FIRST DIVISION
JUNE 30, 2014

No. 1-14-0121

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

IN THE INTEREST OF: KANIYAH W., KENDALL W., KENTRELL W., and KENTRON W., minors,	)	Appeal from the Circuit Court of Cook County.
Minors-Respondents-Appellees,	)	
(The People of the State of Illinois,	)	Nos. 12 JA 1009
	)	12 JA 1010
Petitioner-Appellee,	)	12 JA 1011
	)	12 JA 1012
v.	)	
Kenisha W.,	)	Honorable Maureen Delehanty,
Respondent-Appellant).	)	Judge Presiding.

JUSTICE CUNNINGHAM delivered the judgment of the court.
Presiding Justice Connors and Justice Hoffman concurred in the judgment.

ORDER

¶ 1 *Held*: There was sufficient evidence to support the trial court's finding that one of mother's four children was neglected under the Juvenile Court Act of 1987 due to lack of care necessary, as well as the court's findings that the child and each of his three siblings were also neglected due to an injurious environment. There was also sufficient evidence to support the trial court's dispositional findings that mother was unable and unwilling to parent the four children and adjudging the children wards of the court.

¶ 2 Following an adjudication hearing, the Circuit Court of Cook County found that one child of appellant Kenisha W. ("Mother") was neglected under the Juvenile Court Act of 1987 due to lack of care necessary for the child's well-being, and further found that the child and Mother's three other children were neglected on the basis of an injurious environment. Following a disposition hearing, the court also found that Mother was unable or unwilling to properly care for the four children and thus declared the children wards of the court.

¶ 3 On appeal, Mother argues that: (1) there was insufficient evidence to support the trial court's findings of neglect for each of the four children, and (2) there was insufficient evidence to support the trial court's determination that Mother was unable and unwilling to parent the children so as to declare them wards of the court. For the following reasons, we affirm the judgment of the circuit court of Cook County.

¶ 4 BACKGROUND

¶ 5 Mother is a 24-year-old single parent. Mother has four children: a daughter Kaniyah (born August 16, 2008), a son Kendall (born December 20, 2010), and twin boys Kentrell and Kentron (born approximately four weeks premature on February 14, 2012). Mother has a history of marijuana use since at least age 16, including use during each of her pregnancies. Three different individuals fathered Kaniyah, Kendall, and Mother's twins. Kaniyah's father, who was incarcerated at the time of the adjudication and disposition hearings at issue, was the only father who appeared in this case and is not a party to this appeal. The whereabouts of Kendall's father and the twins' father are unknown.

¶ 6 Kentrell's health brought this family to the attention of the Illinois Department of Children and Family Services (DCFS) in the fall of 2012. Previously, Kentrell had undergone two surgeries for hernia in March 2012 and April of 2012 at Children's Memorial (now known as

Lurie Children's) Hospital. Notably, Kentrell lost significant weight at one point during the April hospitalization, as physicians had limited his nutrition to intravenous fluids for a period of five days. However, Kentrell regained weight toward the end of that April hospitalization, and medical records showed that by June 2012 he was within the normal weight range for a child his age.

¶ 7 At some point after June 2012, Kentrell's weight again began to decline. On September 28, 2012 Kentrell was admitted to the John H. Stroger, Jr. Hospital of Cook County (Stroger Hospital) due to his low weight. Kentrell was diagnosed with non-organic failure to thrive by Dr. Norell Rosado. Due to concern about possible neglect, Kentrell was also examined by Dr. Michele Lorand, head of Stroger Hospital's Division of Child Protective Services. Dr. Lorand determined that Kentrell's failure to thrive was caused by inadequate caloric intake. Kentrell was placed on a regular feeding schedule of infant formula and began to rapidly regain weight, gaining over one pound within the first three days of hospitalization.

¶ 8 During Kentrell's hospitalization, Mother was asked to bring her other three children to the hospital for examination. Dr. Lorand briefly examined each of Kentrell's three siblings on October 1, 2012. Dr. Lorand observed that the three children appeared "dirty" and that the eldest child, Kaniyah, had untreated eczema. Physicians also observed that Kentrell's twin, Kentron, had an unusually large head circumference. Dr. Lorand ordered further evaluation for the children, and a computed tomography (CT) scan of Kentron's head was scheduled for the following day, October 2.

¶ 9 The next day Mother arrived with Kentron for his CT scan, but hospital personnel had failed to inform her that Kentron could not have food or water for several hours prior to the scan. As Kentron had not fasted, Mother was told she needed to wait another three to four hours before

the CT scan could be performed. Mother became irate after being told of the wait time and began to yell and curse at hospital staff. Hospital records state that "[p]olice had to be called to the ED [emergency department] because [Mother] was screaming and cussing at everyone in the ED."

¶ 10 During this episode, Mother threatened to leave the hospital with Kentron before he received a CT scan. This threat and Mother's hostile behavior prompted Dr. Rosado to call the DCFS hotline. According to Dr. Rosado's notes, she "reported Kentrell *** for non-organic FTT [failure to thrive]" and "made a report for Risk of Harm because of [Mother's] chronic use of marijuana and her behavior in the ED which may have been a consequence of being under the influence." After DCFS became involved, all four children were taken into protective custody. Kaniyah was placed in the care of a paternal relative, and Kendall was placed with a maternal relative. The twins, Kentrell and Kentron,[1] were placed with a different caregiver following their discharge from Stroger Hospital.

¶ 11 On October 9, 2012, the State filed motions for temporary custody and petitions for adjudication of wardship for each of the four children. The trial court placed all four children in DCFS temporary custody and appointed a guardian *ad litem*. In its temporary custody order, the court also ordered DCFS to prepare a 45-day Case Plan pursuant to 705 ILCS 405/2-10.1, as well as conduct a Social Investigation. On October 9 and 10, the court entered orders allowing Mother visits with her children under the supervision of DCFS or private agency caseworkers. The Order on Visiting noted that "Mother needs to be assessed [and] engage in services."

[1] According to the State's petition for temporary custody, Kentron was eventually found to have fluid around the brain. The record on appeal does not indicate whether a cause for this condition was ever identified.

¶ 12 A DCFS caseworker interviewed Mother on October 26, 2012, in order to prepare an Integrated Assessment with recommendations for the family. In that interview, Mother acknowledged using marijuana during her pregnancies and admitted that each of her children had tested positive for marijuana at birth, yet she denied that marijuana use had impacted her parental abilities. Mother admitted that she had "cussed out" a nurse at Stroger Hospital on October 2, 2012, but blamed the hospital for acting "too quickly" in taking protective custody. Mother told the DCFS interviewer "that she would participate in services to work toward reunification, [but] she did not believe that she was in need of any services, aside from housing." According to the interview notes, Mother believed "she was a 'perfect parent' with no weaknesses and reported her belief that her only barrier to meeting her children's needs was to obtain her own housing."

¶ 13 The Integrated Assessment, completed on December 3, 2012, made several recommendations for Mother, including individual therapy "to process how her behavior, actions and choices *** have negatively impacted her parenting abilities, as well as her own emotional health and functioning." The assessment stated that therapy could help Mother develop "healthier coping mechanisms to deal with frustration, stress and challenge so that she does not resort to inappropriate behavior such as substance abuse or, in particular, aggression, as this behavior appeared likely to have contributed to the removal of [Mother's] children from her care." DCFS additionally recommended Mother's enrollment in a parenting education and parent coaching program. On January 9, 2013, the court approved a service plan agreed to by Mother's attorney, DCFS, and the Assistant State's Attorney. On the same date, the court ordered that a parenting coach be put into place.

