

NOTICE  
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2019 IL App (5th) 180481-U

NO. 5-18-0481

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

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).

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<i>In re</i> S.J.A. and A.B.A., Minors	)	Appeal from the
	)	Circuit Court of
(The People of the State of Illinois,	)	Montgomery County.
	)	
Petitioner-Appellee,	)	
	)	
v.	)	Nos. 17-JA-48 & 17-JA-49
	)	
Timothy A.,	)	Honorable
	)	Douglas L. Jarman,
Respondent-Appellant).	)	Judge, presiding.

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JUSTICE WELCH delivered the judgment of the court.  
Presiding Justice Overstreet and Justice Chapman concurred in the judgment.

**ORDER**

¶ 1 *Held:* The trial court's decision is affirmed where its finding of parental unfitness and placement of the minor children in the custody of the Illinois Department of Children and Family Services was not against the manifest weight of the evidence.

¶ 2 The respondent, Timothy A., appeals the order of the Montgomery County circuit court finding him an unfit parent and authorizing placement of his children, A.A. and S.A., with the Illinois Department of Children and Family Services (DCFS). On appeal, the respondent argues that there was insufficient evidence to support the court's ruling. For the following reasons, we affirm.

¶ 3 The respondent and the respondent-mother, Samantha A., were married in 2011 and have been living apart since 2011. He and Samantha have two children together, A.A., born January 18, 2008, and S.A., born November 18, 2011. There was another child born during the marriage; however, during the proceedings, it was determined that the respondent was not the father of that child. Therefore, this appeal pertains only to the custody and guardianship of A.A. and S.A.

¶ 4 On November 7, 2017, DCFS received an anonymous hotline call alleging that Samantha was using methamphetamine daily in front of her children; that she was abusing pain pills; and that her boyfriend, Aaron Davis, sold methamphetamine out of his home, located on Ninth Road, Morrisonville, Illinois, where Samantha and her children also lived. At the home, law enforcement, DCFS investigations supervisor Tory Daniels, and DCFS investigator Marcia Burjes found drug paraphernalia, a scale with a powdery white substance on it that was believed to be methamphetamine, and evidence of an active methamphetamine laboratory in the attached garage. Burjes interviewed A.A. and S.A., both of whom had knowledge of a white powdery substance being within the home. Samantha admitted that there was methamphetamine in the home and that she had recently used methamphetamine. Burjes inquired about the fathers of the children and was told that neither of the fathers was involved or had contact with the children; she was told only that the respondent lived somewhere near Modesto, Illinois. Based on this incident, DCFS determined that there was an urgent and immediate need for the children to be removed from the home. DCFS took protective custody of the children and placed

them with their paternal great-aunt, Belinda, who was present on the scene during the event.

¶ 5 On November 9, 2017, the State filed a petition for adjudication of wardship and an application for shelter care against Samantha and the respondent. The petition listed both Samantha and the respondent's address as 2\*\*\*7 Ninth Road, Morrisonville, Illinois, 62546. The petition alleged that the minors' environment was injurious to their welfare in that, on November 7, 2017, Samantha possessed methamphetamine at the home; that the children indicated to DCFS that they have found plastic baggies in the home that contained a white powder; and that law enforcement located an active methamphetamine laboratory in the garage attached to the children's home. The application for shelter care alleged that there was probable cause to believe that the minors were neglected and that it was a matter of immediate and urgent necessity for the health, safety, and best interests of the children to place them into DCFS's temporary custody for the same reasons that were enumerated in the petition.

¶ 6 Also on November 9, 2017, a summons was issued and served on Samantha and the children for the shelter care hearing to be held on that same date.

¶ 7 The shelter care hearing was held that day. Samantha appeared with appointed counsel, but the respondent was not present. Samantha waived her right to the shelter care hearing and consented to giving DCFS temporary custody of the children. The court noted that the children were placed with their great-aunt Belinda, with visits at the discretion of DCFS, and that Samantha would be completing an inpatient treatment program for drug abuse. On November 16, 2017, a temporary custody order was entered,

placing the children in shelter care and granting temporary custody and guardianship to DCFS. The order contained no allegations against the respondent and indicated that he had not received notice and was not present.

