

SECOND DIVISION  
August 28, 2014

No. 1-14-0199

**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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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

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IN THE INTEREST OF: MILEENA S.,	)	Appeal from the
	)	Circuit Court of
Minor-Respondent-Appellee,	)	Cook County, Child
	)	Protection Division
	)	
(The People of the State of Illinois,	)	
	)	
Petitioner-Appellee,	)	No. 13 JA 485
	)	
v.	)	
	)	
Charles R.,	)	Honorable
	)	Marilyn Johnson,
Father-Respondent-Appellant.)	)	Judge Presiding.

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PRESIDING JUSTICE HARRIS delivered the judgment of the court.  
Justices Simon and Liu concurred in the judgment.

**ORDER**

**Held:** Father is procedurally defaulted from challenging whether the circuit court erred in taking judicial notice of prior testimony pursuant to section 2-18(6) of the Juvenile Court Act of 1987 (705 ILCS 405/2-18(6) (West 2012)) for failing to

elaborate on his argument, cite relevant or persuasive authority, or properly support his allegations of error. The circuit court's determinations, after an adjudication hearing, finding that the minor was neglected pursuant to section 2-3(1)(b) of the Juvenile Court Act of 1987 and abused pursuant to section 2-3(2)(ii) of that same Act were not against the manifest weight of the evidence. 705 ILCS 405/2-3(1)(b), (2)(ii) (West 2012).

¶ 1 The State filed a petition for adjudication of wardship for Mileena S., a minor born on September 30, 2011. Mileena's mother, Lillian S., had custody of Mileena prior to the filing of the State's petition, while appellant, Charles R., was the non-custodial father. The circuit court entered an adjudication order finding Mileena was neglected in that her environment was injurious to her welfare (720 ILCS 405/2-3(1)(b) (West 2012)) and abused in that she was at substantial risk of physical injury (705 ILCS 405/2-3(2)(ii) (West 2012)). The circuit court subsequently entered a disposition order finding Mileena to be a ward of the court.

¶ 2 Lillian did not appeal the circuit court's decision, and is not a party to this appeal. Charles raises the following issues for our review, which both pertain to the adjudication hearing: (1) whether the circuit court improperly took judicial notice of testimony from the temporary custody hearing pursuant to section 2-18(6) of the Juvenile Court Act of 1987 (Act) (705 ILCS 405/2-18(6) (West 2012)),<sup>1</sup> and (2) whether the circuit court's findings that Mileena was neglected because of an injurious environment (705 ILCS 405/2-3(1)(b) (West 2012)) and abused in that she was at substantial risk of physical injury (705 ILCS 405/2-3(2)(ii) (West 2012)) were against the manifest weight of the evidence. Charles raises no issues regarding the circuit court's dispositional order, and did not file a reply brief before this court.

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<sup>1</sup> We note that in his brief before this court, Charles listed this claim of error as two separate issues. After reviewing Charles' brief, however, we have decided to address these issues under one section of this order to avoid confusion.

¶ 3 We hold Charles is procedurally defaulted from challenging whether the circuit court erred in taking judicial notice of prior testimony pursuant to section 2-18(6) of the Act (705 ILCS 405/2-18(6) (West 2012)) for failing to elaborate on his argument, cite relevant or persuasive authority, or properly support his allegations of error. We further hold that the circuit court's determinations that the minor was neglected pursuant to section 2-3(1)(b) of the Act and abused pursuant to section 2-3(2)(ii) of the Act were not against the manifest weight of the evidence. 705 ILCS 405/2-3(1)(b), (2)(ii) (West 2012).

¶ 4 JURISDICTION

¶ 5 The circuit court entered its adjudication order on December 19, 2013. The dispositional order, and the order closing the case, was entered on that same day. See *in re Austin W.*, 214 Ill. 2d 31, 43-44 (2005) ("dispositional orders are generally considered 'final' for the purposes of appeal.") Charles filed his notice of appeal on January 8, 2014. Accordingly, this court has jurisdiction pursuant to Illinois Supreme Court Rule 660, which governs appeals arising under the Act. Ill. S. Ct. R. 660 (eff. Oct. 1, 2001).

