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2015 IL App (1st) 150752-U

SIXTH DIVISION
August 7, 2015

No. 1-15-0752

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 THE INTEREST OF:)	Appeal from the Circuit Court of
ALANNAH H., a minor,)	Cook County, Illinois
)	
Respondent-Appellant,)	
)	
(The People of the State of Illinois)	No. 13 JA 1206
)	
Petitioner-Appellee,)	
)	
v.)	
)	
TEARIONA H. & HEYWOOD M.,)	Honorable
)	John L. Huff,
Respondents-Appellees).)	Judge Presiding

JUSTICE HALL delivered the judgment of the court.
Presiding Justice Hoffman and Justice Rochford concurred in the judgment.

ORDER

HELD: Circuit court's order dismissing State's petition for adjudication of wardship filed on behalf of minor Alannah H. affirmed where court's finding that State failed to meet its burden of proof that the minor was neglected due to an injurious environment or abused due to a substantial risk of physical injury was not contrary to the manifest weight of the evidence.

¶ 1 The minor, Alannah H., by her attorney and guardian *ad litem* (GAL), appeals from an order of the circuit court entered on March 11, 2015, dismissing the State's petition for adjudication of wardship filed on her behalf. In dismissing the State's petition, the circuit court found the State failed to meet its burden of proof that the minor was neglected due to an injurious environment or abused due to a substantial risk of physical injury. The GAL argues on appeal that the circuit court's findings are against the manifest weight of the evidence. We disagree and therefore affirm the circuit court's order.

¶ 2 BACKGROUND

¶ 3 Respondent-mother, Teariona H., is the natural mother of Alannah H., a female minor born June 24, 2012. Respondent-father Heywood M., is the minor's biological father. At the time Alannah H. was born, respondent-mother had two other children, Adriann, a female minor born June 10, 2008, and Aniyah a female minor born March 22, 2011.

¶ 4 In 2009, respondent-mother was charged with aggravated battery against a child under section 12-4.3(a) of the Criminal Code of 1961 (Code) (720 ILCS 5/12-4.3(a) (West 2008)), and aggravated domestic battery pursuant to section 12-3.3(a) of the Code (720 ILCS 5/12-3.3(a-5) (West 2008)). The two charges stemmed from an incident where respondent-mother threw Adriann into a crib because the minor would not stop crying, causing the child to suffer a fractured arm. Aniyah was taken into protective custody based on the evidence of abuse against Adriann. Petitions for adjudication of wardship were filed with respect to both Adriann and Aniyah, and each minor was adjudicated to be neglected and abused.

¶ 5 On August 24, 2011, respondent-mother pled guilty to the two criminal charges, which were merged, and she was sentenced to 30 months' probation with conditions and was given credit for 60 days time served. The permanency goals for Adriann and Aniyah were eventually

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changed to substitute care pending the court's determination on termination of parental rights. Petitions for termination of parental rights were filed. In May of 2012, respondent-mother executed consents allowing Adriann and Aniyah to be adopted.¹ By that time, respondent-mother had completed some services, but there were still outstanding services she had not completed.

¶ 6 According to respondent-mother, at the time she gave birth to Alannah H., on June 24, 2012, she did not believe she had any more open cases with the Department of Children and Family Services (DCFS). DCFS first became aware of Alannah H. on November 4, 2013, when the agency received a hotline call from an anonymous caller reporting that respondent-mother was using marijuana, drinking alcohol, and had thrown Alannah H. against a wall or on the bed.

¶ 7 On December 16, 2013, the State filed a petition for adjudication of wardship along with a motion for temporary custody on behalf of Alannah H. under case number 13 JA 1178. A temporary custody hearing was held the same day before Judge Maxwell Griffin, Jr. At the hearing, Ms. Belinda Hines, an investigator with DCFS's Department of Child Protection (DCP), testified regarding her attempts to locate and contact respondent-mother. Ms. Hines conceded that from November 4, 2013, when the hotline call came in, to December 2, 2013, no efforts were made to contact respondent-mother.

¶ 8 Ms. Hines testified that on December 10, 2013, six days prior to the present hearing, she spoke to the foster-mother of Alannah H.'s siblings and informed her that she was trying to contact respondent-mother concerning the well-being of Alannah H. According to Ms. Hines, the foster-mother claimed that both respondent-mother and Alannah H. had been to her home on

¹ The minors' adoptions were finalized in December 2013, and their cases were closed.