¶ 14 Based on her history of marijuana use, DCFS recommended Mother work with a recovery coach program through Treatment Alternatives for Safer Communities (TASC) and

participate in random drug testing. On October 31, 2012, Mother participated in a substance abuse screening assessment in which she admitted use of marijuana since the age of 16 and acknowledged all of her children were born exposed to marijuana. The assessment found that Mother met the Diagnostic and Statistical Manual of Mental Disorders (DSM-IV) criteria for marijuana dependency and recommended Mother for in-patient residential treatment. Mother refused residential treatment but initially agreed to participate in intensive outpatient treatment.

¶ 15 According to reports from TASC, Mother attended her initial intake appointment at the outpatient treatment center but did not actually participate in treatment, as Mother claimed she lost the bus pass she needed for transportation to the center. A January 2013 TASC report stated that Mother tested positive for marijuana on November 21 and December 4, 2012. The report found Mother's "commitment to the recovery process is poor" as she had "not follow[ed] through on the recommendation *** for [in-patient] services and she is not making herself available for TASC services." Mother was subsequently scheduled to be admitted for residential care at a different treatment center on April 29, 2013, but failed to keep the appointment. Between January and October 2013, Mother tested positive for marijuana each of the four times she was tested.

¶ 16 DCFS initiated a separate Service Plan for the family on April 2, 2013. The Service Plan noted that "[Mother] is inconsistent with attending parent-child visits, individual therapy, parenting coach, substance treatment, and meeting with her TASC Recovery Coach for toxicology." The Service Plan stated that Mother had "missed 7 consistent weeks of therapy session and was discharged from treatment" and also noted that Mother failed to attend over a dozen parent-child visits between December 2012 and March 2013. The Service Plan described a number of visits in which Mother acted inappropriately, including yelling and swearing at staff

from the ChildServ family agency who supervised such visits. In March 2013, Kaniyah's caregiver stated that, due to Mother's threats, Mother was no longer allowed in her home and that she would call police if Mother attempted to visit. At another parent-child visit in April, Mother refused to stop "yelling, swearing, and threatening" a ChildServ caseworker in a dispute regarding placement of the twins with a new temporary caregiver. The caseworker called police due to Mother's "aggressive body language" toward the caseworker.

¶ 17 The Service Plan called for Mother to complete substance abuse treatment by June 30, 2013, including "mak[ing] herself available with her recovery coach through TASC and participat[ing] in random urine drops." The plan also directed Mother to complete individual therapy by June 30 to "help control her displaying her anger in an inappropriate manner." The DCFS Plan also called for her to enroll in a GED or vocational program by June 30, but noted that Mother had not expressed interest in enrolling in such a program.

¶ 18 The adjudication hearing commenced on September 12, 2013. The State first called Dr. Michele Lorand. The court, without objection, admitted Dr. Lorand as an expert in the areas of pediatrics and child abuse. Dr. Lorand testified that she was consulted to examine Kentrell on October 1, 2012, three days after his admission, due to concern that Kentrell's low weight may have been due to neglect. Dr. Lorand explained that Kentrell was diagnosed with "failure to thrive," which refers to a child's failure to grow or gain weight at the normal rate for his age.

¶ 19 Dr. Lorand testified that Kentrell weighed 12 and one-half pounds at admission, which was about 30 percent underweight from the approximately 17 and one-half pounds he should have weighed according to a normal growth trajectory. Dr. Lorand testified that when she saw Kentrell, he appeared small, had very thin arms and legs, and a protuberant belly. She observed

Kentrell had little subcutaneous fat, indicating a lack of proper nourishment, and noted that Kentrell lacked the energy to sit up or roll over.

¶ 20 Dr. Lorand testified that, to a reasonable degree of medical certainty, Kentrell's failure to thrive was caused by lack of caloric intake due to inadequate feeding. Dr. Lorand explained that Kentrell had responded rapidly in the hospital after being provided proper nutrition. In the three days since his admission, Kentrell had gained 470 grams (more than one pound) simply by consuming formula. Dr. Lorand testified this rate of weight gain was over 10 times the rate that would be expected of a child Kentrell's age.

¶ 21 Dr. Lorand further testified that Kentrell's blood tests revealed a low sodium level. Low sodium can be a sign that formula has been over-diluted, resulting in too much water being given to a child. Although low sodium can also be a sign of kidney disease or diarrhea, Kentrell's medical history did not indicate either of these conditions. Dr. Lorand also testified that Kentrell's blood was acidotic, meaning that it contained too much carbon dioxide. Dr. Lorand testified that acidotic blood was an indication that Kentrell's body was stressed.

¶ 22 Dr. Lorand explained how she had ruled out other potential causes of Kentrell's failure to thrive. Kentrell's rapid weight gain after admission, which occurred without any medical intervention other than feeding him formula, indicated his low weight was due to inadequate feeding rather than an underlying illness. Dr. Lorand also testified that Kentrell had a "good appetite" and "ate very well" without feeding problems that might otherwise explain his failure to gain weight. Moreover, none of Kentrell's lab results or physical exams suggested any underlying medical condition that would have explained his low weight.

¶ 23 Dr. Lorand testified that she had considered the potential impact of Kentrell's prior hernia surgeries in arriving at her opinion. Although Kentrell had had difficulty gaining weight after a

hernia operation in April 2012, Dr. Lorand noted that Children's Memorial Hospital had performed an extensive workup at the time and found no underlying illnesses. Furthermore, Kentrell's medical records showed that his weight had returned to the 25th percentile for his age group — within normal range — by June 2012, approximately a month and a half after the last hernia surgery. Thus, Dr. Lorand determined that the prior surgeries were not related to his significant weight loss of at least one kilogram (2.2 pounds) between June 2012 and his admission in September 2012.

¶ 24 Dr. Lorand further testified that she had also ruled out the possibility that Kentrell's weight loss had been due to use of a 20 calorie-per-ounce formula instead of a 22 calorie-per-ounce formula. Dr. Lorand acknowledged that it was unclear which formula had been fed to Kentrell in the months preceding her exam of Kentrell. Dr. Lorand recalled that Mother initially indicated that she had been feeding Kentrell EnfaCare, a 22 calorie-per-ounce formula. However, when asked about the Illinois Women, Infants, and Children (WIC) nutrition assistance program, Mother told Dr. Lorand that she had been provided Enfamil, a 20 calorie-per-ounce formula. On cross examination, Dr. Lorand testified that Mother told her that, at least as of July 31, 2012, Mother had access to EnfaCare 22-calorie formula. Nevertheless, even assuming Mother had been feeding Kentrell with a 20 calorie-per-ounce formula, Dr. Lorand testified that the difference in caloric intake between the two formulas would amount to only 12 calories per bottle, and that this differential "would not have accounted for a weight gain of over 10 times normal in the three days" after Kentrell's admission in fall 2012.

¶ 25 Dr. Lorand also explained that she had taken into account the fact that Kentrell had been born prematurely. On cross-examination, Dr. Lorand explained that although infants' growth expectations are initially adjusted to account for prematurity, medical records showed that by the

time Kentrell was five months old, his growth "was normal for his age-matched peers without adjusting for prematurity." Thus, after June 2012 there was no need to adjust for Kentrell's prematurity in assessing whether he was within normal weight range. As Kentrell was caught up to the 25th percentile by June 2012, Dr. Lorand reiterated her opinion that she would have expected his weight to be around 17 and a half pounds by the time of his September hospital admission, when he weighed only 12 and a half pounds.