¶ 6 BACKGROUND

¶ 7 On May 28, 2013, the State filed a petition for adjudication of wardship for Mileena, a female minor born on September 30, 2011. The petition listed Mileena's mother as Lillian. It was later determined that Charles was Mileena's father. According to the petition, Mileena had been taken into custody on May 23, 2013. The State alleged Mileena was neglected in that her environment was injurious to her welfare pursuant to section 2-3(1)(b) of the Act and that there was a substantial risk of injury to her under section 2-3(2)(ii) of the Act. 705 ILCS 405/2-3(1)(b), 2(ii) (West 2012). As facts supporting its petition, the State alleged the following:

"Mother has one prior indicated report for cuts, welts, bruises, abrasions, oral injuries and substantial risk of physical injury/environment injurious to health/welfare by abuse. Mother has three other minors who are in DCFS custody with findings of abuse, neglect, physical abuse and excessive corporal punishment having been entered. Mother has been non-compliant with services including therapy, random urine drops, anger management and attending substance abuse support meetings. Mother has been diagnosed with major depression and anxiety. Mother states she had not seen her psychiatrist in a few months. Mother states that there is a history of domestic violence between her and putative father. Mother has failed to cooperate with DCFS'[s] attempts to monitor this minor while in her care."

¶ 8 The State also filed a motion for temporary custody based on the same facts as contained in its petition and argued that, pursuant to section 2-10 of the Act, there was an immediate and urgent necessity to place Mileena into temporary custody. 705 ILCS 405/2-10 (West 2012).

¶ 9 On May 28, 2013, the circuit court found probable cause existed that Mileena was abused and neglected, that an immediate and urgent necessity existed to support her removal from the home, and that her presence in the home was contrary to her welfare. The circuit court ordered Mileena's removal from the home, and granted a DCFS guardianship administrator temporary custody.

¶ 10 On June 11, 2013, the circuit court entered another temporary custody hearing order, finding that although probable cause existed that Mileena was abused and neglected; the

immediate and urgent need to remove her from the home did not exist. The court noted that "[r]eports are that child appear well cared for, clean, bonded to mother and immunizations [and] medicals are all up to date." The court ordered that Mileena remain in her mother's custody but entered an order of protection against Lillian and ordered DCFS to investigate the need for services in the following areas: substance abuse, individual counseling, psychiatric medication and monitoring, and the ability to maintain stable housing. On that same day, the circuit court also entered a "supplemental protective order conditions," in which it ordered that Lillian complete the following:

"Maintain consistent contact with the agency in regards to well-being checks of the minor and to services.

Release information about all occupants of her home and facilitate their meeting with the POS worker. If an occupant does not pass a background check, mother or the occupant must seek other housing.

Sign releases for the POS agency to contact her mental health provider/psychiatrist, and provide ongoing mental health records to the agency when requested.

Submit to random urine drops and provide the POS agency with AA/NA logs on an ongoing basis."

The court ordered that the "[t]he agency shall refer mother to individual therapy, anger management, and a DV assessment."

¶ 11 The circuit court entered an order of protection on that same day outlining the conditions of the supplemental protective order. The order stated that Lillian was to provide all care to

Mileena, cooperate with DCFS, abstain from using, or allowing anyone else to use, corporal punishment on Mileena, provide samples for random drug screens, participate in substance abuse, psychological, psychiatric, and domestic violence assessments, and to refrain from using illegal substances and alcohol. The order of protection further ordered that Lillian was not to "singlehandedly" arrange any contact with Charles. In a separate order, the circuit court allowed Charles limited day visits of Mileena supervised by a DCFS or private agency caseworker.