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Thanksgiving and that the child "looked excellent." The foster-mother told Ms. Hines she would have respondent-mother call her.

¶ 9 Respondent-mother called and spoke with Ms. Hines the next day, as well as the following day. Ms. Hines informed respondent-mother that she needed to see Alannah H. in person. According to Ms. Hines, respondent-mother started crying and maintained she had never mistreated Alannah H. and was taking good care of the child. Respondent-mother refused to give Ms. Hines her current address. Ms. Hines then informed respondent-mother that she would be going to court on the matter on December 13, 2013. Ms. Hines failed to go to court on December 13th and also failed to notify respondent-mother that she did not go to court on that date.

¶ 10 At the conclusion of all of the testimony, Judge Griffin denied the State's motion for temporary custody of Alannah H., without prejudice. In doing so, the judge stated as follows:

"In reality, the last evidence or testimony that they have relative to the well-being of this child is as recently as Thanksgiving when someone has indicated that the child is fine.

There are no signs of abuse and neglect. So -- And at least they know who that's coming from, specifically, as opposed to lining up against an anonymous *** hotline call.

And it seems to me to be hard to argue that there could be a great concern in this case given the lack of follow up and the length of time it's taken. **** The length of time between investigation and the arguments now that this child may be in dire risk.

I'm going to deny the motion for temporary custody; find there is no probable cause that the minor is at risk; certainly no urgent and immediate necessity by the actions of DCP; including no reasonable efforts. They don't know where the child is and they don't --

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haven't taken the time and invested the energy to find the child. So – And they certainly don't need anything from the Court to do that. That's DCP and DCFS's job.

And so I'm dismissing this. Go do your job and if this child is in danger, I would suggest you find out; find the child; find out and get back to court."

¶ 11 On December 27, 2013, the State refiled its petition for adjudication of wardship along with a motion for temporary custody on behalf of Alannah H. under case number 1206. The petition alleged the minor was neglected pursuant to section 2-3(1)(b) of the Juvenile Court Act (Act) (705 ILCS 405/2-3(1)(b) (West 2010)) on the ground that her environment was injurious to her welfare and that she was abused pursuant to section 2-3(2)(ii) of the Act (705 ILCS 405/2-3(2)(ii) (West 2010)) in that respondent-mother created a substantial risk of physical injury to the minor.

¶ 12 In support of these allegations, the petition stated the following facts: respondent-mother had two prior indicated reports for bone fractures and substantial risk of harm; she had two other minors who had been in the custody of DCFS with findings of abuse, neglect, and physical abuse having been entered; on August 24, 2011, she pled guilty to aggravated battery of a child; she was previously diagnosed with major depression, dependent personality disorder, and borderline intellectual functioning; she failed to complete offered reunification services including substance abuse treatment, individual therapy, and parenting coaching; she failed to notify DCFS of her pregnancy with Alannah H.; she was never cleared to have unsupervised visits with Alannah H.'s siblings; in May 2012, she executed consents to adoption of Alannah H.'s two older siblings; and since becoming aware of the existence of Alannah H. in November 2013, DCFS has attempted to locate respondent-mother and the minor, and when contacted by DCFS, she refused to make the minor available to DCFS to assess her safety.

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¶ 13 On the same date, a temporary custody hearing on the refiled petition was held before Judge John Huff. The judge entered a temporary custody hearing order, finding that probable cause existed that Alannah H. was neglected and abused, and that an immediate and urgent need to remove her from the home existed. Both parents were appointed counsel. Alannah H. was subsequently removed from respondent-mother's care on or about December 28, 2013.

¶ 14 After the temporary custody hearing concluded, Alannah H.'s case was set to be heard by Judge Griffin. However, the State filed a motion for substitution of judge and the minor's case was transferred to Judge Huff's courtroom.

¶ 15 On October 30, 2014, the adjudicatory hearing commenced. DCP investigator Belinda Hines testified as a witness. Her testimony, for the most part, was consistent with the testimony she previously gave at the temporary custody hearing, except this time she acknowledged on cross-examination that a day after the original hotline call was received on November 4, 2013, DCFS received a second hotline call concerning Alannah H. from a man identifying himself as Robert Hall. According to Ms. Hines, Mr. Hall claimed the initial hotline call was made by his son who was dating respondent-mother. Mr. Hall stated his son had made false accusations of abuse against respondent-mother stemming from an argument the two had, adding "kids will be kids." Ms. Hines again acknowledged that from November 4, 2013 to December 2, 2013, no efforts were made to contact respondent-mother. Ms. Hines conceded that she did not make a diligent search for respondent-mother. She also conceded that during her investigation, the identity of Alannah H.'s biological father was unknown.