¶ 26 In addition to examining Kentrell, Dr. Lorand testified that she briefly examined Mother's three other children on October 1, 2012. Dr. Lorand recalled that the eldest child, Kaniyah, had extensive eczema that appeared to be untreated. Dr. Lorand further observed that all three of Kentrell's siblings appeared to be "dirty," "unkempt," and "unbathed." She also recalled that Kentrell's twin, Kentron, had a very large head circumference, and that other physicians in Stroger Hospital had requested that Kentron undergo a CT scan. Dr. Lorand acknowledged that the hospital never found that Kentron's large head was caused by any abuse or neglect.

¶ 27 The adjudication hearing continued on September 19, 2013 with the testimony of three additional witnesses. Ruby Peet, a DCFS child protection investigator, testified that she was assigned to the case after physicians took protective custody in fall 2012 and that she had interviewed Mother, Dr. Lorand, police, and other witnesses. Peet explained that the investigation found that, in addition to Kentrell's failure to thrive diagnosis, all four children had been exposed to Mother's use of marijuana. As a result of the investigation, DCFS agreed that protective custody was appropriate.

¶ 28 The court next heard testimony from Omar LaBlanc, a medical epidemiologist and developmental therapist at Stroger Hospital's infant pediatric high risk clinic (the Fantus Clinic). LaBlanc testified that part of his job is to perform developmental evaluations and follow-up on

patients that have come through the clinic to ensure they receive proper care. LaBlanc testified he had several telephone calls and in-person contacts with Mother in the months preceding Kentrell's September 2012 admission.

¶ 29 LaBlanc testified that Mother initially called him in April 2012, during Kentrell's hospitalization for hernia surgery at Lurie Children's Hospital. Although he had not previously spoken to Mother, LaBlanc was aware of the twins, since they had been scheduled for a missed April 2012 appointment at the Fantus Clinic. LaBlanc estimated that Mother called him about one week after the missed appointment and asked if she could obtain formula for Kentron, as Kentrell was in Lurie Children's Hospital. LaBlanc agreed and told Mother to meet him at Stroger Hospital, where he gave her formula a short time later.

¶ 30 Mother again called LaBlanc about formula one or two weeks later, still in April 2012. On that occasion, LaBlanc again provided Mother with formula and told her that she needed to bring the twins into the Fantus Clinic for a follow-up appointment. An appointment for the twins was scheduled for late April 2012. Mother attended that appointment with Kentron only, explaining that Kentrell was still in Lurie Children's Hospital. LaBlanc testified that although Mother was eligible to get formula through the WIC program, WIC required Mother to bring in both twins before she could receive coupons for formula. As Kentrell was hospitalized, Mother could not receive formula from WIC and so LaBlanc agreed to supply her formula. LaBlanc testified that he always gave Mother a 20 calorie-per-ounce formula. He also testified he believed this formula was only for Kentron, since Kentrell should have been provided formula separately during his hospitalization.

¶ 31 At the late April 2012 Fantus Clinic appointment, LaBlanc also referred Mother to two voluntary programs. LaBlanc referred Mother to the Early Intervention Program, which follows

children with developmental and medical issues, including low birth weight babies, from birth to age three. LaBlanc also referred Mother to the Early Childhood Program, which would entail home visits for developmental work with the children and help monitoring the twins' health, as he believed Mother would benefit from additional support. However, Mother did not enroll the twins in either program.

¶ 32 Another appointment was scheduled in May 2012 for Mother to bring both twins to the clinic. However, LaBlanc testified that Mother called him "a day or two" before the appointment and said she lacked transportation. LaBlanc scheduled transportation services for her and the twins. However, on the day of the appointment, Mother called LaBlanc, saying the transportation service would not take all four of her children, as transportation had been set up only for Mother and the twins. As a result, she and the twins missed the May 2012 appointment. However, LaBlanc testified that Mother continued to call him "constantly" about issues with the WIC program, obtaining formula, and scheduling appointments. LaBlanc testified that during these calls he spoke to Mother about the importance of signing up for WIC.

¶ 33 LaBlanc testified that another clinic appointment was scheduled for the twins in either May or June 2012. Again, Mother did not attend the rescheduled appointment, although LaBlanc noted that in June 2012 she brought Kentrell to the hospital's emergency room. Stroger Hospital medical records indicate that the emergency room visit was for a fever and that Kentrell's weight was 6.6 kilograms, which was in the normal range (10-25th percentile) for children his age.

¶ 34 Mother eventually brought both twins to the Fantus Clinic in July 2012, where she met with LaBlanc and a physician, Dr. Woo. LaBlanc testified that "Kentrell was really small at that time" and that Mother expressed concern about Kentrell's weight. LaBlanc referred the issue to

Dr. Woo. LaBlanc recalled hearing Mother and Dr. Woo discuss how she fed Kentrell, including how to properly prepare formula. Mother responded affirmatively when Dr. Woo asked if she knew how to mix the formula.

¶ 35 During this July 2012 visit, Mother requested and received a WIC form to receive formula for the twins. According to LaBlanc, Mother was supposed to get a prescription for two types of formula, including a higher-calorie formula for Kentrell, but Mother received the same formula for both twins. LaBlanc testified that Dr. Woo set up another appointment for Mother to bring the twins to the clinic, but he could not recall the date.

¶ 36 LaBlanc also testified that he attempted to refer Kentrell's case to a clinic within Stroger Hospital run by Dr. Lorand that specializes in failure to thrive cases. However, he was told that Kentrell's case was an "inappropriate referral." Because the clinic declined the referral, Mother was not given an appointment for that clinic. LaBlanc did not indicate when he attempted this referral.

¶ 37 LaBlanc testified that two or three weeks after the July 2012 appointment, Mother again called him and expressed concern that Kentrell was not gaining weight. At that time LaBlanc discovered that both twins were being fed the same 20 calorie-per-ounce formula, although LaBlanc believed that Kentrell should have been on a higher-calorie formula. LaBlanc testified that in this phone call he directed Mother to speak to her primary care physician about the issue.

¶ 38 LaBlanc testified Mother did not bring the twins back to the Fantus Clinic until an appointment in September 2012. In total, LaBlanc testified that he had eight to ten phone contacts with Mother and had provided her with formula approximately four or five times from April through July 2012. Mother eventually enrolled in WIC at the end of July 2012, after which

time Mother obtained formula from WIC. LaBlanc testified that Mother expressed appropriate concern for the health of her children, including concern about Kentrell's weight.

¶ 39 Lillian Norwood, a child welfare specialist employed by the ChildServ family services agency, testified briefly about her observation of the eldest child, Kaniyah. Norwood was assigned to the children's case in October 2012 after the children were placed in protective custody. She testified that during a home visit to Kaniyah's foster placement, the foster parent expressed concern about Kaniyah's teeth. Norwood recalled that Kaniyah's teeth "were rotten at the top," that "the top two were black," and that another tooth in the back of the child's mouth had a hole in it. She advised the foster parent to take Kaniyah to the dentist.