¶ 12 On August 21, 2013, the Guardian *Ad Litem* filed a motion to vacate the June 11, 2013, order of protection alleging Lillian violated its terms. The Guardian alleged that Lillian had disclosed to her psychiatrist she was currently using drugs and alcohol while outside of her residence, and that on one or more of those occasions, Mileena was with her. The Guardian noted that Lillian had previously been indicated for abuse and neglect, had a long history of non-compliance with substance abuse and mental health treatment, and had prior findings of abuse, neglect, and excessive corporal punishment. The Guardian alleged further that Lillian had not entered substance abuse treatment as recommended by the court. The Guardian asked that the court place Mileena under the guardianship of DCFS.

¶ 13 On August 23, 2013, the circuit court vacated its prior order of protection and entered an amended temporary custody hearing order finding that an immediate and urgent necessity existed to support removal of Mileena from the home. As a basis for its finding, the court noted that Lillian continued to use marijuana and consume alcohol.

¶ 14 Prior to the adjudication hearing, the State filed a motion asking the court to take judicial notice of prior testimony from Carolina Bono, an investigator for DCFS, and Kyle Turner, a social worker, from the June 11, 2013, temporary custody hearing pursuant to section 2-18(6) of

the Act. 705 ILCS 405/2-18(6) (West 2012). The State argued that all the respondents were represented by counsel at the hearing and asked that the court take judicial notice of all non-hearsay testimony for the purposes of the adjudicatory hearing.

¶ 15 In response, Charles filed a motion to strike and argued that the motion was insufficient at law because it failed to attach the transcript of the June 11, 2013, temporary custody hearing, or even recite portions of the transcript. As such, Charles argued he was unable to challenge the motion because the State failed to supply the court with the specific testimony it wished to have judicially noticed.

¶ 16 At the hearing on the State's motion to take judicial notice of prior testimony, Lillian joined Charles' motion, but indicated that she would not object to non-hearsay testimony being entered into evidence. The State pointed out that very little of the testimony at the temporary custody hearing concerned Charles, the noncustodial father. As such, the State questioned whether Charles had standing to object to testimony concerning Lillian.

¶ 17 The circuit court granted the motion to take judicial notice of prior testimony subject to the State providing "a very specific proffer from the transcript of what it wishes [the court] to take judicial notice of." In accordance with the circuit court's order to file a specific proffer, the State filed an amended motion and specified the sections of the June 11, 2013, temporary custody hearing transcript it wanted judicially noticed. The State specified that it would like the court to take judicial notice of DCFS investigator Carolina Bono's testimony addressing Lillian's prior indicated reports, conversations with Lillian concerning her DCFS history, and testimony that Charles was non-custodial at the time of the temporary custody hearing. Additionally, the State asked that the court take judicial notice of "follow up worker" Kyle Turner's testimony addressing Lillian's progress in services with Mileena's siblings and his monitoring of Mileena

when she was in Lillian's custody before the temporary custody hearing. The State provided the page and line numbers for the testimony from the transcript.<sup>2</sup>

¶ 18 Charles objected to the amended motion, arguing that the State's proffer was improper because it was not specific and did not detail how the testimony was admissible. Charles maintained that the judicial notice of nearly 40 pages of transcript testimony was improper. Charles also argued that it would be improper for an adjudication hearing to be based entirely on transcript testimony from the temporary custody hearing. Charles also provided over 40 specific objections to the prior testimony, with reference to the specific line and page numbers of the transcript. In response, the State argued that Charles lacked standing to object to all but one of the objections because they related to allegations involving Lillian.

¶ 19 The circuit court granted the State's amended motion and noted that it had reviewed Charles' "voluminous objections," but could only find "one which was arguably hearsay."

