

No. 1-11-0678

NOTICE: This order was filed under Supreme Court Rules 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

In re S.E., J.E., C.B. Jr., C.B., D.D. and K.G., MINORS) Appeal from the Circuit Court
) of Cook County
(The People of the State of Illinois,)
) Nos. 09 JA 777
Petitioner-Appellee,) 09 JA 778
) 09 JA 779
v.) 09 JA 780
) 09 JA 781
Veronica E.,) 09 JA 782
)
Respondent-Appellant).) Honorable
) Joan M. Kubalanza,
) Judge Presiding.

JUSTICE CAHILL delivered the judgment of the court.
Presiding Justice Garcia and Justice Robert E. Gordon concurred in the judgment.

ORDER

¶ 1 **Held:** The judgment of the trial court finding minors to be neglected because their environment was injurious to their welfare and exposed them to a substantial risk of physical injury is affirmed over biological mother's contention that the court's ruling was against the manifest weight of the evidence.

¶ 2 Respondent, Veronica E., is the biological mother of the minors S.E., J.E., C.B. Jr., C.B., D.D. and K.G. She appeals from a trial court adjudication order under the Juvenile Court Act of 1987 (Act) (705 ILCS 405/2–3(1)(b), 2–3(2)(ii) (West 2008)), finding the minors to be neglected because their environment was injurious to their welfare and abused due to a substantial risk of physical injury. We affirm.

¶ 3 On August 27, 2009, when C.B. was six months old, she was diagnosed with liver trauma and multiple rib and arm fractures at the University of Chicago Comer Children’s Hospital. Because respondent was unable to explain what caused C.B.’s injuries, C.B. was referred to the Child Protective Services Team at the hospital. On September 9, 2009, Doctor Jill Glick examined C.B. and completed a “Multidisciplinary Pediatric Education and Evaluation Consortium” (MPEEC) report. Glick concluded in the MPEEC report that C.B.’s unexplained fractures were likely inflicted intentionally and were not the result of a single occurrence. The Illinois Department of Children and Family Services (DCFS) took protective custody of C.B. and her siblings on September 11, 2009.

¶ 4 On September 14, 2009, the State filed petitions for adjudication of wardship against each minor, alleging: respondent had one earlier report for inadequate supervision; an earlier “intact” case was opened to offer services to the family; and respondent had participated in mental health services. The State also alleged the minors were neglected because their environment was injurious to their welfare and abused due to a substantial risk of physical injury under the Act (705 ILCS 405/2–3(1)(b), 2–3(2)(ii) (West 2008)). The State further alleged C.B. was neglected under section 2–3(2)(i) of the Act (705 ILCS 405/2-3(2)(i) (West 2008)) because respondent

allowed her to be injured by other than accidental means.

¶ 5 In February 2010, DCFS initiated therapy for respondent and her family with Doctor Sanka Samardzija. On May 25, 2010, Samardzija wrote a letter detailing her findings. , Samardzija said in the letter that after 30 therapy sessions, the use of time lines, clinical interviews and play therapy, six-year-old S.E., C.B.'s half-sister, admitted to injuring C.B. On August 25, 2010, Samardzija was deposed and detailed the substance of her therapy and findings.

¶ 6 The court held an adjudicatory hearing on November 5, 2010. At the hearing, the State withdrew the allegation under section 2–3(2)(i) of the Act that respondent injured C.B. and the parties stipulated that, if called, Doctor Samardzija would testify that S.E. admitted to injuring C.B. S.E. told Samardzija that she grabbed C.B. by the wrists and swung her around a room inside the family's home. S.E. said that as she swung C.B. around the room, C.B. repeatedly made contact with furniture. S.E. told Samardzija that she was upset because no one was paying attention to her so she “kept swinging [C.B.] around and around and around.” S.E. also described two earlier occasions on which she hurt C.B.

¶ 7 The parties also stipulated that, if called, Yvonne Mitchell-Armour, a DCFS caseworker, would testify that respondent had one earlier report for inadequate supervision, the family was the subject of multiple hotline calls in the past and an earlier “intact” case for the family was closed on July 7, 2009. Mitchell-Armour would also testify that at the time the State filed the petitions for adjudication of wardship, respondent was noncompliant with her medication for depression and in violation of a safety plan that was created by DCFS for the family on August 31, 2009.

¶ 8 The State also presented at the adjudication hearing respondent's medical records, Doctor Glick's MPEEC report and a transcript of Doctor Samardzija's deposition testimony.

Respondent's medical records showed respondent had a history of depression and mental health problems. Glick concluded in the MPEEC report that C.B.'s "skeletal injuries [were] of differing ages, involve[d] multiple mechanisms and most importantly there [was] no history" to explain the cause of C.B.'s injuries.