¶ 40 After closing arguments the trial court made its findings. First, with respect to Kentrell only, the court made a finding of neglect due to lack of care necessary for his well-being pursuant to section 405/2-3(1)(a) of the Juvenile Court Act. Additionally, with respect to each of the Mother's four children, the court made findings of neglect due to an injurious environment under section 405/2-3(1)(b) of the Juvenile Court Act.

¶ 41 In explaining its findings, the trial court placed heavy emphasis on the unrebutted expert testimony of Dr. Lorand:

> "The tell for me is obviously the unrebutted doctor's opinion. All other medical issues were ruled out. And the child responded so significantly to the normal course of feeding in the three days he was in the hospital. That supports the doctor's opinion of the nonorganic failure to thrive."

The court emphasized Dr. Lorand's testimony that Kentrell had arrived at the hospital about five pounds (or 30 percent) below his ideal weight and had gained weight rapidly through regular feedings. The court noted that Dr. Lorand had explained how she had ruled out other potential causes for Kentrell's low weight, including Kentrell's prior surgeries or use of 20 calorie-per-ounce formula instead of 22 calorie-per-ounce formula. The court also noted that Dr. Lorand had observed the other three children to be "dirty, unkempt, and unbathed" and that Kaniyah had eczema.

¶ 42 The court acknowledged that LaBlanc's testimony was somewhat favorable to Mother, but found that "it was never adequately explained" why Mother had failed to enroll the twins in the WIC program until the end of July 2012, five and a half months after their birth. The court further described its concern with Mother's general instability: "[o]verall, the inability to navigate and to be able to provide what was necessary for the kids is troubling for this Court. Basically what I heard over the course of this is an extraordinary struggle by this Mother to meet the needs of these kids."

¶ 43 The court also expressed concern over Mother's hostile behavior, particularly in light of Mother's threat to leave the hospital with Kentron and Mother's courtroom demeanor. The court remarked that Mother "has, from my observations, a very short fuse, a very low tolerance level, very easily frustrated." As the court explained its findings, the Mother repeatedly interrupted the court, used profanity, and was eventually asked to leave the courtroom.

¶ 44 The court concluded that although Mother may have good intentions for her children, her lack of social skills, "high level of frustration and low level of tolerance" prevented her from navigating the public assistance system to provide for them. Thus, the court found that all of the

children were in a neglectful injurious environment, noting that it made this finding "on the theory of anticipatory neglect."

¶ 45 The court conducted a dispositional hearing on December 5, 2013. Without objection, the court admitted the DCFS Integrated Assessment and Service Plan documents, Mother's JCAP (Juvenile Court Assessment Program) drug abuse assessment, and a TASC report dated December 3, 2013.

¶ 46 According to the December TASC report, Mother's case had been transferred to a new outreach worker in September 2013 due to Mother's failure to participate in the Recovery Coach Program. Mother was scheduled for an intake appointment on October 16, 2013 at the Haymarket treatment center but failed to show up, claiming she had a conflicting parent-child visit. Mother then failed to come to the rescheduled appointment on October 25, 2013, this time telling TASC that she "had to conduct some other services for th[e] agency." The December 2013 TASC report concluded that, based on Mother's "lack of engagement in treatment services," she was "still in the Pre-contemplation Stage of Change," meaning she was "not thinking seriously about changing" and "not interested in any kind of help."

¶ 47 The court also heard testimony from Alicia Wimbley, a case manager employed by ChildServ who had been assigned to the family's case in November 2013. Wimbley testified she had first called Mother on November 21, 2013, and had attempted to talk to her about obtaining a bus card through TASC so that Mother could report for drug testing. Mother hung up on Wimbley. Wimbley attempted to call Mother four days later, November 25, 2013; again Mother hung up on her. According to Wimbley, Mother refused to schedule an appointment to meet with her. On December 2, 2013, Wimbley called Mother a third time to check whether Mother was complying with drug testing and to explain that TASC could provide her with a bus card.

Wimbley testified that Mother became upset. When Wimbley asked whether Mother planned to complete services, Mother "pretty much said no, because she didn't have a bus card" and claimed that "nobody in the agency [was] trying to help her with them." Mother again hung up on Wimbley. Mother called back a short time later, still upset, and told Wimbley she would not be going to TASC to get her bus card and that "we could talk about it at court."

¶ 48 Wimbley reported that she last spoke with Mother on December 4, 2013. On that date Mother called to complain that a parent-child visit was being ended early because Mother was trying to take pictures of her children with her cell phone; Mother had been disallowed from doing so since she had previously posted pictures of her children on social media. Wimbley had not been able to contact Mother since.

¶ 49 The state next called Rakaia Johnson, a ChildServ supervisor who had been assigned to the family's case for about one year and had participated in creating the DCFS Integrated Assessment in late 2012. Johnson testified that Mother was still in need of services including therapy, substance abuse treatment, parenting coaching, as well as housing assistance, education, and vocational services.

¶ 50 Johnson testified that Mother had been referred to a therapist in November 2012, but had been discharged for failing to attend any therapy sessions. A second referral was made in April 2013, but again Mother failed to attend and was discharged. Mother was referred yet again in June 2013 to meet with a new therapist, but a third time was discharged for noncompliance. Likewise, Johnson also testified that although a referral for parenting coaching was made in November 2012, Mother failed to attend and was discharged for noncompliance.

¶ 51 As discussed in TASC reports, Johnson testified that Mother failed to attend the substance abuse treatment center recommended for her in late 2012 and was discharged by

TASC for noncompliance. Mother had since been enrolled in a new program at TASC but was still not in compliance. Johnson testified that Mother had not requested any additional referrals from ChildServ and that referrals for educational, housing, or vocational services had not been made because of Mother's lack of compliance with other services.

¶ 52 With respect to child visitation, Johnson testified that Mother was scheduled for weekly visits with all four children at the courthouse, but that her attendance had been "sporadic." Mother had missed about two parent-child visits each month, including the most recent visit before the disposition hearing, for which Mother claimed she lacked transportation. Johnson testified that ChildServ offers Mother a monthly bus card for transportation, but she acknowledged that December passes had not yet been made available.

¶ 53 Johnson testified that Kentrell and Kentron had been placed together in a foster home with a non-relative, Kaniyah had been placed with paternal relative, and Kendall placed with a maternal relative. Johnson testified that each of the children's placements appeared to be safe and appropriate, and that Kaniyah's teeth and eczema had improved after dental and doctor visits. Johnson recommended that all four children be adjudicated wards of the court, as Mother's non-compliance with services indicated she was unable to adequately care for the children.

¶ 54 Mother also briefly testified at the disposition hearing. Mother acknowledged she had missed some of the weekly scheduled visits with all four children but noted she had additional parent-child visits with Kendall and Kaniyah. Mother stated she had requested but not yet received permission for additional visits with the twins.

¶ 55 Mother testified she met with a therapist from ChildServ "three or four times" in spring 2013, but that her therapist had ended sessions because "[s]he said she had to do another referral too because it wasn't enough time, or, like, I didn't do enough classes or something." Mother

acknowledged she had not attended individualized parenting classes, claiming she had spoken to someone at ChildServ "last month about teen parenting or something, but she never called me back."

¶ 56 Regarding the TASC drug treatment program, Mother claimed she completed an intake with a recovery coach by phone in October 2013, but she missed her in-person appointment because it conflicted with a child visit. Mother acknowledged she had not rescheduled an appointment, claiming she had "been trying to get in touch with *** my TASC worker." Mother stated she still wanted to do outpatient drug treatment, but admitted she did not have a scheduled date to begin. Mother claimed she could not begin treatment because she needed a bus card for transportation, though she acknowledged she did not need a bus card to schedule the treatment.