¶ 20 At the adjudication hearing, the State introduced the prior testimony, as specified in its proffer, of Carolina Bono and Kyle Turner's testimony from the temporary custody hearing. That testimony is as follows. Bono, an investigator with DCFS, testified she performed both a "LEADS" and a "CANT" search which showed that Lillian had one prior indicated report from 2010. The prior indicated report "came in for two allegations of abuse," which she described as "cuts, welts, bruises, and oral injuries; and also substantial risk of harm, environment is injurious

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<sup>2</sup> The State, in its proffer, asked the court to take judicial notice of the following pages and corresponding line numbers from the transcript of the temporary custody hearing: page 6, line 10 to page 7, line 12, *i.e.* Bono's testimony of Lillian's prior indicated reports; page 10, line 3 to page 23, line 12, *i.e.* Bono's testimony of conversation with Lillian inquiring about DCFS history; page 27, line 2 to line 8, *i.e.* Bono's testimony that Charles was the non-custodial parent at the time of the temporary custody hearing; and page 28, line 18 to page 60, line 20, *i.e.* Turner's testimony addressing Lillian's progress in services regarding Mileena's siblings and Turner's monitoring of Mileena while in her mother's custody.

to the health and welfare of a child." The minors in the prior indicated report were Mileena's older siblings.

¶ 21 Bono testified that she spoke with Lillian on May 23, 2013. Lillian told her that she had been diagnosed with depression and anxiety and was prescribed medication that she had been taking. She indicated she had seen a psychiatrist in the past, but had not seen the psychiatrist for the past three or four months. Bono explained to Lillian she was investigating her because she had not been engaged in services, which places her child at a risk of harm. Lillian informed her that she had finished anger management class, a parenting class, and finished being an inpatient at "Haymarket." Bono testified that Lillian "was under the impression that she was in no need of continuing services because the children that \*\*\* were already wards of the State, her children, were going to be adopted." Bono took protective custody of Mileena due to the prior indicated report of physical abuse, Lillian's non-compliance with services, and because Mileena's young age made her at risk of harm. Bono testified that when she spoke with Lillian at the office, Mileena "appeared clean, well-groomed, well-cared for, bonded to mother." Bono did not have any concerns regarding Mileena's physical appearance or how Lillian and Mileena interacted. Lillian stated that she had been going to AA and had documentation of her attendance. Bono learned through the course of her investigation that Charles never had custody of Mileena. Bono testified that Lillian later told her that Charles was not a good caretaker, and that he was controlling and abusive in the past.

¶ 22 Kyle Turner, a caseworker for Lutheran Social Services of Illinois, testified he was assigned the cases of Mileena's older siblings in July of 2012. At that time, Lillian was in need of the following services: substance abuse follow up; NA/AA; random urine drops; individual therapy; anger management; obtaining stable housing; and complete background checks on

anyone who resided with her. Lillian indicated to Turner that she lived with relatives, but Turner testified she refused to provide their information for background checks. Turner testified Lillian, in regard to substance abuse treatment, "completed a 30-day inpatient program through Southwood Interventions, an inpatient program through Haymarket, and she left aftercare services." Turner testified it was recommended that Lillian participate in NA/AA classes and be reassessed for substance abuse services. Lillian provided meeting logs to Turner showing NA/AA meeting participation from October of 2012 to May of 2013. Lillian had not been doing urine drops, however, and her last drops were in October of 2012. Regarding individual therapy, Turner testified Lillian was referred in July of 2012 and unsatisfactorily discharged for nonattendance in October of 2012. Turner stated Lillian was still in need of services at that time. She was also unsatisfactorily discharged from her anger management classes.

¶ 23 Turner testified further that his ability to maintain contact with Lillian had been "sporadic." He testified Lillian had been diagnosed with panic disorder, major depression, and anxiety disorder. Turner's agency recommended that DCFS be given temporary custody of Mileena because she was at risk of harm. Mileena's physical appearance did not cause Turner any concern, and he agreed that she seemed clean, healthy, well-cared for, and attached to Lillian. Turner's agency was concerned because they were not aware of who was residing at the home with Lillian.

