

SECOND DIVISION
May 27, 2014

No. 1-14-0055

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).

**IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT**

In re MATTER OF:	)	Appeal from the
	)	Circuit Court of
TELA R., JEREMIAH R., TEAIRA R., minors,	)	Cook County
	)	
(PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	Nos. 13 JA 00327
Petitioner-Appellee,	)	13 JA 00328
	)	13 JA 00329
v.	)	
	)	
TASHONDA R.,	)	Honorable
	)	Peter J. Vilkelis,
Respondent-Appellant.)	)	Judge Presiding.

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

ORDER

¶ 1 *Held:* The trial court's determination that it was in the best interests of the minors to be made wards of the court was not against the manifest weight of the evidence where an assessment of respondent found that she was in need of therapy and parenting services, and at the time of the dispositional hearing she had not yet completed these services.

¶ 2 Respondent Tashonda R., appeals the orders of the circuit court regarding the custody of minors Tela R., Jeremiah R., and Teaira R. On appeal, Tashonda contends that the trial court erred in adjudicating the minors wards of the court and finding it was in their best interests to be placed in the custody of the State. For the following reasons, we affirm.

¶ 3 JURISDICTION

¶ 4 The trial court adjudicated the minors wards of the court and placed them in the custody of the State on December 30, 2013. Tashonda filed this appeal on January 3, 2014. This court has jurisdiction pursuant to Illinois Supreme Court Rules 301 and 303 governing appeals from final judgments entered below. Ill. S. Ct. R. 301 (eff. Feb. 1, 1994); R. 303 (eff. May 30, 2008).

¶ 5 BACKGROUND

¶ 6 The minors subject to the proceedings below, Tela, Teaira, and Jeremiah, are three of Tashonda's nine children. Tela, the oldest, was born in September 2001, Teaira was born in May 2005, and Jeremiah was born in August 2011. Tashonda also gave birth to five other boys: Timothy, Tyler, Charles, James, and Tyshan. They are not subject to this appeal because custody arrangements have been made with their fathers. Tashonda's ninth child, Christabella, was born in May 2013, after the commencement of these proceedings. Christabella was not placed in protective custody because a relative is taking care of her under a safety plan.

¶ 7 The Department of Children and Family Services (DCFS) first came into contact with Tashonda's family on February 19, 2013, when it was reported that Charles had welts on his backside and a swollen face, and Tyshan had a scrape and a "knot" on his face. It was also reported that the children only ate at school. During the investigation of these incidents, a hotline call on March 18, 2013, alleged that Tyler was at the hospital because he walked "like an

old man" and he refused to eat. He was eventually diagnosed with an abdominal injury and a distended stomach, probably caused by internal hemorrhaging. Tyler told doctors that his older brother, Timothy, "beat on him." Tashonda did not take Tyler to a follow-up appointment and six days after first being admitted to the hospital, Tyler returned in extreme pain. Doctors found that the hematoma had grown and Tyler told them that he did not want to return home. The incident led to seven reports against Tashonda indicating medical neglect, substantial risk of physical injury, an injurious environment, and inadequate supervision.

¶ 8 On April 3, 2013, the State filed a petition for adjudication of wardship for Tela, Teaira, and Jeremiah. The petition alleged that the minors were neglected due to lack of care and an injurious environment, and were abused due to a substantial risk of physical injury. The trial court held the adjudication proceeding on October 30, 2013. In the proceeding, investigator Sharon Smith testified on behalf of the State.

¶ 9 Smith testified that she was assigned to investigate the reports of welts on Charles' back and face, and the incidents leading to Tyler's first hospitalization. Smith stated that Charles told her that his mother hit him in the face because she was angry. Tyler told Smith that his older brother, Timothy, beat him while his mother was "horse playing" with the other children. Tashonda informed Smith that Timothy had a mental disorder that required medication, but he had not been taking his medication for nine months because she just moved from Indiana to Illinois and did not have an Illinois medical card. Tashonda acknowledged that when she resided in Indiana, that state removed all of her children from her custody but her case was recently closed.

¶ 10 On March 26, 2013, Smith began to investigate allegations of medical neglect relating to Tyler's second hospitalization, in which he was readmitted for an infection in his abdomen and

underwent surgery. Tyler told Smith that after he was discharged from his first hospital stay, Timothy kicked him while they were lying in the bed. When his injury became infected, Tashonda used toenail clippers to try to drain the wound. Tashonda missed two follow-up appointments. Tyler's medical records indicated that his abdominal wall had a hematoma that subsequently became infected, and surgery was required to drain the abscess. Medical records also revealed that Tashonda failed to attend follow-up appointments. Furthermore, all of the children had the sickle cell trait.