¶ 16 The adjudicatory hearing resumed on December 23, 2014. Just prior to the hearing, the circuit court denied respondent-mother's motion to dismiss the State's refiled petition as well as her subsequent motion to reconsider the dismissal. The court noted that respondent-mother had

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pled guilty to battery resulting in a broken arm of her child who was later adopted and that years before, respondent-father had been convicted of attempted murder of a minor. The court determined it was in Alannah H.'s best interest to keep the case open until all the evidence was presented at the adjudication.

¶ 17 Mr. John Bedalow, a parent-coach employed by Mary & Tom Leo Associates, Inc., testified that respondent-mother successfully completed parenting classes in July 2014. Bedalow testified that on one occasion he observed respondent-mother interact with Alannah H. According to Bedalow, the minor seemed "very comfortable" with respondent and "[t]here was affection between them." Respondent-mother praised and encouraged the minor.

¶ 18 Ms. Danielle Guzick, the director of foster care at Volunteers of America, testified that respondent-mother's service plan included individual therapy, parenting classes, parent/child psychotherapy, a psychiatric evaluation, and random drops as a condition of her probation. Guzick testified that respondent-mother had made progress on her service plan up to the time she executed the consents allowing Adriann and Aniyah to be adopted. At the time respondent-mother signed the consents, she had not yet completed individual therapy or undergone a psychiatric evaluation; after the consents for adoption were executed, the agency no longer paid for these services. Guzick testified that in December 2013, when she spoke with respondent-mother regarding Alannah H., the mother seemed unaware that she was required to report the birth of the minor. Guzick testified that respondent-mother had once perjured herself by testifying in court that Alannah H. had died at birth.

¶ 19 The adjudicatory hearing resumed on February 26, 2015. Respondent-mother testified she was 18 years old when her first child Adriann was born, and that she, herself, was formerly a ward of the State. She testified that at the time Adriann was born, she was unsure of how to

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parent. Respondent-mother maintained that she pled guilty to abusing Adriann because she realized she made a mistake and wanted to take responsibility for her actions.

¶ 20 Respondent-mother testified that to her knowledge, by the time she gave birth to Alannah H., she had successfully completed services correcting the conditions that caused Adriann and Aniyah to be removed from her home. Respondent-mother testified that she successfully completed anger management, domestic violence, parenting classes, and self-esteem classes. She also claimed she was successfully discharged from the Sheriff's female furlough program where she received two years of services. Respondent-mother successfully completed her term of probation and also received her general equivalency diploma (GED). Respondent-mother testified that since completing the furlough program she has obtained and maintained employment at Jimmy Johns as a first assistant manager, she has obtained suitable housing, and has not been re-arrested for anything.

¶ 21 Respondent-mother testified that before Alannah H. was removed from her home in December 2013, she had cared for the minor for eighteen months without incident. She testified that she took Alannah H. to the doctor for regular medical checkups and that the child had received her required immunizations. She testified that when she went to work, she placed Alannah H. in the care of a licensed day care provider. Respondent-mother testified that after Alannah H. was removed from her care, Volunteers of America recommended that she reengage in additional services, which she did.

¶ 22 On cross-examination, respondent-mother acknowledged that in early 2010, she was dealing with a lot of issues and had been diagnosed with major depression, dependent personality disorder, and borderline intellectual functioning. Respondent-mother also conceded that at the

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time she signed the consents to adopt in May 2012, she had not yet completed individual therapy, substance-abuse treatment, parenting coaching, or undergone a psychiatric evaluation.

¶ 23 On redirect examination, respondent-mother testified that after she signed the consents to adopt, she thought her case with Volunteers of America had ended and that she was no longer required to report to the agency. Respondent-mother admitted she did not disclose her address to service providers or investigators because she feared Alannah H. would be taken from her.

¶ 24 On further direct examination, in response to a question posed by the court, respondent-mother testified she did not live with respondent-father and was not in a relationship with him. She stated that her anger management, domestic violence, and parenting classes taught her that it would be in the best interests of her children to maintain a cordial relationship with respondent-father.