¶ 8 On November 13, 2017, a summons was issued for service for the respondent to appear at a hearing on December 20, 2017. The summons listed his address as 2\*\*\*7 East Ninth Road, Morrisonville, Illinois, 62546.

¶ 9 On November 15, 2017, a visitation plan for Samantha was filed with the court. It provided that she would have one visit per week supervised by Kemmerer Village. No visitation plan was filed for the respondent.

¶ 10 On November 28, 2017, the Montgomery County sheriff's office attempted to serve the respondent at 2\*\*\*7 East Ninth Road, Morrisonville, Illinois, 62546. On December 7, 2017, a summons was issued for service for the respondent to appear for a hearing on December 20, 2017. The summons listed his correct address on Oak Street in Palmyra, Illinois. On December 12, 2017, the State filed an amended petition for adjudication of wardship. The amended petition corrected the respondent's address to Oak Street in Palmyra, Illinois, but made no allegations against him.

¶ 11 On December 20, 2017, a hearing on the petition was held. The respondent appeared with his appointed attorney. The court acknowledged that it was the respondent's first appearance, that DCFS had temporary custody of the children, that he had a right to be present at all of the hearings, and that he was entitled to an attorney. Public defender Barbara Adams was appointed to represent the respondent. The court noted that visitation had been set up for Samantha and inquired as to the respondent's

visitation. The respondent informed the court that he was not notified when the children were taken, and it was not until the day before (December 19, 2017) that he had met with the caseworker to set up visits. The court advised Samantha and the respondent to cooperate with DCFS in any service plan or risk losing their parental rights.

¶ 12 A service plan was started for Samantha that same day. It noted that she had pending criminal charges related to methamphetamines and that the respondent had pending criminal charges related to battery. In regards to the respondent, Kemmerer Village caseworker Brittney Brown noted under "health/mental status" that he "was discharged from the military as a result of being found unfit to carry a gun"; under "housing," that he "currently resides in a trailer owned by his mother that he is attempting to fix up"; and under "financial stability," that he "does side jobs and described himself as a handy man."

¶ 13 The respondent's plan was also established that day. The plan outlined that he would complete random drug screens; complete a substance abuse assessment; refrain from becoming violent; complete a domestic violence perpetrator assessment and all recommendations resulting from that assessment; and complete a mental health assessment. Both he and Samantha signed and dated the service plan on January 18, 2018.

¶ 14 At a pretrial hearing on April 4, 2018, the respondent indicated that he wanted to hire his own attorney. The court thereafter vacated his appointed attorney's appointment.

¶ 15 On April 23, 2018, Brown filed an evaluation of the respondent's progress on his service plan. She reported that, to her knowledge, he had not completed any services.

She noted:

"Every time this worker has attempted to have a conversation with [the respondent] he has wanted to discuss the initial investigation which this worker was not a part of. Frequently [he] has to be redirected to the topic at hand, the conversation ended, or [he] becoming [*sic*] angry and ending [*sic*] the conversation."

¶ 16 On June 27, 2018, the respondent's newly hired attorney entered her appearance. That same day, he filed a motion to vacate the November 16, 2017, temporary custody order. In an attached affidavit, he alleged that he was not notified of, or present at, the November 9, 2017, shelter care hearing.

¶ 17 On July 11, 2018, a rehearing on shelter care was held. DCFS investigations supervisor Tory Daniels testified that he supervised DCFS investigator Marcia Burjes during the investigation and that Burjes and law enforcement had determined that there was an immediate and urgent need for the children to be removed from the home where Samantha and the children lived with Aaron Davis. Daniels therefore authorized protective custody to be taken of the children. He stated that Burjes inquired about the children's fathers and was informed that the respondent was the father of A.A. and S.A. but not the youngest child. She was also told that neither of the fathers was involved with or had contact with the children and that the respondent lived somewhere near Modesto, Illinois. Daniels testified that, because it was the middle of the night, no other investigation was done into the fathers' possible locations at the time. The children were instead placed with their paternal great-aunt Belinda, who was on the scene and for

whom DCFS was able to quickly complete a background check. He testified that Burjes had a telephone conversation with the respondent on November 15, 2017, advising him of the court proceedings and foster involvements. Daniels agreed that there were no allegations made against the respondent as part of the anonymous call to the DCFS hotline and that he did not know why no one contacted the respondent between November 7 and November 9 (the date that the petition for adjudication was filed and the first shelter care hearing was held) to inquire about his ability to take his children.