¶ 24 The State also introduced Lillian's prior adjudicated findings of neglect and abuse along with Lillian's positive drug drops. The drug drops showed Lillian's most recent drops tested positive for cannabis while she had previously tested positive for cannabis, alcohol, cocaine, and amphetamines or methamphetamines. Lillian's prior indicated report, dated February 25, 2010,

involved Lillian's other children. The report stated that Lillian's then five- year-old son had multiple scars on his body. Her eight-year-old son reported that his mother and his uncle had hit his brother on several occasions. Mileena's siblings appeared to have scarring indicating excessive corporal punishment, and exhibited signs of poor hygiene during the investigation, including body odor. The eight and five-year-old reported that they "sometimes feel hungry when their mother sleeps a lot." They were frequently truant at school and one was believed to have academic delays. Lillian admitted during the course of the investigation that she had hit her eight-year-old and her five-year-old with belts in the past, but stated that the current injuries to her five-year-old were from the boy's uncle. Lillian reported that one of her sons had behavioral problems.

¶ 25 Neither parent testified or offered any evidence. No witnesses were called. After considering the evidence, the circuit court found Mileena to be neglected under the Act due to an injurious environment (705 ILCS 405/2-3(b) (West 2012)) and abused in that she was at substantial risk of physical injury (705 ILCS 405/2-3(2)(ii) (West 2012)).

¶ 26 After a disposition hearing, the circuit court found that it would be in Mileena's best interest that she be made a ward of the court. The circuit court vacated the temporary custody order and appointed a legal guardian. The circuit court found in its dispositional order that both Lillian and Charles were presently unable to provide for Mileena's care, custody, and well-being. Based on Lillian's progress in her treatment, the court entered a permanency goal of a "return-home within 12 months." The court found that Charles, however, had not made any progress. Charles timely appealed.

¶ 27

ANALYSIS

¶ 28 Charles first argues that the circuit court erred when it relied primarily on prior testimony from the temporary custody hearing from two witnesses: Carolina Bono, a DCFS investigator; and Kyle Turner, a social worker. Charles admits that section 2-18(6) of the Act (705 ILCS 405/2-18(6) (West 2012)) allows the circuit court to take judicial notice of prior sworn testimony, but argues that judicial notice of such testimony is not intended to be the only testimony at an adjudication hearing, that the circuit court took judicial notice of improper hearsay evidence, and that the State failed to make an adequate proffer of what testimony it wanted the court to take judicial notice. The State and Mileena's attorney agree that the circuit court properly admitted the prior testimony pursuant to section 2-18(6) of the Act. 705 ILCS 405/2-18(6) (West 2012). The State adds that Charles waived his argument that the circuit court took notice of hearsay evidence because Charles failed to point out what hearsay evidence was allowed in. Mileena's attorney noted that "[i]t is unclear in [Charles'] brief what the claimed 'inadmissible hearsay statements' were."

¶ 29 Illinois Supreme Court Rule 341 governs the form and contents of appellate briefs. Ill. S. Ct. R. 341 (eff. Feb. 6, 2013); *Voris v. Voris*, 2011 IL App (1st) 103814, ¶ 8. Compliance with Rule 341 is mandatory. *Id.* This court has held that the failure to elaborate on an argument, cite persuasive and relevant authority, or present a well-reasoned argument violates Rule 341(h)(7) and results in waiver of that argument. *Sakellariadas v. Campbell*, 391 Ill. App. 3d 795, 804 (2009) ("The failure to assert a well-reasoned argument supported by legal authority is a violation of Supreme Court Rule 341(h)(7), resulting in waiver."); Ill. S. Ct. R. 341(h)(7) (eff. Feb. 6, 2013); *Gandy v. Kimbrough*, 406 Ill. App. 3d 867, 875 (2010) ("Supreme Court Rule 341(h)(7) requires a clear statement of contentions with supporting citation of authorities and

pages of the record relied on. [Citation.] Ill-defined and insufficiently presented issues that do not satisfy the rule are considered waived."). Furthermore, a court of review "is entitled to have the issues clearly defined with pertinent authority cited and is not simply a depository into which the appealing party may dump the burden of argument and research." *People v. Hood*, 210 Ill. App. 3d 743, 746 (1991). Proper support for a claim of error requires more than just argument, it must also be supported by authority. *Id.*