¶ 57 After Mother's testimony, counsel for the State and the children asked for findings that Mother and all fathers of the children were unable and unwilling to care for the children. Mother's counsel sought immediate return of the children, contending that Kentrell's failure to thrive had resulted from Mother receiving the wrong formula and that Mother could otherwise care for her children. Mother's attorney also argued that her participation in services was made difficult by transportation issues and changes in which caseworkers were assigned to her family.

¶ 58 In explaining its findings, the court first noted that each of the children's fathers was unable and unwilling to care for the children. Kaniyah's father was incarcerated and the other two fathers had not come forward. The court then found Mother unable and unwilling to care for the children, noting "[t]here's nothing that's been done on some very necessary reunification services." The court found Mother's testimony concerning her reasons for noncompliance not credible, especially given the lack of progress over many months. The court stated: "I find the

reasons [that] she puts forth as to why the services haven't been accomplished not to hold water, frankly. I find that the services were put into place, and she's not taken the agency up on it." The court adjudged all four children to be wards of the court and entered a goal of return home pending status. The court advised Mother that if she had not made progress toward completing reunification services by the next scheduled court date, the goal would be changed to termination of parental rights. As the court attempted to explain to Mother her appeal rights, Mother interrupted the court and used profanity. Mother likewise responded with profanity at the conclusion of the hearing when the court advised her that she needed to comply with all DCFS service plan recommendations in order to avoid potential termination of her parental rights.

¶ 59 Mother appeals from each adjudication of neglect, as well as from the findings of the disposition hearing.

¶ 60 ANALYSIS

¶ 61 We determine the following issues: (1) whether there was sufficient evidence to support the court's findings of neglect at the adjudication hearing with respect to each of the Mother's four children; (2) whether there was sufficient evidence to support the court's findings at the disposition hearing that Mother was unable and unwilling to care for the children and adjudging the children wards of the court.

¶ 62 We first consider whether there was sufficient evidence to support the court's findings of neglect. The Juvenile Court Act defines those who are "neglected" to include "any minor under 18 years of age who is not receiving proper or necessary support, education as required by law, or medical or other remedial care *** necessary for a minor's well-being, or other care necessary for his or her well-being, including adequate food, clothing and shelter ***. 705 ILCS 405/2-3

(1)(a) (West 2013). The Act additionally specifies that a minor "whose environment is injurious to his or her welfare" is neglected. 705 ILCS 405/2-3 (1)(b) (West 2013).

¶ 63 "Because the concepts of 'neglect' and 'injurious environment' have no fixed meaning and take their content from the particular circumstances of each case, each case involving such allegations must be decided on the basis of its unique facts." *In re Malik B.-N.*, 2012 IL App. (1st) 121706, ¶ 52; see also *In re Arthur H.*, 212 Ill. 2d 441, 463 (2004) ("cases involving allegations of neglect and adjudication of wardship are *sui generis*, and must be decided on the basis of their unique circumstances"). "However, as a general rule, neglect is the failure to exercise the care that circumstances justly demand and encompasses both willful and unintentional disregard of parental duty." *In re Malik B.-N.*, 2012 IL App. (1st) 121706, ¶ 52 (internal quotation marks omitted). "It is the burden of the State to prove allegations of neglect by a preponderance of the evidence. In other words, the State must establish that the allegations of neglect are more probably true than not." *In re Arthur H.*, 212 Ill. 2d at 463-64.

¶ 64 On appeal, "a trial court's ruling 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." *Id.* at 464. Thus, the "manifest weight standard of review is highly deferential to the trial court." *In re Edward T.*, 343 Ill. App. 3d 778, 798 (2003). "Further, due to the delicacy and difficulty of child custody cases, it is well settled that wide discretion is vested in the trial judge to an even greater degree than any ordinary appeal to which the familiar manifest weight principle is applied." *In re R.S.*, 382 Ill. App. 3d 453, 459-60 (2008) (internal citations and quotations omitted); see also *In re J.P.*, 331 Ill. App. 3d 220 (2002) ("A trial court's determination of a neglect or abuse issue is entitled to great deference and will not be disturbed on appeal unless contrary to the manifest weight of the evidence"). As "the

trial court is in the best position to observe the conduct and demeanor of the witnesses, assess their credibility, and weigh the evidence," this court "will not reassess witness credibility or reweigh the evidence" in a case alleging child neglect. *In re Edward T.*, 343 Ill. App. 3d at 795.

¶ 65 In this matter, the court first found neglect as to Kentrell due to lack of "care necessary" before making findings as to the other children. Likewise, we will first examine whether there was sufficient evidence to support this finding regarding Kentrell.

¶ 66 In finding Kentrell neglected, the trial court relied on Dr. Lorand's expert opinion that Kentrell suffered failure to thrive due to inadequate feeding. Although it is the State's burden to prove neglect by a preponderance of the evidence, we note that the Juvenile Court Act explicitly provides that "proof that a minor has a medical diagnosis of failure to thrive syndrome is *prima facie* evidence of neglect." 705 ILCS 405/2-18(2)(b) (West 2013). "However, this *prima facie* evidence only sets forth a rebuttable presumption that may be overcome by additional evidence." *In re Barion S.*, 2012 IL App. (1st) 113026 (finding presumption of neglect rebutted where other evidence suggested medical reasons for failure to thrive); see also *In re Edward T.*, 343 Ill. App. 3d at 794-95 (declining to reverse trial court finding of neglect based on failure to thrive, despite respondent's argument that presumption was "rebutted by the presentation of evidence that his failure to thrive was organic and, therefore, not the result of neglect.") Thus, we recognize that Dr. Lorand's diagnosis of failure to thrive due to inadequate feeding created a rebuttable presumption of neglect as to Kentrell.

¶ 67 Mother's brief on appeal contends that "Dr. Lorand's opinion was not substantiated by the evidence" and raises a number of arguments to undermine the neglect finding with respect to Kentrell. However, none of these is sufficient to rebut the presumption created by Dr. Lorand's

expert opinion, let alone suggest that the court's finding of neglect was against the manifest weight of the evidence.

¶ 68 First, Mother contends that Dr. Lorand only saw Kentrell once and that she did "not adequately consider the fact that he was experiencing the same condition that could not be diagnosed just months earlier," when Kentrell experienced weight loss in April 2012. Mother's brief thus argues "the trial court also failed to give adequate consideration to the possibility that Kentrell's condition was a reoccurrence of his previous medical condition, and not neglect." This argument is unfounded, as Dr. Lorand specifically testified that she *did* consider Kentrell's weight issues during his previous hospitalization in determining whether Kentrell's low weight in October 2012 might be due to a medical condition other than neglect. Dr. Lorand specifically testified that she ruled out any other potential cause for Kentrell's weight after considering: (1) medical records showing that Kentrell's weight had returned to normal by June 2012, several weeks after his last hospitalization; (2) the fact that Lurie Children's Hospital had performed a workup on Kentrell and did not find any medical conditions to explain his weight loss, and (3) Kentrell's lab work and exams at Stroger Hospital also showed no signs of an alternative cause for Kentrell's failure to thrive. Moreover, Mother presented no evidence to suggest an alternative explanation for Kentrell's low weight or why he was able to regain weight so rapidly in the hospital simply through normal feeding.