¶ 18 The respondent testified that he has lived on Oak Street in Palmyra, Illinois, since around April 2016, in a residence that he rents from his mother. He stated that the home would have accommodations for his children as soon as he completed some remodeling work and noted that the children would not have to move school districts if they lived with him there. He intended to do some carpentry work for his stepfather and have his mother watch the children while he was at work.

¶ 19 The respondent stated that on November 10, 2017, he was notified by his uncle that his children had been taken into protective custody. He then "[did] [his] own legwork" and contacted Burjes on November 15, 2017; Burjes explained to him that he was not contacted that night because she was told that he was not involved in the children's lives, and Samantha had chosen Belinda instead of him. He agreed that he was out of phone minutes on November 7, 2017, and thus someone would have had to go to his house to contact him.

¶ 20 The respondent testified that he had been in contact with his children before the events on November 7, 2017, citing a communication with A.A. on October 12, 2017, via

Samantha's Facebook page. He noted that he had not lived with the children since the end of 2011 but made an effort to see them every other weekend. He testified that, before the events of November 7, 2017, he last had his children for a weekend visit in August 2017. He stated that he was supposed to pay child support but could not remember the last time he paid it.

¶ 21 The respondent testified that Kemmerer Village caseworker Brittney Brown conducted a visit at his home in December 2017. He stated that he asked her why the children had not been placed with him, and she responded that his aunt Belinda had given her the impression that he had not been in his children's lives for about a year. He stated that his home passed Brown's inspection with the exception of his lack of outlet covers, which were off the walls because he was painting. He agreed that, if the children came home with him that day, one bedroom remained unpainted, and they would probably sleep in the living room.

¶ 22 The respondent testified that he had one-hour supervised visits with his children since they were in foster care placement. He stated that he was unsure of how many visits he had with the children since November but noted that he had missed one recent visit because one of the children was ill, and his last visit with them was the day before the hearing, on July 10, 2018.

¶ 23 The respondent had regular contact with DCFS caseworkers since November 15, 2017. He testified that DCFS asked him to complete services, but "then [DCFS] wanted to bring a big, thick packet about [*sic*] asking questions about my stepdad, and my kids don't even know my stepdad, and my stepdad wasn't even around before they were born."



He noted that, "I don't feel that I should have to answer questions that don't even relate to the case." He agreed that he would answer questions that related to the case and was willing and able to take care of his children day-to-day if they were placed with him.

¶ 24 Angel McDonald, a caseworker at Kemmerer Village, testified that she became involved with the case at the end of May 2018, when Brown resigned from her position. She stated that the respondent's visitation time with the children, one hour per week, had been set up by Brown prior to her departure. She testified that she had the discretion to change the amount of time that an individual is allowed to visit with their children but that the respondent's amount of visitation time was appropriate. She stated that she had not made any changes because of his refusal to complete the integrated assessment. She testified that when she and Brown went to administer it, he would not let them into his home and that, "we stood outside to begin the process of doing the interview, and \*\*\* the first question was asked, and he refused to do the rest of the interview." She explained that the integrated assessment allows caseworkers to get an idea about an individual's background and helps establish the service plan for that person and that the integrated assessment would assist her in determining whether to place the children back with their father.

¶ 25 McDonald agreed that the respondent's visitation with his children goes well and that no allegations had been made against the respondent as a part of this investigation. However, it was her understanding that he was required to complete an integrated assessment and obtain a service plan because when a child comes into care, anyone involved in the child's life goes through the interview.