¶ 9 In her deposition testimony, Doctor Samardzija said S.E. described three different occasions on which she injured C.B. Although Samardzija did not diagnose S.E. with a personality disorder, she found S.E. to be a traumatized child. Samardzija did not believe that respondent suspected S.E. suffered from mental illness or that respondent observed S.E. behaving aggressively toward C.B. Samardzija said that when she shared her findings about S.E. with respondent, respondent accepted responsibility for failing to adequately supervise S.E. Samardzija opined that respondent's struggle with stress and depression may have contributed to the circumstances leading to C.B.'s injuries.

¶ 10 On December 10, 2010, the trial court entered an adjudication order, finding the minors to be neglected because their environment was injurious to their welfare and abused due to a substantial risk of physical injury under the Act (705 ILCS 405/2-3(1)(b), 2-3(2)(ii) (West 2008)). The court noted in the order that C.B. suffered severe injuries inflicted by her sister and that respondent violated a safety plan implemented by DCFS for the family's benefit. In entering the order, the court noted that it was not determining whether respondent was responsible for C.B.'s injuries "but whether there [has] been abuse or neglect that [has] taken place" based on

the existence of an injurious environment and substantial risk of physical harm.

¶ 11 The court held a disposition and permanency hearing on February 18, 2011. On that date, the court entered a disposition order, finding that it was in the best interest of the minors that they be adjudged wards of the court and appointing D. Jean Ortega-Piron, DCFS's guardianship administrator, as the minor's guardian with the right to place them. The court also found that respondent was unable to care for, protect, train or discipline the minors and that it was in the minors' best interest to remove them from respondent's custody. On the same date, the court entered a permanency order with the goal of return home within five months. The order noted that respondent had made substantial progress toward this goal.

¶ 12 Respondent appeals, arguing that the trial court's findings were against the manifest weight of the evidence. A trial court's finding of neglect or abuse will not be reversed unless it is against the manifest weight of the evidence. *In re Faith B.*, 216 Ill. 2d 1, 13-14, 832 N.E.2d 152 (2005). A finding is against the manifest weight of the evidence if the opposite conclusion is " 'clearly evident.' " *In re Faith B.*, 216 Ill. 2d at 13-14 (quoting *In re Arthur H.*, 212 Ill. 2d 441, 464, 819 N.E.2d 734 (2004)). Because the State need only prove a single ground for neglect, when the trial court has found a minor neglected on several grounds, we may affirm if any of the court's bases of neglect may be upheld. *In re Faith B.*, 261 Ill. 2d at 14.

¶ 13 Respondent contends that the trial court erred in concluding that an injurious environment existed because of a lack of supervision where the State failed to show that respondent knew S.E. posed a threat to her siblings. A minor is neglected when exposed to an environment injurious to his or her welfare. 705 ILCS 405/2-3(1)(b) (West 2008). An injurious

environment is an amorphous concept that has been interpreted to include the breach of a parent's duty to ensure a safe and nurturing shelter for their children. *In re Arthur H.*, 212 Ill. 2d at 463. Neglect is defined as the failure to exercise the care that circumstances justly demand. *In re Arthur H.*, 212 Ill. 2d at 463. Neglect should not be defined narrowly and encompasses unintentional disregard of parental duties. *In re Arthur H.*, 212 Ill. 2d at 463. Cases involving allegations of neglect are decided on the basis of their individual circumstances. *In re Arthur H.*, 212 Ill. 2d at 463.

¶ 14 Here, based on the stipulated facts and circumstances, we cannot say that the trial court erred in finding the minors to be neglected because their environment was injurious to their welfare. It is undisputed that C.B. was injured on three different occasions. The evidence presented at the adjudication hearing showed that S.E. injured C.B. because she was upset that no one was paying attention to her. S.E. told Doctor Samardzija that she swung C.B. around a room inside the family's home and that C.B. repeatedly made contact with furniture. S.E. also told Samardzija that she injured C.B. on two other separate occasions. S.E.'s account of how she injured C.B. was consistent with C.B.'s injuries. When Samaradzija shared her findings about S.E. with respondent, respondent acknowledged failing to adequately supervise S.E. The record shows that at the time C.B. was injured, respondent had one earlier report for inadequate supervision and was in violation of a safety plan that was created by DCFS for the benefit of the family. This evidence was sufficient to establish respondent failed to exercise the care demanded from the circumstances of raising six children and breached her duty to ensure a safe and nurturing shelter for her children.

¶ 15 In reaching this conclusion, we are unpersuaded by respondent's argument that the State was required to prove that she knew her children were at risk with S.E. in the house. The purpose of an adjudicatory hearing is "to determine whether the allegations of a petition *** that a minor under 18 years of age is *** neglected *** are supported by a preponderance of the evidence." See 705 ILCS 405/1–3(1) (2008); *In re Arthur H.*, 212 Ill. 2d at 465. The plain language of the Act instructs the circuit court to focus solely on whether a minor has been neglected. The Act makes no mention that during the adjudicatory stage of the proceedings the court is to determine who may be responsible for the minor's neglect. See *In re Arthur H.*, 212 Ill. 2d at 465.

¶ 16 We affirm the judgment of the circuit court of Cook County.

¶ 17 Affirmed.