

**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).

2014 IL App (4th) 140398-U  
NOS. 4-14-0398, 4-14-0399 cons.

**FILED**  
October 6, 2014  
Carla Bender  
4<sup>th</sup> District Appellate  
Court, IL

IN THE APPELLATE COURT  
OF ILLINOIS  
FOURTH DISTRICT

In re: K.L., a Minor,	)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,	)	Circuit Court of
Petitioner-Appellee,	)	Sangamon County
v. (4-14-0398)	)	No. 13JA104
TRUDY HOPKINS,	)	
Respondent-Appellant.	)	
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In re: K.J., a Minor,	)	No. 13JA105
THE PEOPLE OF THE STATE OF ILLINOIS,	)	
Petitioner-Appellee,	)	
v. (4-14-0399)	)	Honorable
TRUDY HOPKINS,	)	Esteban F. Sanchez,
Respondent-Appellant.	)	Judge Presiding.

JUSTICE HARRIS delivered the judgment of the court.  
Presiding Justice Appleton and Justice Steigmann concurred in the judgment.

**ORDER**

¶ 1 *Held:* Respondent's request to allow her counsel to withdraw on appeal is granted and the trial court's dispositional order, adjudicating respondent's minor grandchildren, over whom she was guardian, neglected and placing their custody and guardianship with the Illinois Department of Children and Family Services, is affirmed.

¶ 2 Respondent, Trudy Hopkins, the guardian of two minors, K.L. and K.J, appeals trial court's dispositional order adjudicating K.L. and K.J. wards of the court, placing the minors' custody and guardianship with the Illinois Department of Children and Family Services (DCFS), and granting the State's request to remove respondent from the case. On appeal, respondent now maintains there is no legitimate legal basis for her appeal. She asks that her counsel be allowed

to withdraw as her attorney and her appeal be dismissed. We allow respondent's counsel to withdraw as counsel on appeal and affirm the trial court's judgment.

¶ 3

### I. BACKGROUND

¶ 4 The record shows, on May 30, 2013, K.L. and K.J.'s younger sibling, I.J., died while in their mother's care. As an investigation into that child's death was pending, the minors were placed with respondent, their maternal great-grandmother, under a safety plan. On July 5, 2013, DCFS received a report that K.J. accidentally overdosed on medication and was hospitalized.

¶ 5 On July 9, 2013, the State filed petitions alleging K.L., age 9 (case No. 13-JA-104), and K.J., age 6 (case No. 13-JA-105), were neglected minors and seeking to have them adjudicated wards of the court. The State alleged neither minor was receiving the proper care and supervision necessary for their well-being as evidenced by (1) the inadequate supervision of each minor and (2) both respondent and the minors' mother failing to make proper care plans for the minors. Additionally, the State alleged K.J.'s environment was injurious to his welfare as a result of his access to, and ingestion of, prescription medication and his resulting hospitalization. The same day the State filed its petitions, the trial court entered shelter-care orders, finding "by stipulation of [respondent]" that there was probable cause to believe K.L. and K.J. were neglected. The court also appointed counsel to represent the minors' parents and respondent.

¶ 6 On February 19, 2014, the trial court conducted a hearing in the matter. The minors' mother stipulated that K.L. and K.J. were neglected because neither minor was receiving the proper care and supervision necessary for their well-being due to inadequate supervision. Respondent's counsel asserted respondent had "[n]o position" with respect to the mother's stipu-

lation. The State presented the following factual basis:

"If this matter were to go to hearing, evidence would be presented that on July 4th of 2013, the minor known as [K.J.] had to go to Memorial Medical Emergency Room.

During that time it was discovered that he was having what appeared to be a hallucination and he was in need of medical care. The diagnosis—the clinical diagnosis would have been exposure to some medicine—medication that he was not supposed to have exposure to.

Further investigation into that situation would show that [K.L. and K.J.] were under the guardianship of [respondent] at that time, their great[-]grandmother \*\*\*."

That during that time the guardians [*sic*] had left both children in the care of their mother \*\*\* and that while [the mother] was to be tending to the children, she left the home and left them unsupervised, which is the time period in which [K.J.] ingested the medication that made him sick, in need of emergency medical care."

Upon inquiry by the court, the minor's mother asserted she understood the proceedings and the rights she would be giving up by admitting an allegation in the State's petitions. She also asserted that she had not been forced or threatened into making an admission. The court accepted the mother's stipulations, concluding they were voluntarily and knowingly made, and found K.L. and

K.J. neglected.

¶ 7 On April 16, 2014, the trial court conducted a dispositional hearing in the matter. The record contains no report of proceedings, bystander's report, or agreed statement of facts describing the hearing. However, the court entered a dispositional order with respect to both cases on the same date, showing it adjudicated the minors wards of the court and placed their custody and guardianship with DCFS. The court's order also stated as follows:

"State asks for [respondent] (Guardian) and [respondent's counsel] to be removed from the case—GRANTED[.]

State asks for DCFS/[Center For Youth and Family Solutions] be ordered not to place children back with [respondent]—[respondent's counsel objects]—Denied—Left in DCFS discretion[.]"