¶ 30 We hold Charles is procedurally defaulted from challenging whether the circuit court erred in taking judicial notice of prior testimony from the temporary custody hearing pursuant to section 2-18(6) of the Act (705 ILCS 405/2-18(6) (West 2012)) for failing to elaborate on his argument, cite relevant or persuasive authority, or properly support his allegations of error. *Sakellariadas*, 391 Ill. App. 3d at 804; *Hood*, 210 Ill. App. 3d at 746. Charles' argument before this court focuses on whether the circuit court improperly took judicial notice of prior testimony pursuant to section 2-18(6) of the Act. 705 ILCS 405/2-18(6) (West 2012).

¶ 31 Section 2-18(6) of the Act provides:

"In any hearing under this Act, the court may take judicial notice of prior sworn testimony or evidence admitted in prior proceedings involving the same minor if (a) the parties were either represented by counsel at such prior proceedings or the right to counsel was knowingly waived and (b) the taking of judicial notice would not result in admitting hearsay evidence at a hearing where it would otherwise be prohibited." 705 ILCS 405/2-18(6) (West 2012).

¶ 32 Charles does not dispute that all parties were represented by counsel at the temporary custody hearing, and admits that section 2-18(6) of the Act (705 ILCS 405/2-18(6) (West 2012)) allows the admission of prior testimony. Charles also does not contest the validity of section 2-18(6) of the Act. Rather, Charles focuses most of his argument on pointing out the differences between a temporary custody hearing and an adjudicatory hearing under the Act. We do not see the relevancy of this argument when section 2-18(6) of the Act clearly states the circuit court may take judicial notice of prior sworn testimony from earlier proceedings involving the same minor "In any hearing under this Act[,]" and Charles does not contest the validity of section 2-18(6). 705 ILCS 405/2-18(6) (West 2012). Similarly, Charles argues that testimony pursuant to section 2-18(6) is not intended to be the only testimony presented at an adjudication hearing. Charles did not, however, cite any relevant authority to support this argument. Proper support for a claim of error requires more than just argument, it must also be supported by authority. *Hood*, 210 Ill. App. 3d at 746.

¶ 33 Charles further argues that the circuit court erred in admitted the prior testimony under section 2-18(6) of the Act because the State's proffer was inadequate. As support, he relies on this court's fourth district decision *In the Interest of J.G.*, 298 Ill. App. 3d 617 (1998). We initially note that *In the Interest of J.G.* is distinguishable in that it involved a petition to terminate parental rights and the circuit court's taking judicial notice of the case file under section 2-18(4)(a) of the Act. *Id.* at 619. The case at bar involved adjudication and dispositional hearings and the taking of judicial notice of prior testimony pursuant to section 2-18(6) of the Act. Regardless, it appears Charles' reliance on *In the Interest of J.G.* is based on misconception of the record. The court *In the Interest of J.G.* offered "observations regarding

the practice of taking judicial notice of all contents of the court file at a parental unfitness proceeding." *Id.* at 628. The court noted:

"If the State wishes the trial court to take judicial notice of portions of the court file in a particular unfitness proceeding, the State can make a proffer to the court of the material requested to be noticed. Defense counsel should then be allowed an opportunity to object to the State's request. Such a procedure would serve to focus the trial court's attention on only those matters that are admissible under the rules of evidence, as well as make it easier for the reviewing court to determine what the trial court actually relied on in making its decision of unfitness." *Id.* at 629.