¶ 11 Smith testified that she also spoke to Tyler's other siblings. Teaira told her that Timothy continues to beat Tyler, and Tela added that Timothy "terrorizes her mother and terrorizes the whole house." They told Smith that they would eat at home only on Mondays and Thursdays. Teaira's school informed Smith that Teaira would hoard food and take it out of the school.

¶ 12 Smith removed all of the children from Tashonda's custody. DCFS took protective custody of Tela, Teaira, and Jeremiah, while the others went to live with relatives. Smith stated that she noticed Teaira walking with a limp and discovered that Teaira's toe was swollen and oozing. Smith took Teaira to a doctor and Teaira told her that Tashonda used a toenail clipper to pick at her toe.

¶ 13 After the State presented its case, Tashonda rested without presenting any witnesses on her behalf. The trial court found that Smith was a credible witness and found that Tela, Teaira, and Jeremiah were neglected due to an injurious environment and lack of necessary care. The court also found that the minors were abused due to a substantial risk of physical injury. The trial court noted that other than the injuries described, the children did not show any other signs of abuse or neglect which was "a good thing." It further noted, however, that "[t]hese children all lived in the same home, which appears to have been chaotic, to put it mildly, with no

meaningful adult supervision. A 10-year-old child who apparently needs medication [], who the mother herself describes as having mental problems, was, through this lack of supervision, allowed to injure this child, Tyler, to the point where he had an infection in his abdomen." The trial court found the situation "very disturbing."

¶ 14 The trial court held a disposition hearing on December 10, 2013. At the hearing, Ebony Warren, the caseworker for Tela, Teaira, and Jeremiah, testified for the State. At the time, Tela and Teaira were living together with a maternal great aunt and uncle, and Jeremiah was living with his father's relatives. An assessment team developed a service plan for the family. From the assessment of Tashonda, the team concluded that she appeared to lack empathy and insight, and could not comprehend the seriousness of the allegations against her. She had limited insight on appropriate ways to meet her children's emotional and behavioral needs, and may withdraw emotionally when caring for the children becomes overwhelming for her. Her continued involvement with children and family services in Illinois, after her experience in Indiana, indicates that she does not "recognize the actions that have been harmful to her children in order to move towards change and a safe and secure parenting style."

¶ 15 Based on the assessment, the team recommended that Tashonda participate in the following services: (1) individual therapy; (2) domestic violence victim support services; (3) parenting education; (4) housing advocacy; (5) visitation with her children; and (6) family therapy.

¶ 16 Warren testified that after Tela and Teaira were placed with their maternal great aunt and uncle, there have been no unusual incidents related to their care. Tela is doing well in school, and Teaira is being evaluated for special education services due to her difficulty with reading. Although it was recommended that both children participate in individual therapy, no therapists

had yet been engaged to provide that service. Since being placed with his paternal aunt, Jeremiah has been in the process of completing his immunizations. He is also participating in occupational, developmental, and speech therapy.

¶ 17 At the time of the hearing, Tashonda was beginning individual therapy sessions, but her first therapist left the agency and the new therapist could not provide a progress report because they were still getting to know each other. Although she completed a parenting class, it was recommended that Tashonda also engage in parent coaching. At the time of the hearing, Tashonda's therapist had not yet started the process of getting parent coaching services for her.

¶ 18 Tashonda visits Tela and Teaira weekly, and neither the agency nor the foster parent have concerns about her visits. However, Tashonda is unable to visit Jeremiah regularly due to transportation issues. His foster home is 30-40 minutes away, and Tashonda can only visit on Sundays because that is her day off of work. However, she needs to take the bus to visit Jeremiah, and the bus does not run on Sundays. Tashonda's other children remain in the care of relatives and have not been returned to her care.