¶ 8 The record shows that, following the dispositional hearing, respondent retained private counsel. On May 6, 2014, attorney Sean M. Liles entered his appearance on respondent's behalf in both minors' cases.

¶ 9 On May 12, 2014, respondent filed notices of appeal in each case from the court's April 16, 2014, dispositional order, asserting she was appealing the termination of her guardianship of K.L. and K.J. The cases were consolidated on appeal.

¶ 10 II. ANALYSIS

¶ 11 On appeal, respondent's counsel asserts he "can raise no legitimate legal argument as to why the trial court's termination of [respondent's] guardianship was against the manifest weight of the evidence." Counsel asserts he "discussed the factual and legal ramifications of the

case with [respondent] and she is in agreement that there is not a non[ ]frivolous basis for pursuing her appeal of the termination of her guardianship." Respondent's counsel has identified several potential issues for review, each of which he contends present no legitimate legal basis for respondent's appeal. Following a review of the record, we agree that respondent's appeal presents no meritorious issues for review.

¶ 12 Respondent's counsel first maintains that any argument that the trial court erred in finding K.L. and K.J. neglected would be frivolous. We agree.

¶ 13 The Juvenile Court Act of 1987 (Act) (705 ILCS 405/1-1 *et seq.* (West 2012)) sets forth a two-step process for deciding whether a minor should become a ward of the court. *In re A.P.*, 2012 IL 113875, ¶ 18, 981 N.E.2d 336. First, the trial court must conduct an adjudicatory hearing to determine " 'whether the minor is abused, neglected or dependent.' " *A.P.*, 2012 IL 113875, ¶ 19, 981 N.E.2d 336 (quoting 705 ILCS 405/2-18(1) (West 2010)). A neglected minor includes "any minor under the age of 14 years whose parent or other person responsible for the minor's welfare leaves the minor without supervision for an unreasonable period of time without regard for the mental or physical health, safety, or welfare of that minor." 705 ILCS 405/2-3(1)(d) (West 2012).

¶ 14 " [T]he purpose of juvenile court proceedings is to determine the *status* of the child on whose behalf the proceedings are brought, *not* to determine any particular person's criminal or civil liability.' (Emphases in original.)" *In re J.W.*, 386 Ill. App. 3d 847, 854, 898 N.E.2d 803, 809 (2008) (quoting *In re R.B.*, 336 Ill. App. 3d 606, 614, 784 N.E.2d 400, 407 (2003)). "A custodial parent's admission and stipulation, *by itself*, may be sufficient to support a finding of abuse or neglect." (Emphasis in original.) *R.B.*, 336 Ill. App. 3d at 616, 784 N.E.2d at 408.

¶ 15 The State must prove neglect allegations by a preponderance of the evidence. *A.P.*, 2012 IL 113875, ¶ 17, 981 N.E.2d 336. "In other words, the State must establish that the allegations of neglect are more probably true than not." *A.P.*, 2012 IL 113875, ¶ 17, 981 N.E.2d 336. "On review, a trial court's finding of neglect will not be reversed unless it is against the manifest weight of the evidence" and "[a] finding is against the manifest weight of the evidence only if the opposite conclusion is clearly evident." *A.P.*, 2012 IL 113875, ¶ 17, 981 N.E.2d 336.

¶ 16 Here, at a hearing on the State's petition, the minors' mother admitted that K.L. and K.J. were neglected because neither minor was receiving the proper care and supervision necessary for their well-being due to inadequate supervision. The State presented a factual basis to support that allegation and the mother's admission. It asserted its evidence would show K.L. and K.J. had been under the guardianship of respondent, respondent left the children in the care of their mother, the mother then left the children at home unsupervised, and K.J. ingested medication that made him ill and required emergency medical care. At the hearing, respondent, who was represented by counsel, took "[n]o position" with respect to the mother's stipulation. Additionally, the record shows respondent herself made a stipulation as to neglect of the minors at the shelter-care hearing. Based upon these circumstances, the trial court's neglect finding was not against the manifest weight of the evidence.

¶ 17 Respondent's counsel next contends any argument that the trial court erred by placing the minors in the custody and guardianship of DCFS rather than returning them to respondent would be frivolous. We agree that the record shows no error.

¶ 18 Following the adjudicatory hearing and a finding of neglect, the trial court conducts the dispositional hearing, to determine "whether it is consistent with the health, safety and

best interests of the minor and the public that the minor be made a ward of the court." *A.P.*, 2012 IL 113875, ¶ 21, 981 N.E.2d 336. "[I]f [a minor] is to be made a ward of the court, the court shall determine the proper disposition best serving the health, safety and interests of the minor and the public." 705 ILCS 405/2-22(1) (West 2012). As part of its dispositional order, the trial court may continue a minor in, or restore a minor to, the custody of his or her parents, guardian, or legal custodian or commit the minor to DCFS for care and service. 705 ILCS 405/2-23(1)(a) (West 2012); 705 ILCS 405/2-27(1)(d) (West 2012).