¶ 34 In this case, the State initially asked the circuit court to take judicial notice of Carolina Bono and Kyle Turner's testimony from the temporary custody hearing. Charles objected, and the circuit court ordered the State to provide a more specific proffer. The State did so, and Charles provided his specific objections to the testimony, which the circuit court subsequently ruled upon. Accordingly, Charles' reliance on *In the Interest of J.G.* is misplaced where the circuit court in this case, albeit in the context of an adjudication hearing, did make the State provide a specific proffer consistent with the authority Charles relies upon.

¶ 35 Charles also argues that the circuit court considered improper hearsay evidence when it took judicial notice of the prior temporary custody hearing testimony. Charles, however, fails to specify what testimony was hearsay and why it was hearsay. This court has held proper support for a claim of error requires more than just argument; it must also be supported by authority and be clearly defined. *Hood*, 210 Ill. App. 3d at 746. Additionally, this court "is

not simply a depository into which the appealing party may dump the burden of argument and research." *Id.* Charles states a general argument that hearsay evidence was admitted, but fails to state where and what hearsay evidence was admitted and why such evidence was hearsay.

¶ 36 Accordingly, we hold Charles is procedurally defaulted from challenging whether the circuit court erred in taking judicial notice of prior testimony from the temporary custody hearing pursuant to section 2-18(6) of the Act (705 ILCS 405/2-18(6) (West 2012)) for failing to elaborate on his argument, cite relevant or persuasive authority, or properly support his allegations of error.

¶ 37 Charles' final issue is whether the circuit court's adjudicatory findings that Mileena was neglected in that her environment was injurious to her welfare (720 ILCS 405/2-3(1)(b) (West 2012)) and abused in that she was at substantial risk of physical injury (705 ILCS 405/2-3(2)(ii) (West 2012)) were against the manifest weight of the evidence. The State and Mileena's attorney maintain that the circuit court's adjudicatory findings were not against the manifest weight of the evidence.

¶ 38 In all proceedings under the Act, the best interest of the child is the supreme consideration which takes precedence over all other considerations. *In re Arthur H., Jr.*, 212 Ill. 2d 441, 464 (2004); *In re Austin W.*, 214 Ill. 2d at 46. The Act provides for a two-step process for determining whether a minor should be removed from a parent's custody and be made a ward of the court. *In re A. W.*, 231 Ill. 2d 241, 254 (2008); *In re Jay H.*, 395 Ill. App. 3d 1063, 1068 (2009). First, an adjudication hearing is held to determine whether the minor is abused, neglected, or dependent. *In re Jay H.*, 395 Ill. App. 3d at 1068. Only if such findings are made does the matter proceed to the second stage of the process; a dispositional hearing to determine whether to make the minor a ward of the court. *Id.*

¶ 39 At the adjudicatory hearing, the State must prove its allegations by a preponderance of the evidence. *In re Faith B.*, 216 Ill. 2d 1, 13 (2005). The preponderance of the evidence standard is defined as "proof that makes the condition more probable than not." *In re N.B.*, 191 Ill. 2d 338, 343 (2000). In other words, the State has the burden of establishing that its allegations "are more probably true than not." *In re Arthur H., Jr.*, 212 Ill. 2d at 464. We will not reverse the circuit court's adjudication findings unless they are contrary to the manifest weight of the evidence, *i.e.*, the "opposite conclusion is clearly evident." *Id.*; *In the Interests of: D.W., V.R., and N.B., jr.*, 386 Ill. App. 3d 124, 134 (2008). "Cases involving allegations of abuse, neglect, and adjudication of wardship are *sui generis*, and must be decided on the basis of their unique facts." *In re Kamesha J.*, 364 Ill. App. 3d at 793.