¶ 19 Warren testified that it was in the best interests of Tela, Teaira, and Jeremiah to become wards of the court so that their progress can be monitored, and Tashonda can complete the recommended services. At the end of the hearing, the trial court found Tashonda unable, for reasons other than financial circumstances alone, to care for, protect, train, and discipline her children. It determined that it was in the best interests of the minors to remove them from their parents' custody and to place them in DCFS guardianship. It further stated that "the appropriate permanency goal is to return home in 12 months. The Court finds that [Tashonda] has made substantial progress toward the return home of these minors, the fathers have not. The services contained by the service plan are appropriate and reasonably calculated to facilitate achieving the

goal. The goal cannot be immediately achieved because services are ongoing." Tashonda filed this timely appeal.

¶ 20

ANALYSIS

¶ 21 The Juvenile Court Act (Act) (705 ILCS 405 (West 2010)) sets forth a two-step process courts use to determine whether a minor should be removed from a parent's custody and made a ward of the court. *In re A.W.*, 231 Ill. 2d 241, 254 (2008). The trial court first conducts an adjudication hearing to determine whether a minor is abused, neglected, or dependent. *In re Jay H.*, 395 Ill. App. 3d 1063, 1068 (2009). If the court makes a finding of abuse or neglect, it then conducts a dispositional hearing to determine whether to make the minor a ward of the court. *Id.*

¶ 22 On appeal, Tashonda challenges the trial court's disposition order but does not address its adjudication order. "Points not argued are waived and shall not be raised in the reply brief, in oral argument, or on petition for rehearing." Illinois Supreme Court R. 341(h)(7) (eff. Feb. 6, 2013). Accordingly, Tashonda has waived review of the trial court's adjudication order, and we affirm the trial court's determination in that order. See *In re R.S.*, 382 Ill. App. 3d 453, 464 (2008) (respondent waived review of the trial court's disposition order where she failed to address the court's dispositional ruling on appeal).

¶ 23 Tashonda contends that the trial court erred in finding that it is in the best interests of Tela, Teaira, and Jeremiah to be made wards of the court. A minor may be made a ward of the court if the parents are unable, for reasons other than financial circumstances alone, to care for, protect, train, or discipline the minor. 705 ILCS 405/2-27(1) (West 2010). In making this determination, the health, safety, and best interests of the minors are paramount. *In re Kamesha J.*, 364 Ill. App. 3d 785, 795 (2006). This court will not disturb the trial court's determination

unless it is against the manifest weight of the evidence. *In re T.B.*, 215 Ill. App. 3d 1059, 1062 (1991).

¶ 24 The trial court below had a sufficient basis to make Tela, Teaira, and Jeremiah wards of the court. The clinical assessment of Tashonda revealed that she appeared to lack empathy and insight, and could not comprehend the seriousness of the allegations against her. She also had limited insight on appropriate ways to meet her children's emotional and behavioral needs, and had a tendency to withdraw emotionally when caring for the children became overwhelming. Based on the assessment, the team recommended that Tashonda participate in the following services: (1) individual therapy; (2) domestic violence victim support services; (3) parenting education; (4) housing advocacy; (5) visitation with her children; and (6) family therapy.

¶ 25 In making its dispositional determination, the court found Tashonda unable, for reasons other than financial circumstances alone, to care for, protect, train, and discipline her children. It acknowledged that Tashonda "has made substantial progress toward the return home" of her children, but the services she requires are "ongoing" and have not been completed. The court further stated the "the appropriate permanency goal is to return home in 12 months" provided Tashonda complies with the terms of the service plan and corrects the conditions that led to the children's removal. The trial court's determination was not against the manifest weight of the evidence.

¶ 26 Tashonda disagrees, arguing that the trial court misevaluated the statutory best interest factors it must consider in making a determination. As support, she cites *In re B.B.*, 386 Ill. App. 3d 686 (2008). We note, however, that *In re B.B.* is a case involving the termination of parental rights. Tashonda's parental rights have not been terminated, and if she continues to progress and achieve the goals of the service plan, the permanency goal is the return of the

minors to her care in 12 months. The evidence shows that Tashonda is in need of further therapy and services so she can learn how to parent her children in an appropriate manner. Accordingly, the trial court did not err in adjudicating the minors wards of the court, and placing them in the guardianship of DCFS. See *In re Kamesha J.*, 364 Ill. App. 3d at 796 (although respondent participated in some recommended services, she did not complete all of the services and the trial court's determination in a dispositional hearing that she was unable to care for, protect, train or discipline her children was not against the manifest weight of the evidence).

¶ 27 For the foregoing reasons, the judgment of the circuit court is affirmed.

¶ 28 Affirmed.