¶ 69 Separately, Mother asserts that the court failed to give sufficient emphasis to LaBlanc's testimony that Dr. Lorand's failure to thrive clinic had rejected his attempt to refer Kentrell's case. Mother argues "one must question the adequacy of Dr. Lorand's failure to thrive diagnosis if she previously rejected a referral for Kentrell based on weight concerns" and that "one must assume that Dr. Lorand rejected the referral because she did not believe the evidence indicated a

failure to thrive based on neglect." These contentions amount to speculation, especially as there was no testimony establishing that Dr. Lorand had actually considered or rejected the prior referral. Notably, Mother had the opportunity to cross-examine Dr. Lorand but did not raise this issue in the trial court. Further, it is unclear how any rejection of LaBlanc's earlier referral (the date of which was not established) would undermine Dr. Lorand's conclusions, which were based on her physical examination of Kentrell and corresponding lab results in October 2012. In any event, as it is not the role of a reviewing court to re-assess the credibility of witness testimony, Mother's unsupported assumptions cannot provide sufficient basis to hold that the trial court's reliance on Dr. Lorand amounted to an abuse of discretion.

¶ 70 Mother alternatively contends that, based upon LaBlanc's testimony that Mother was given 20 calorie-per-ounce formula instead of 22 calorie-per-ounce formula, "Kentrell was being fed the lower calorie formula not as a result of any neglect by [Mother] but rather because that is what was being ordered by the doctor." This argument is simply irrelevant, as Dr. Lorand's opinion and the court's finding of neglect did not depend upon which formula was fed to Kentrell. Rather, Dr. Lorand specifically testified that even assuming Kentrell had been fed the lower 20 calorie-per-ounce formula, his weight still should not have declined so sharply between June 2012 and October 2012. The trial court referenced Dr. Lorand's testimony in its findings, noting "that the 22 versus 20 [calorie-per-ounce formula] wasn't that big of an issue, and it wouldn't have led to this significance." Based on Dr. Lorand's testimony, there was sufficient evidence for the court to conclude that if Mother had been properly feeding Kentrell, he would not have experienced such a dramatic weight loss even on the 20 calorie-per-ounce formula. Mother failed to present any medical testimony to suggest otherwise. Thus, the question of

whether Kentrell received 20 or 22 calorie-per-ounce formula does not undermine the court's finding of neglect due to inadequate feeding.

¶ 71 As support for the theory that Kentrell was suffering from an undiagnosed organic condition that caused his failure to thrive, Mother's reply brief points to certain Stroger Hospital records indicating that Mother reported that Kentrell sometimes spit up after feeding and that Kentrell was observed to spit up on certain instances during his hospitalization. However, we do not find these instances sufficient to find error in the court's acceptance of Dr. Lorand's opinion. First, we note that Dr. Lorand testified that she observed that Kentrell "ate very well" with a "good appetite" and no feeding problems. Mother's counsel did not cross-examine Dr. Lorand on the subject, nor did Mother present any witnesses to testify that Kentrell spit up or had other feeding problems.

¶ 72 Moreover, we note that several additional entries from Stroger Hospital records support Dr. Lorand's opinion of failure to thrive due to inadequate feeding. The medical records confirm that Kentrell's weight at admission was below the third percentile for his age, but that he rapidly gained weight, including 470 grams in the first three days (noted to be "over ten times expected for age.") Rather than indicating feeding problems, various hospital notes state that Kentrell displayed a "good appetite," was "eating well" or "ravenously," and "thriving" on formula and baby food. Another note acknowledged "there has been some spitting up post feeds," but that this was "not excessive and patient is eating very well." Reflecting Dr. Lorand's analysis, hospital records state that Kentrell's weight gain since admission "strongly points towards inadequate calorie intake at home was the likely cause." In fact, several entries specifically indicate concern that Kentrell suffered "non-organic FTT [failure to thrive]" which was "most likely due to inadequate caloric intake and neglect."

¶ 73 Notably, this court has previously found that weight gain during a child's hospitalization supports a treating physician's testimony of failure to thrive due to neglect. See *In re Edward T.*, 343 Ill. App. 3d at 795-96 (noting medical records showed child "gained about one pound during his first week in the hospital " and "was eating well while in the hospital"). There we found sufficient evidence of neglect despite the fact that the respondent presented an expert who opined that the child's inability to gain weight had organic medical causes. See *id*. at 795. Noting that "[w]e will not reassess witness credibility or reweigh the evidence," we deferred to the trial court's reliance on the treating physician's opinion, notwithstanding conflicting expert testimony.

¶ 74 In this case, Mother failed to present any medical evidence to contradict Dr. Lorand's opinion or to suggest an organic cause for Kentrell's failure to thrive. Importantly, "[a] trial court cannot disregard expert medical testimony that is not countervailed by other competent medical testimony or medical evidence." *In re Juan M.*, 2012 IL App. (1st) 113096, ¶ 59 (internal quotations omitted) (affirming finding of abuse in light of unrebutted expert testimony that child's injuries were nonaccidental). In other words, the trial court "cannot second-guess medical experts." *In re Marcus H.*, 297 Ill. App. 3d 1089 (1998) (quoting *In re Ashley K.*, 212 Ill. App. 3d 849, 890 (1991)). Mother points out that LaBlanc testified that Mother contacted him several times to obtain formula and that Mother expressed concern about Kentrell's weight. Nevertheless, LaBlanc is not a physician and was not offered as an expert, and thus his testimony does not constitute "competent medical testimony or medical evidence" to rebut Dr. Lorand. Moreover, neither LaBlanc nor any other witness suggested a cause for Kentrell's failure to thrive other than inadequate caloric intake, which in an infant, under these circumstances, constitutes neglect.

¶ 75 The absence of evidence to rebut Dr. Lorand's expert opinion also distinguishes this case from our decision in *In re Barion S.*, 2012 IL App (1st) 113026. In that case, we reversed a trial court's finding of neglect where the evidence presented at the adjudicatory hearing "rebutted the presumption of neglect based on a diagnosis of failure to thrive." *Id.* ¶ 54. Noting that Dr. Lorand was also the treating physician in that case, Mother's reply brief urges that *In re Barion* supports reversal of the trial court here.

¶ 76 We find the facts of *In re Barion* are distinguishable from the facts here. Our decision in *In re Barion* set forth numerous separate sources of evidence which, when taken together, undermined a finding of neglect. First, the medical records in that case suggested several specific organic reasons for the child's weight loss, including teething, fever, lead poisoning, and gastroesophageal reflux disease [GERD], and a progress note from Dr. Lorand listed GERD as a possible contributing factor to the child's inability to gain weight. See *id*. ¶¶ 45, 51. In addition — in contrast to Kentrell's steady weight gain here — the child's weight fluctuated in the hospital. *Id*. ¶¶ 24, 51. Here, Kentrell's medical records do not point to any organic cause for his failure to thrive, and his continuous weight gain after admission further supported Dr. Lorand's opinion of failure to thrive due to neglect.