¶ 40 The Act provides, in pertinent part, that a neglected minor is "any minor \*\*\* whose environment is injurious to \*\*\* her welfare." 705 ILCS 405/2-3(1)(b) (West 2012). Neglect, as defined by our supreme court, is the "' failure to exercise the care that circumstances justly demand.'" *In re N.B.*, 191 Ill. 2d at 346 (quoting *People ex rel. Wallace v. Labrenz*, 411 Ill. 618, 624 (1952)). Both willful and unintentional disregard of duty constitutes neglect. *Id.* The term, however, is not "'of fixed and measured meaning.'" *Id.* Rather, "[i]t takes its content always from specific circumstances, and its meaning varies as the context of the surrounding circumstances changes." *Id.* The term "injurious environment" is a "amorphous concept that cannot be defined with particularity." *In re Arthur H.*, 212 Ill. 2d at 463. Illinois courts have generally "interpreted 'injurious environment' to include the breach of a parent's duty to ensure a 'safe and nurturing shelter' for his or her children." *In re N.B.*, 191 Ill. 2d at 346 (quoting *In re M.K.*, 271 Ill. App. 3d 820, 826 (1995)).

¶ 41 The Act defines an abused minor, in pertinent part, as follows:

"any minor\*\*\* whose parent or immediate family member, or any person responsible for the minor's welfare, or any person who is in the same family or household as the minor, or any individual residing in the same house as the minor, or a paramour of the minor's parent:

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(ii) creates a substantial risk of physical injury to such minor by other than accidental means which would be likely to cause death, disfigurement, impairment of emotional health, or loss or impairment of any bodily function." 705 ILCS 405/2-3(2)(ii) (West 2012).

¶ 42 Furthermore, "[i]t is well settled that the State may use the evidence of neglect and abuse of one child as evidence of abuse and neglect of another child who lives in the same household and for whom the same parent is also responsible." *In re R.G. and A.M.*, 2012 IL App (1st) 120193, ¶ 49. Specifically, section 2-18(3) of the Act provides that "proof of the abuse, neglect or dependency of one minor shall be admissible evidence on the issue of the abuse, neglect or dependency of any other minor for whom the respondent is responsible." 705 ILCS 405/2-18(3) (West 2012).

¶ 43 Applying these principles to the case at bar, we hold that the circuit court's findings that Mileena was neglected based on an injurious environment (720 ILCS 405/2-3(1)(b) (West 2012)) and abused in that she was at a substantial risk of physical injury (705 ILCS 405/2-3(2)(ii) (West 2012)) were not against the manifest weight of the evidence. The State presented the prior

testimony of Carolina Bono and Kyle Turner, which showed Lillian, the custodial parent, had a history of substance abuse and physical abuse. Bono and Turner further provided testimony showing that Lillian had been diagnosed with several mental health afflictions, including panic disorder, major depression, and anxiety. Bono and Turner's testimony established that Lillian had been in need of multiple services, which she did not stay current on or complete. The State presented Lillian's prior adjudicated findings of neglect and abuse of Mileena's siblings, which showed the children endured excessive corporal punishment and physical abuse. See 705 ILCS 405/2-18(3) (West 2012) ("In any hearing under this Act, proof of the abuse, neglect or dependency of one minor shall be admissible evidence on the issue of the abuse, neglect or dependency of any other minor for whom the respondent is responsible."). The State also presented Lillian's drug drops, the most recent of which tested positive for cannabis. Lillian had previously tested positive alcohol, cocaine, and amphetamines or methamphetamines.

¶ 44 Based on the evidence presented at the adjudication hearing showing Lillian's substance abuse, her physical abuse of her other children, and her failure to stay current on her recommended services, we cannot say that the "opposite conclusion is clearly evident" in this case. *In re Arthur H., Jr.*, 212 Ill. 2d at 464. Stated differently, Lillian's substance abuse, physical abuse, and failure to stay current on her recommended services leads us to conclude that the State proved its allegations by a preponderance of the evidence because its allegations are "are more probably true than not." *Id.* Accordingly, the circuit court's findings that of neglect and abuse were not against the manifest weight of the evidence.

¶ 45 CONCLUSION

¶ 46 The judgment of the circuit court of Cook County is affirmed.

¶ 47 Affirmed.