¶ 26 After hearing the testimony, the trial court concluded that on the date of the occurrence, it was a matter of immediate and urgent necessity to remove the children from the home and that reasonable efforts were made to contact the respondent. It explained that, while whoever spoke to DCFS at the scene may not have been forthcoming about how to contact him, he had not seen the children in the three months prior to the incident. Noting that the respondent had been uncooperative in his refusal to take the integrated assessment, the court reiterated that he needed to cooperate with DCFS, and any service plans, or risk losing his parental rights. Specifically, the court noted that if the respondent wanted to increase his visits with the children or have a chance at placement with him, "you need to do the integrated assessment so that you know what, if any, services you are going to have to engage in because as of now we don't know what kind of services you would need to engage in that would help get the kids in your placement."

¶ 27 On August 29, 2018, an adjudicatory hearing was held. The trial court acknowledged that all of the allegations were against Samantha. Samantha waived her right to the adjudicatory hearing and allowed the court to enter a finding of neglect. On August 30, 2018, the court entered an adjudicatory order finding that the children were neglected in that they were in an environment injurious to their welfare as alleged in the amended petition.

¶ 28 On September 21, 2018, McDonald filed Kemmerer Village's dispositional report with the court. In regards to Samantha, she noted that Samantha had a pending methamphetamine charge in Christian County and was under court supervision for a

methamphetamine charge in Montgomery County. She also reported that Samantha had been very cooperative with Kemmerer Village, had earned unsupervised overnight visits with her children, had participated in services, and had participated in multiple drug drops that had returned negative. In regards to the respondent, the report provided that his battery charge was dismissed but that he showed noncompliance with his service plan.

McDonald wrote that:

"[The respondent] has stated he had never received any service plan, but did acknowledge he receives [*sic*] one from the previous worker. On August 29, 2018 he was asked to complete a drug drop at the Help at Home in Hillsboro after the adjudicatory hearing and he had refused to do so. That afternoon, caseworker Angel McDonald and supervisor Lisa Boliard had went and dropped of [*sic*] his service plan to him at his home in Palmyra[.] [The respondent] was leaving as I had arrived. I told him that is [*sic*] service plan was in the envelope along with placed [*sic*] he could call about getting into his services."

Under her assessment of his progress, McDonald noted that he had been asked to participate in obtaining anger management, mental health, domestic violence, and substance abuse assessments. He was also asked to cooperate with DCFS and Kemmerer Village, follow any recommendations, and refrain from use of illegal substances. She noted that he has failed to follow through with any of his services. She recommended that the children remain under DCFS guardianship, that all parents cooperate with DCFS/Kemmerer Village, that a permanency hearing be set for six months to evaluate the progress and possibly close the case, and that the children be returned home to their mother and start after care.

¶ 29 On September 26, 2018, a dispositional hearing was held. Kemmerer Village caseworker Angel McDonald testified about the process of getting a service plan. She

explained that when a case is opened, the parents are asked to participate in an integrative assessment, which would be used to determine if services are needed and the extent of such services. She noted that it is very thorough, around 50 questions, and that it is possible that no services are recommended after a parent completes the assessment. She testified that Samantha was successfully participating in her service plan.

¶ 30 McDonald stated that the respondent had received recommendations for services from the previous caseworker, but he had told her that he did not receive them; therefore, she went to his home and provided him with another one after the August 29, 2018, hearing. She stated that she had not spoken to him since then about starting the recommended services, which included a substance abuse assessment, a mental health assessment, parenting classes, and planned drug drops.

¶ 31 McDonald explained that the basis for recommending a substance abuse assessment was the children's history with drug and alcohol exposure because "we want to make sure that every parent involved in the children are clean when it comes to visiting the kids." She agreed that the children's involvement with drugs was solely related to their relationship with their mother and that she had no indication that the respondent was involved with illegal substances. She testified that the mental health assessment was also not specific to the respondent but is a basic assessment that Kemmerer Village has every parent complete. With regard to the parenting classes, she stated that it was also a basic assessment that all parents complete. She explained that the basis for that recommendation was to provide basic parenting skills because "he hadn't been a part of his children's lives." She agreed that Samantha told her that the respondent was not

involved in the children's lives but that the respondent told her that he was and that she had no evidence to suggest that he was incapable of parenting his children. She noted that the respondent did not know why the children had not been placed with him at the outset and that she and her supervisor did not have the answer so they referred him to DCFS.

