required to consider other sentencing options and determine residential placement to be the least restrictive alternative. The Act only requires to the court to do so when it *sentences a minor to the DJJ*. 705 ILCS 405/5-750(1) (West 2016). Nothing in the Act similarly requires the court to determine that *residential placement* is the least restrictive alternative. The trial court had ample time and opportunity to assess A.B.'s behavioral needs and circumstances and consider them in the light of the best options available.

¶ 48 Additionally, we are not persuaded by A.B.'s argument that placing him in JTDC for a week while DCFS searched for a residential placement for him was the equivalent of sentencing him to the DJJ. The court acknowledged that, due to limited resources, there would be a short wait before placing A.B. in residential placement. And the Act allows a ward of the court to be placed in detention for a period not to exceed 30 days "in conjunction with any other order of disposition." 705 ILCS 405/5-710(1)(a)(v) (West 2016). Based on A.B.'s history of violating his electronic monitoring, his disregard for prior court orders, and his resistance to residential

placement, it was reasonable for the court to place A.B. in JTDC instead of releasing him while he awaited his residential placement. We disagree with A.B.'s characterization that JTDC is the equivalent of DJJ, as JTDC strictly provides youth with *temporary secure housing.* See https://www.cookcountyil.gov/agency/juvenile-temporary-detention-center (visited Jan. 2019).[6]

¶ 49 In sum, the court acted reasonably in its ruling and in placing A.B. in a residential facility. Nothing in the record suggests that the court's order was against the manifest weight of the evidence. Thus, we affirm the judgment of the circuit court of Cook County ordering A.B. to residential placement, under the guardianship of DCFS until he reaches 21 years of age.

¶ 50 CONCLUSION

¶ 51 For the foregoing reasons, we affirm the judgment of the circuit court of Cook County.

¶ 52 Affirmed.

[6] We may take judicial notice of public websites, even though the information is not in the record on appeal. *People v. Crawford*, 2013 IL App (1st) 100310, ¶ 118, n.9.