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FIRST DIVISION
December 31, 2014

Nos. 1-14-2536 & 1-14-2775 (cons.)
2014 IL App (1st) 142536-U

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

IN THE INTEREST OF:)	
)	
Sharinez T. and Shamyia W.,)	Appeal from the
)	Circuit Court of
Minors-Respondents-Appellees,)	Cook County.
)	
(THE PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Petitioner-Appellee,)	Nos. 14 JA 219, 220
)	
v.)	
)	Honorable
RASHAWNA B.,)	Robert Balanoff,
)	Judge Presiding.
Respondent-Appellant.))	

JUSTICE CONNORS delivered the judgment of the court.
Presiding Justice Delort and Justice Cunningham concurred in the judgment.

ORDER

Held: Dispositional orders were void and must be vacated where juvenile court failed to find minors wards of the court before awarding fathers permanent custody.

¶ 1 Respondent-mother Rashawna B. appeals from the juvenile court's dispositional orders granting custody of the minors Sharinez T. and Shamyia W. to their respective fathers.

Respondent contends that the court lacked jurisdiction to award the fathers custody without first

making the minors wards of the court. Both the State, as well as counsel representing the minors, agree that the court lacked jurisdiction to make findings regarding permanent custody without first making the children wards of the court. The parties disagree, however, as to what the appropriate remedy is. Respondent contends that the portion of the dispositional order awarding custody to the fathers must be vacated, but that the minors should not be made wards of the court. The State and minors' counsel agree that the dispositional orders must be vacated, but they contend that the case should be remanded to juvenile court for further proceedings. We agree with the State.

¶ 2 On March 5, 2014, the State filed a petition for adjudication of wardship with respect to each of the minors, seeking to have them adjudicated neglected and abused under the Juvenile Court Act (Act), 705 ILCS 405/1-1 *et seq.* (West 2012). On August 4, 2012, there was an adjudication hearing wherein the parties agreed to a stipulation of facts. After hearing counsel's arguments, the juvenile court entered an adjudication order for eight-year-old Sharinez wherein the court found the minor to be neglected due to an injurious environment in violation of section 2-3(1)(b) of the Act, because the mother admitted to "using PCP." 705 ILCS 405/2-3(1)(b) (West 2012). The court also entered an adjudication order for two-year-old Shamyia wherein the court found the minor to be neglected due to an injurious environment in violation of section 2-3(1)(b) of the Act, as well as due to being a drug-exposed infant in violation of section 2-3(1)(c) of the Act. 705 ILCS 405/2-3(1)(b), (c) (West 2012). Respondent "does not contest the trial court's findings that Shamyia was neglected due to being a drug-exposed infant and that both minors were neglected as being in an injurious environment."

¶ 3 On August 4, 2014, immediately following the adjudication hearing, the case proceeded to a dispositional hearing. The court heard testimony from the caseworker and received two

exhibits. The court then entered a dispositional order for each minor pursuant to the section 2-27 of the Act. 705 ILCS 405/2-27 (West 2012). In each order, the court left unchecked a box stating that the minor is adjudged a ward of the court. In each order, the court found the mother unable and the father fit, able, and willing to care for, protect, train or discipline the minor. In each order the court further found that reasonable efforts had been made, and that appropriate services with the fathers had been successful, and that it was not in the minor's best interest to be made a ward of the court. Instead, the court in each order directed that the minor remain in the care of her father.

¶ 4 All parties agree that the juvenile court lacked the authority to give custody of the minors to the fathers. The Act provides a series of progressive steps to be followed by the court and the parties for minors who are abused, neglected, or dependent, and the juvenile court's authority depends on the proper completion of these steps. After the juvenile court finds that the State has satisfied its burden of proof in an adjudicatory hearing and makes a finding of abuse or neglect, the juvenile court is to set a date for a dispositional hearing, in which the court will determine whether it is consistent with the health, safety, and best interests of the minor and the public to make the minor a ward of the court. 705 ILCS 405/1-3(6), 2-21, 2-22 (West 2012). "Only after a finding that the minor should be made a ward of the court can the court issue a dispositional order affecting the future conduct of the parents." *In re C.L.*, 384 Ill. App. 3d 689, 693 (2008) (citing 705 ILCS 405/2-27(1)(a) (West 2012)). The court must first make a finding that it is in the best interest of the minor to become a ward of the court before it can consider the need for guardianship or whether a parent is dispositionally unfit. *Id.* "Dispositional decisions, such as visitation orders, findings of unfitness, and determinations of guardianship are statutorily predicated upon the court first making the minors wards of the court." *Id.* at 697.

¶ 5 Here, the juvenile court's dispositional orders were not authorized by the Act, and thus the court's grant of custody to the fathers was premature. "Dispositional orders that are not authorized by statute are void and must be vacated." *Id.* Therefore, we vacate that portion of the order, challenged by respondent in this case, granting custody of the minors to the respective fathers. We further remand the matter to the juvenile court for a new dispositional hearing consistent with the Act. See *In re Ashli T.*, 2014 IL App (1st) 132504, ¶ 26 (vacating order and remanding case where juvenile court ordered permanent custody to the father but never found child abused or neglected in an adjudication hearing, and never made the child a ward of the court in a dispositional hearing). We note, however, that nothing in the Act requires that wardship of the court, once established, must continue for a certain period of time. Instead, it can be terminated immediately, and custody granted to the fathers, as the Act contemplates that "[w]henver the court determines, and makes written factual findings, that health, safety, and the best interests of the minor and the public no longer require the wardship of the court, the court shall order the wardship terminated." 705 ILCS 405/2-31(2) (West 2012).

¶ 6 Order vacated; cause remanded.