¶ 32 McDonald agreed that she knew very little about the respondent because he had not been compliant with Kemmerer Village's requests. She noted that the evaluations are very important to her determination of placement for the safety of the children and having assessments done eliminates the barriers that would stop a parent from seeing his child.

¶ 33 McDonald stated that if custody and guardianship were granted to DCFS, her plan was to move the children back in with Samantha and keep up the respondent's visitation, which remained at one hour per week. She stated that he interacts well with the children, they enjoy seeing him, and that "if he chooses to do services on his service plan, then we can work towards increasing visitation with him." She stated that she had no concerns in returning the children home to Samantha but did have concerns about allowing the children to go to the respondent due to his lack of cooperation with the assessments and refusal to do the drug drop.

¶ 34 The respondent testified that he married Samantha in 2011 and separated from her that same year, but he had regular contact with his children since then based on an agreement with Samantha. He agreed that the last time he cared for the children by himself for more than one weekend at a time was in 2016, noting that "I buried my son back in 2016[,] so ever since then it's kind of been a rough road for me." He stated that

he lived in a two-bedroom residence and that Kemmerer Village caseworker Brittney Brown inspected it in December 2017 and found only that he needed to replace his outlet covers. He wanted the children to be placed in his home, noting that he was prepared to provide for them emotionally, physically, and financially; however, he agreed that he did not have concerns about the children being placed back with their mother. He testified that, at the time of the dispositional hearing, he still had not been provided an explanation as to why the children were not placed with him from the beginning.

¶ 35 In its closing argument, the State asked that the children be placed with DCFS with a permanency goal of returning home within five months. In regards to the respondent, the State noted that he had not had contact with his children for several months before the case was opened. Combined with his lack of cooperation with DCFS, this "[left] too many questions out there to place the children with him at this time." The guardian *ad litem* agreed that DCFS was not being unreasonable in requesting that the respondent complete a mental health evaluation, noting that "[he] testified that part of the reasons [*sic*] he didn't see his children as much as he wanted during that period from 2016 forward had to do with the fact that he had his son die and he was having problems with that."

¶ 36 The respondent's attorney stated that he had no objection to the children being made wards of the court, but he believed that the children should be placed with the respondent. His attorney argued that unless the court found him unfit to care for the children, then the trial court did not have the authority to place them with DCFS but was required to place them with a parent.

¶ 37 The trial court acknowledged that the respondent never got an answer as to why the children were not initially placed with him, noting that, "[DCFS] couldn't get a hold of you." The court explained that, while it understood that he felt that DCFS should have been able to contact him, "that's not reason enough to not cooperate with the assessment and determine whether or not \*\*\* you needed to do anything further." The court agreed with the respondent's legal argument that to place the children with DCFS, it was required to find both parents unfit. Thus, it determined that the respondent and Samantha were unfit and placed custody and guardianship with DCFS, with the right to place and consent to visits, with the goal of returning home within five months. It stressed to the respondent that he needed to do the service plan and get his assessments done or risk losing his parental rights.

¶ 38 On September 27, 2018, a dispositional order was entered by the court, granting custody and guardianship of the children to DCFS and admonishing the parents to cooperate with DCFS. It found the respondent unfit to care for the children and that placement with him was against their best interests because "he had limited contact with the minors prior to [DCFS] taking custody and he has not submitted to evaluation or engaged in services." The respondent appeals.

¶ 39 The respondent first raises several issues related to the November 16, 2017, temporary custody order, which was denied after a rehearing on July 11, 2018. We note that the only notice of appeal filed in this case was on October 9, 2018, nearly three months after the trial court's decision.

¶ 40 Although a temporary custody order deals with the custody of children, it is not a final, appealable order under our supreme court rules. See Ill. S. Ct. R. 306 (eff. Nov. 1, 2017); *In re Lawrence M.*, 172 Ill. 2d 523, 525 (1996) (noting that an appeal from section 2-10 of the Juvenile Court Act of 1987 (Act) (705 ILCS 405/2-10 (West 2016)) is interlocutory in nature). A party may petition for leave to appeal to this court from interlocutory orders affecting child custody if the appeal of such orders is not otherwise specifically provided for elsewhere in the rules. Ill. S. Ct. R. 306(a)(5) (eff. Nov. 1, 2017). The exceptions to this rule do not apply to temporary custody orders. See Ill. S. Ct. R. 304 (eff. Mar. 8, 2016); R. 307 (eff. Nov. 1, 2017).