¶ 77 Furthermore, in *In re Barion,* a caseworker who had made a number of visits to the child's home testified that respondent properly fed the child and kept sufficient food in the home. *Id*. ¶¶ 13-14. The caseworker also testified that the child sometimes rejected food or vomited after feeding. *Id*. ¶¶ 14, 18. In addition, the respondent "sought medical treatment repeatedly for her son because he would not eat and often threw up his food," including bringing "her son repeatedly to different hospitals." *Id.* ¶¶ 47, 53. Unlike *In re Barion*, here there were no

witnesses who actually observed Mother feed Kentrell or saw any feeding problems that might rebut the presumption created by the failure to thrive diagnosis.

¶ 78 Another important distinction is that the State in *In re Barion* failed to call any witness to provide medical testimony or expert opinion that the child's failure to thrive was due to neglect. Thus, "there was no testimony from a medical professional to explain the discrepancies in the medical records and the diagnosis and treatment for Barion." *Id.* ¶ 52. That is not the case here, as Dr. Lorand testified as both treating physician and expert witness, and Mother had the opportunity to cross-examine her on Kentrell's medical records, diagnosis and treatment. Additionally, Mother did not present any medical testimony to dispute Dr. Lorand's expert opinion that Kentrell's low weight was caused by inadequate feeding. Given the unrebutted medical testimony, the trial court could much more easily find the State had satisfied its burden of proof, in contrast to the situation in *In re Barion* where there was no medical testimony to support the allegations of neglect. Additionally, the testimony of the social service personnel, although not medical testimony *per se*, cumulatively supports the court's reliance on Dr. Lorand's testimony.

¶ 79 Mother additionally cites *In re Cornica J.*, 351 Ill. App. 3d 557 (2004), an appeal from a termination of parental rights due to mental impairment, for the proposition that we may find insufficient evidence even where the State has offered expert testimony against the parent. *In re Cornica* is distinguishable from the present case for several reasons. Most importantly, as that case involved a petition for permanent termination of parental rights, the State's burden of proof was the more difficult "clear and convincing evidence" standard, not the "preponderance of the evidence" standard applicable to the allegations of neglect against Mother in this case. See *id.* at 629. Moreover, in *In re Cornica*, witnesses who observed parents' interactions with their

children contradicted the expert's opinion on their parental ability. See *id*. That is not the case here. All of the State's witnesses testified to significant lapses in Mother's parenting ability. Even LaBlanc's testimony when carefully analyzed does not support Mother's argument.

¶ 80 In short, we find there was sufficient evidence for the trial court to find neglect as to Kentrell. The finding was not against the manifest weight of the evidence, but was supported by Dr. Lorand's testimony and Kentrell's medical records. Considering the *prima facie* evidence of negligence established by the failure to thrive diagnosis, as well as our deference to the trial judge's assessment of the evidence, we certainly cannot say that "the opposite conclusion was clearly evident" as would be necessary to reverse. Rather, the trial court acted reasonably and well within its discretion to credit Dr. Lorand's uncontroverted expert opinion that Kentrell's failure to thrive was due to Mother's failure to provide adequate nutrition. Thus, we affirm the trial court's finding of neglect due to lack of care necessary with respect to Kentrell.

¶ 81 Next we consider the trial court's findings of neglect due to injurious environment with respect to each of the Mother's four children. The Juvenile Court Act provides that "any minor under 18 years of age whose environment is injurious to his or her welfare" is "neglected." 705 ILCS 405/2-3 (1)(b) (West 2013). We have held that "[n]eglect based on injurious environment is" an "amorphous concept not readily susceptible to definition." *In re Barion S.*, 2012 IL App (1st) 113026, ¶ 44 (citations and internal quotations omitted). "Generally, the term injurious environment has been interpreted to include the breach of a parent's duty to ensure a safe and nurturing shelter for his or her children." (Internal quotations omitted.) *Id.* (quoting *In re Arthur H.*, 212 Ill. 2d at 463)).

¶ 82 With respect to Kentrell, given the evidence of neglect due to lack of care necessary, we have little difficulty holding that there was sufficient evidence to support a finding of injurious

environment. As discussed above, there was more than sufficient evidence to support the court's finding that Kentrell's failure to thrive was due to Mother's inadequate feeding. Regardless of whether Mother had good intentions for her child, it is plain that a parent's failure to provide adequate nutrition breaches the parent's basic duties and creates an injurious environment. Thus, the same reasoning supporting the court's finding of lack of care necessary also supports the court's finding that Kentrell suffered neglect due to an injurious environment.

¶ 83 The trial court's findings of injurious environment as to Kentrell's three siblings—who, unlike Kentrell, were not diagnosed with failure to thrive—require further analysis. The Juvenile Court Act states that "[p]roof 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 2013). However, the Illinois Supreme Court has cautioned that "the mere admissibility of such evidence does not constitute conclusive proof of the neglect of another minor. Each case concerning the adjudication of minors, including those cases pursued under a theory of anticipatory neglect based upon the neglect of a child's sibling, must be reviewed according to its own facts." *In re Arthur H.*, 212 Ill. 2d at 478; see also *In re R.S.*, 382 Ill. App. 3d at 461 ("There is no *per se* rule of anticipatory neglect in Illinois and each case *** must be reviewed according to its own facts.").

¶ 84 Likewise, this court has held that "[s]ibling abuse may be *prima facie* evidence of neglect based upon an injurious environment, but this presumption weakens over time and can be rebutted by other evidence." *In re R.S.*, 382 Ill. App. 3d at 461. "To determine whether a finding of anticipatory neglect is appropriate, the trial court should consider the current care and condition of the child in question and not merely the circumstances that existed at the time of the incident involving the child's sibling." *Id.* (quoting *In re J.P.*, 331 Ill. App. 3d 220, 235 (2002)).

"Nevertheless, when faced with evidence of prior neglect by parents, the juvenile court should not be forced to refrain from taking action until each particular child suffers an injury." *In re R.S.*, 382 Ill. App. 3d at 461 (quoting *In re Arthur H.*, 212 Ill. 2d at 477)). That is, "[w]here an injurious environment has been found to exist, the trial court need not wait until the child becomes a victim *** in order to remove the child from the household." *In re D.W.*, 386 Ill. App. 3d 124, 151 (2008) (quoting *In re T.B.*, 215 Ill. App. 3d 1059, 1062-63 (1991)).

¶ 85 Here, the trial court explicitly referenced the concept of "anticipatory neglect" to support its findings of injurious environment with respect to Kentrell's siblings, Kaniyah, Kendall, and Kentron. We recognize that the finding of neglect as to Kentrell constituted *prima facie* evidence of neglect as to the other children, creating a rebuttable presumption rather than a *per se* rule of anticipatory neglect. However, the court did not rely solely on Kentrell's failure to thrive diagnosis to find, in a *per se* manner, that the other children were neglected. Rather, the court reviewed the totality of the evidence relating to Mother's parenting ability, concluding that "[o]verall, the [Mother's] inability to navigate and to be able to provide what was necessary for the kids is troubling for this Court."

¶ 86 In particular, the court recalled that, notwithstanding LaBlanc's testimony about Mother's efforts to obtain formula from him, "it was never adequately explained" why it took five and a half months from the twins' birth for Mother to enroll them in the WIC program. The court also recalled that at the time protective custody was taken, in addition to Kentrell being "clearly malnourished," Dr. Lorand had observed that the other three children appeared dirty and unkempt and that Kaniyah had untreated eczema. There was also testimony that Kaniyah had serious, untreated dental problems. Moreover, when Kentron's large head circumference prompted doctors to request a CT scan —suggesting a potentially serious medical

issue —— Mother threatened to leave the hospital with the child rather than wait three hours. The court noted that Mother's courtroom demeanor reflected a "high level of frustration and low level of tolerance" consistent with the medical records' description of how Mother's aggressive behavior prompted a call to DCFS. The court concluded that Mother was unable to "handle the needs of all these kids at the same time" and that there was "neglect to all the children," not just Kentrell.