"However, in any case in which a minor is found by the court to be neglected \*\*\*, custody of the minor shall not be restored to any parent, guardian or legal custodian whose acts or omissions or both have been identified \*\*\* as forming the basis for the court's finding of abuse or neglect, until such time as a hearing is held on the issue of the best interests of the minor and the fitness of such parent, guardian or legal custodian to care for the minor without endangering the minor's health or safety, and the court enters an order that such parent, guardian or legal custodian is fit to care for the minor." 750 ILCS 405/2-23(1)(a) (West 2012).

¶ 19 On review, the trial court's dispositional "decision will be reversed only if the findings of fact are against the manifest weight of the evidence or the court committed an abuse of discretion by selecting an inappropriate dispositional order." *J.W.*, 386 Ill. App. 3d at 856, 898 N.E.2d at 811. We note "[a]ny doubts which may arise from the incompleteness of the record will be resolved against the appellant." *Foutch v. O'Bryant*, 99 Ill. 2d 389, 392, 459 N.E.2d

958, 959 (1984). Specifically, "an appellant has the burden to present a sufficiently complete record of the proceedings at trial to support a claim of error, and in the absence of such a record on appeal, it will be presumed that the order entered by the trial court was in conformity with law and had a sufficient factual basis." *Foutch*, 99 Ill. 2d at 391-92, 459 N.E.2d at 959.

¶ 20 Here, the trial court conducted the dispositional hearing on April 16, 2014. The record does not contain a report of those proceedings, bystander's report, or agreed statement of facts describing the evidence presented at the hearing. It does contain the court's dispositional order, showing the court found (1) it was in the best interests of the minors and the public that K.L. and K.J. be made wards of the court and (2) the minors' "parents, guardian, or legal custodian [were] unfit or unwilling for some reason other than financial circumstances alone to care for, protect, train, educate, supervise or discipline the minor[s]." The order further shows the court adjudicated the minors wards of the court and placed their custody and guardianship with DCFS.

¶ 21 As stated, we must resolve any incompleteness in the record against respondent. In this instance, the appellate record does not reflect what occurred at the dispositional hearing, including what evidence was presented to support the trial court's order. Thus, we presume the court acted in conformity with the law and that its dispositional order was supported by a sufficient factual basis. Additionally, we note the court entered a permissible dispositional order by placing the custody and guardianship of the minors with DCFS. As stated, the record reflects no error.

¶ 22 Finally, respondent's counsel maintains no nonfrivolous argument can be made that the trial court erred by granting the State's motion to remove respondent from the case. Again, we agree.

¶ 23 Section 1-5(1) of the Act (705 ILCS 405/1-5(1) (West 2012) "states that the necessary parties to [neglect] proceedings are the minor and 'his parents, guardian, legal custodian or responsible relative.' " *In re C.C.*, 2011 IL 111795, ¶ 38, 959 N.E.2d 53. However, once an individual is dismissed or removed as a guardian, he or she is no longer a party respondent to the neglect proceedings and dismissal of that individual as a party by the trial court is appropriate. *C.C.*, 2011 IL 111795, ¶ 54, 959 N.E.2d 53.

¶ 24 In *C.C.*, 2011 IL 111795, ¶ 1, 959 N.E.2d 53, the respondent was appointed the legal guardian of her grandchildren. However, during neglect proceedings the trial court determined it was in the grandchildren's best interests that custody and guardianship be removed from the respondent and the children's parents. *C.C.*, 2011 IL 111795, ¶ 23, 959 N.E.2d 53. The court placed custody and guardianship with DCFS, dismissed the respondent from the case, and discharged the respondent's counsel. *C.C.*, 2011 IL 111795, ¶ 23, 959 N.E.2d 53. On review, the supreme court affirmed the circuit court's judgment, finding the respondent's dismissal from the case following the dispositional hearing and removal of her guardianship was appropriate. *C.C.*, 2011 IL 111795, ¶ 54, 959 N.E.2d 53. Additionally, the court stated as follows:

"[W]e note that [the respondent] is not left without recourse. Pursuant to section 1-5(2)(a) [of the Act], [the respondent] may have the right to be heard by the court as a previously appointed relative caregiver interested in the minors. See 705 ILCS 405/1-5(2)(a) (West 2010). [The respondent] also may seek restoration of her guardianship status pursuant to section 2-28 of the Act. See 705 ILCS 405/2-28 (West 2010)." *C.C.*, 2011 IL 111795, ¶ 54, 959

N.E.2d 53.

¶ 25 Here, respondent, as the minors' guardian, was a party respondent and involved in the underlying proceedings. Ultimately, however, she was removed as the minors' guardian and, following the dispositional hearing, dismissed from the case as a party by the trial court. We find no error in the court's action, as respondent's dismissal from the case was appropriate upon removal of her guardianship. Additionally, as noted by the supreme court in *C.C.*, respondent is not without recourse as a result of her dismissal from the case and may either be heard in any continuing proceedings as a previously appointed relative caregiver or move to restore her guardianship.

¶ 26 III. CONCLUSION

¶ 27 For the reasons stated, we allow respondent's attorney to withdraw as counsel on appeal and affirm the trial court's judgment.

¶ 28 Affirmed.