¶ 41 The respondent did not file a petition for leave to appeal the temporary custody order; moreover, a petition to file a permissive interlocutory appeal regarding child custody "shall be filed in the Appellate Court within 14 days of the entry or denial of the order from which review is being sought." Ill. S. Ct. R. 306(b)(1) (eff. Nov. 1, 2017). As we noted above, the only notice of appeal filed in this case was on October 9, 2018, three months after the trial court's denial of the respondent's motion to vacate the temporary custody order. Accordingly, this court lacks jurisdiction to hear any claims regarding that order.

¶ 42 The respondent also challenges the trial court's determination in its September 27, 2018, dispositional order that he was unfit, and, therefore, placed the children with DCFS. We note that dispositional orders are final and appealable as of right in proceedings under the Act. *In re Faith B.*, 216 Ill. 2d 1, 3 (2005).



¶ 43 Prior to committing a minor to the custody of a third party, a trial court must first determine whether the parent is unfit. *In re M.M.*, 2016 IL 119932, ¶ 21 (citing 705 ILCS 405/2-27(1) (West 2012)). Under section 2-21(2) of the Act, after a minor is adjudicated abused, neglected, or dependent, the trial court shall hold a dispositional hearing. 705 ILCS 405/2-21(2) (West 2016). At the dispositional hearing, the trial court determines whether the parents of a minor 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 or her parents." *Id.* § 2-27(1). The standard of proof in a trial court's section 2-27 finding of unfitness for dispositional purposes is a preponderance of the evidence. *In re April C.*, 326 Ill. App. 3d 245, 257 (2001).

¶ 44 A parent may be found unfit even if the petition contains no allegations against him; the petition puts him on notice that his fitness will be at issue at the dispositional hearing. *In re M.B.*, 332 Ill. App. 3d 996, 1007 (2002).

¶ 45 Juvenile neglect cases are fact-dependent and must be decided based on the particular facts and circumstances presented. *In re D.D.*, 196 Ill. 2d 405, 422 (2001). On review, a trial court's dispositional fitness determination will be reversed only if the trial court's finding is against the manifest weight of the evidence, which occurs only where a review of the record clearly demonstrates that the trial court should have reached the opposite result. *In re T.B.*, 215 Ill. App. 3d 1059, 1062 (1991). This standard of review recognizes that the trial court is in a much better position than this court to observe the

witnesses, assess credibility, and weigh the evidence. *Id.* This court will not overturn a trial court's findings merely because we may have reached a different decision. *Id.*

¶ 46 In support of his contention that there was no evidence upon which the trial court could rely to find him unfit at the dispositional hearing, the respondent relies on *In re K.S.*, 365 Ill. App. 3d 566 (2006).

¶ 47 In that case, the trial court ordered respondent-father to take part in a social history investigation and sexual offender evaluation after the adjudicatory hearing. *Id.* at 568. At the dispositional hearing, Catholic Charities presented its social history investigation, which revealed that DCFS had become involved with the case two years prior to the hearing, when K.S.'s sibling and her cousin reported that respondent-father had sexually molested them; however, the case was closed and the underlying criminal case was dismissed when respondent-mother agreed to a safety plan to disallow contact between respondent-father and her children. *Id.* at 569. The report indicated that he denied any responsibility for the sexual molestation report that was indicated by DCFS. *Id.* Catholic Charities found that respondent-father needed to acknowledge his role in the previous DCFS allegation and complete a sexual offender assessment. *Id.* At the dispositional hearing, respondent-father continued to deny any wrongdoing and asked the court not to require him to complete a sex offender assessment or participate in sex offender counseling. *Id.* No one testified at the dispositional hearing. *Id.* At the conclusion of the hearing, the trial court ordered respondent-father to participate in the sexual offender evaluation within 30 days. *Id.*