¶ 87 We are mindful that although sibling abuse is *prima facie* evidence of neglect based upon an injurious environment, "this presumption weakens over time and can be rebutted by other evidence." *In re R.S.*, 382 Ill. App. 3d at 461. Nevertheless, these principles do not preclude a finding of neglect on the facts of this case.

¶ 88 The trial court reasonably found that the presumption of neglect was not rebutted by other evidence. To the contrary, evidence besides Kentrell's failure to thrive diagnosis further supported a finding of injurious environment for the three siblings. Such additional evidence, combined with a previous finding of neglect for a sibling, supports a finding of injurious environment. See *In re J.P.*, 331 Ill. App. 3d 220, 235-36 (2002) (where older child had been found to have been neglected several years earlier, affirming finding of injurious environment for younger child where trial court "did not focus primarily on" the previous finding of neglect, but "considered the history of [the older child's] case as a contextual backdrop of events leading up to [younger sibling's] birth and his removal from the home, as well as evidence of respondents' unabated pattern of rejecting reunification services"); see also *In re Edward T.*, 343 Ill. App. 3d at 797-98.

¶ 89 Mother contends the trial court erred by considering that Mother did not enroll the twins in WIC until July 2012, over five months after their birth. Mother argues that this cannot be

evidence of neglect, given the testimony from LaBlanc that Mother obtained formula from him between April and July 2012. Mother argues that as long as she was receiving the formula for her twins from some source, whether or not she obtained it from WIC is irrelevant.

¶ 90 We note that, even if the trial court had not relied on Mother's late enrollment in WIC, we would still hold that there was sufficient other evidence for the court to find an injurious environment. In any case, given the fact-specific nature of such cases, we decline to hold that the court erred in considering Mother's delayed enrollment in the program as evidence of neglect. In weighing the totality of the evidence to determine whether the children were exposed to an injurious environment, the trial court was free to consider Mother's participation (or lack thereof) in public assistance programs. Even if Mother received formula from LaBlanc for the time period at issue, Mother's failure to enroll could be considered evidence of her overall inability to navigate public services to meet her children's needs, which certainly bears on whether the children were in an injurious environment. Especially in light of our deference to the trial court in evaluating the relative weight of the evidence, we cannot say the court erred in considering Mother's delayed WIC enrollment in finding an injurious environment.

¶ 91 Similarly, Mother argues the trial court should not have relied on Mother's lack of social skills, "high level of frustration and low level of tolerance" in making its injurious environment findings. While the trial court commented on those issues, there is no evidence that the court "relied" on them in reaching its judgment. Certainly there is a significant amount of other evidence of Mother's inability to provide her children with a safe environment. Mother raises several other arguments and attempts to support them with misplaced citations to inapplicable cases. We reject the remaining arguments for the reasons which we have exhaustively stated.

Thus, we affirm the court's findings with respect to each of the four children at the adjudication hearing.

¶ 92 Finally, we turn to Mother's appeal from the trial court's dispositional findings that Mother was unable and unwilling to properly care for the children and adjudicating them wards of the court. Section 2-27 of the Juvenile Court Act governs disposition hearings, and provides in pertinent part:

> "If the court determines and puts in writing the factual basis supporting the determination of whether the parents *** of a minor adjudged a ward of the court are unfit or are unable, for some reason other than financial circumstances alone, to care for, protect, train or discipline the minor or are unwilling to do so, and that the health, safety, and best interest of the minor will be jeopardized if the minor remains in the custody of his or her parents *** the court may at this hearing and at any later point *** (d) commit the minor to the Department of Children and Family Services for care and service ***." 705 ILCS 405/2-27(1) (West 2013).

Section 2-27(1.5) further provides that a respondent's participation in reunification services shall be considered in the custody determination:

> "In making a determination under this Section, the court shall also consider whether, based on health, safety, and the best interests of the minor, (a) appropriate services aimed at family preservation and family reunification have been unsuccessful in

> rectifying the conditions that have led to a finding of unfitness or inability to care for, protect, train, or discipline the minor, or (b) no family preservation or family reunification series would be appropriate." 705 ILCS 405/2-27 (1.5) (West 2013).

¶ 93 As with respect to the trial court's adjudication findings in a child custody case, the standard of review applied to the trial court's dispositional findings is highly deferential. That is, "[w]e will reverse the court's determination only if its factual findings at the disposition hearing are against the manifest weight of the evidence or if it abused its discretion by selecting an inappropriate dispositional order." *In re Malik B.-N.*, 2012 IL App (1st) 121706, ¶ 56. Considering Mother's history of non-compliance with reunification services, the trial court's findings here were not against the manifest weight of the evidence, and the court did not abuse its discretion in adjudging Mother's four children wards of the court.

¶ 94 This court has repeatedly found that a parent's refusal to participate in recommended services supports a dispositional finding that the parent is unable and unwilling to care for her child. See, *e.g.*, *id.* ¶¶ 57-60 (affirming dispositional finding where respondent "has not completed the necessary individual and family therapy services for reunification"); see also *In re Gabriel E.*, 372 Ill. App. 3d 817, 828 (2007) (finding that Mother was unable to protect and care for children supported by testimony that Mother had not finished parenting classes and had recently tested positive for marijuana); *In re Kamesha J.*, 364 Ill. App. 3d 785, 795-96 (2006) (dispositional finding making children wards of court supported by respondent's failure to complete recommended services, including parenting capacity assessment and counseling).

¶ 95 The December 2013 disposition hearing and corresponding documentary evidence established that Mother had failed to make any serious effort to complete the services required to

regain custody of her children, despite the lapse of over a year since protective custody was taken. Rakaia Johnson, a supervisor at the ChildServ agency, testified that Mother was still in need of services, including therapy, substance abuse treatment, and parenting coaching. Johnson testified that such services were necessary for Mother to be able to adequately parent her children. As Mother had not complied and showed no interest in availing herself of the support offered, the agency recommended that it would serve the children's best interests for them to be adjudicated wards of the court.

¶ 96 The evidence supports the conclusions of TASC's December 2013 report that Mother was not making any serious effort to change her behavior or obtain help. Moreover, Mother's most recent case worker at the ChildServ agency, Alicia Wimbley, testified that Mother repeatedly hung up on her in the weeks leading up to the disposition hearing when she tried to contact Mother about completing services. Mother expressly indicated to Wimbley that she did not intend to complete the recommended services. Indeed, Mother's remarks to the trial court at the disposition hearing confirm her hostile attitude towards compliance with DCFS recommendations and a complete lack of understanding of her own shortcomings.

¶ 97 Given Mother's failure to participate in reunification services, the evidence supported the court's finding that Mother was unable and unwilling to adequately care for the children, and that their best interests would not be served by returning them to her custody. The findings supporting the disposition order are clearly not against the manifest weight of the evidence. On the contrary, the totality of the evidence overwhelmingly supports the trial court's findings. Accordingly, the court did not abuse its discretion in adjudging the children wards of the court.

¶ 98 For the foregoing reasons, we affirm the judgment of the circuit court of Cook County.

¶ 99 Affirmed.