¶ 48 The appellate court found that the trial court's dispositional order requiring respondent-father to complete a sexual offender evaluation was not supported by law or fact. It found that the trial court heard "nothing except rank tertiary hearsay" regarding the allegations, noting that the only evidence that it heard was respondent-mother's stipulation that she violated the safety plan and the dispositional report stating the allegations of sexual molestation. *Id.* at 571. Finding that "[t]he trial court never heard *any* direct evidence that respondent had committed any sexual offense," the appellate court concluded that "[r]eference to a DCFS report supported by 'credible evidence' was an insufficient basis for ordering [him] to undergo a sexual offender evaluation." *Id.* at 571-72. (Emphasis in original.) It found that the trial court's actions were an abuse of discretion and against the manifest weight of the evidence because "the State presented no competent evidence against [respondent-father] and he was never given an opportunity to present evidence on his own behalf." *Id.* at 570.

¶ 49 First, we note that, in *K.S.*, evidence was presented at the dispositional hearing concerning the sexual abuse of *K.S.*'s sibling and her cousin. As dissenting Justice O'Malley points out in his response to the *K.S.* majority, hearsay evidence is properly admissible at a dispositional hearing. See *id.* at 587 (O'Malley, J., dissenting); 705 ILCS 405/2-22(1) (West 2016) (at dispositional hearings, any evidence, including written and oral reports, may be admitted and relied on to the extent of its probative value in determining the future status of the child). Therefore, we find the majority's reasoning in *K.S.* to be troublesome. Nevertheless, we also can factually distinguish *K.S.* from the case before us, because, unlike in *K.S.*, the respondent was given opportunities to present

evidence on his own behalf. At the July 11, 2018, shelter care rehearing, the respondent cross-examined DCFS caseworkers and testified on his own behalf. The trial court thereafter ordered him to do the integrated assessment "so that you know what, if any, services you are going to have to engage in because as of now we don't know what kind of services you would need to engage in that would help get the kids in your placement." At this hearing, the only reason the respondent gave for his failure to comply with DCFS's request to complete the integrated assessment was that he felt that he should have been notified at the time that the children were removed. The respondent was afforded the same opportunity at the September 26, 2018, dispositional hearing and gave the same response.

¶ 50 The relevant issues are not frozen at the moment custody of the child is taken; rather, the necessity of considering other conditions that "come to light only with further investigation" is reflected in the "broad scope" of the investigation that the trial court is authorized to order under section 2-21(2) after an adjudication of neglect. *In re C.N.*, 196 Ill. 2d 181, 213-14 (2001).

¶ 51 After the July 11, 2018, shelter care rehearing, the respondent was on notice that complying with DCFS and completing the integrated assessment would substantially aid his case. Angel McDonald testified that an integrated assessment allows caseworkers to get an individual's background and helps establish the service plan for that person and that the integrated assessment would assist her in determining whether to place the children back with their father. The trial court, in its broad authority to order an investigation into "any \*\*\* information that may be helpful to the court" (705 ILCS

405/2-21(2) (West 2016)), informed the respondent that he needed to comply with DCFS if he wanted his children to be placed in his care. Nevertheless, the respondent refused. The respondent cannot intentionally withhold information designed to allow DCFS to determine whether placement with him is appropriate and then complain that the trial court had insufficient evidence to support its decision. As Justice O'Malley points out in his *K.S.* dissent, "[t]he purpose of the dispositional hearing is \*\*\* to ensure [the children's] safe placement." *K.S.*, 365 Ill. App. 3d at 585 (O'Malley, J., dissenting).

¶ 52 The respondent contends that he "has been cooperating with DCFS when it comes to what is needed to assure them that his life and his home are appropriate for the [children]." The record reflects that this assertion is untrue. We cannot say that the trial court's determination that the respondent was unfit was against the manifest weight of the evidence where it was supported by evidence that he had limited contact with his children prior to DCFS's taking custody and he had not submitted to evaluation or engaged in services.

¶ 53 For the foregoing reasons, the decision of the trial court finding the respondent unfit and placing his children in DCFS's custody is affirmed.

¶ 54 Affirmed.