¶ 25 Ms. Jennifer Liggett, an assistant supervisor with Volunteers of America, testified that respondent-mother was currently engaged in individual therapy and was consistently attending her weekly sessions. Respondent-mother still had not undergone a psychiatric evaluation. Ms. Liggett testified that respondent-mother's interactions with Alannah H. during her supervised visits with the child were appropriate.

¶ 26 Respondent-mother testified she completed anger management classes, parenting classes, and domestic violence classes. She testified she was in individual therapy and was in the process of obtaining a psychiatric evaluation.

¶ 27 At the end of the testimony and arguments, the circuit court entered an order allowing respondent-mother to have unsupervised day visits with Alannah H. The court stated as follows:

"[Respondent-mother] had Alannah in her custody for eighteen months without an incident. The child was well-cared for; exhibits show that she was very diligent in taking

of the medical and shots that her daughter needed for immunizations. She's done everything right. She's learned from her mistakes. I too was very impressed with her testimony."

¶ 28 The adjudicatory hearing was continued to March 11, 2015, where counsel for respondent-mother presented the testimony of Ms. Falisha Hunter, a daycare provider licensed by the State of Illinois. Ms. Hunter provided daycare services to Alannah H. from September 2012 to December 2013, Monday through Friday from 8:00 a.m. to 5:00 p.m. She testified that Alannah H. was always appropriately dressed, looked well cared for, and was developmentally on target. Ms. Hunter, who was a mandated reporter required to report suspected child abuse, testified that she never noticed any marks, bruises, or suspicious scratches on Alannah H. that would have caused her to be concerned that the child was being abused or neglected. Ms. Hunter testified that respondent-mother and Alannah H. appeared to be bonded and that the child got excited every time respondent-mother came to pick her up from daycare. Ms. Hunter added that Alannah H. also appeared to be bonded with respondent-father.

¶ 29 At the conclusion of the testimony and arguments, the circuit court dismissed the State's petition for adjudication of wardship of Alannah H. The court found the State failed to meet its burden of proof that Alannah H. was neglected due to an injurious environment or abused due to a substantial risk of physical injury. The court noted that respondent-mother had cared for Alannah H. for a year and a half without incident and, in fact, the child had thrived in her care. The court found this established the child was not in an injurious environment.

¶ 30 The court also determined that the theory of anticipatory neglect did not apply because there was no nexus between Adriann's prior abuse and Alannah H.'s environment at the time of the petition. In support of this conclusion the court cited cases supporting the proposition that in

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anticipatory neglect cases, the 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." And in commenting upon respondent-mother's failure to reveal to DCFS that she had given birth to Alannah H., the court stated in part:

"I'm not aware of any common law, principle, or statutory rule that requires her to serve up her child to DCFS.

We are not living in 'The People's Republic of DCFS.' This is not, this is not an all encompassing state that is looking over the shoulder of our citizens.

The fact that the mother resisted the efforts of 'the State' to find her child, could be interpreted to be a fear of the State. It could be interpreted as fear for her child as to what might happen to her child, as what happened to her, the mother, when she was a ward of the court.

This mother knows full well, better than anybody in this courtroom, what can happen in a wardship; and the fact that she tried to protect her child from that, is a positive in my view and not a negative. So, this case is dismissed."

¶ 31 The circuit court denied the State's and the GAL's requests for a stay of the dismissal pending appeal. The minor, Alannah H., by her attorney and GAL, filed a notice appealing the circuit court's order dismissing the State's petition for adjudication of wardship.

¶ 32 ANALYSIS

¶ 33 As an initial matter, we reject respondent-mother's claim that we do not have jurisdiction over this appeal because the circuit court did not enter a dispositional order pertaining to Alannah H. The cases cited by respondent-mother in support of this claim do not concern

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matters where the circuit court dismissed a petition for adjudication of wardship. Ordinarily, following an adjudicatory hearing, if the circuit court determines a minor is abused, neglected, or dependent, the matter proceeds to a dispositional hearing. 705 ILCS 405/2-21 (West 2010); *In re A.P.*, 2012 IL 113875, ¶ 21. Here, no dispositional hearing was held because the circuit court dismissed the State's petition for adjudication of wardship filed on behalf of Alannah H.

¶ 34 Our supreme court has stated that except for appeals from delinquency judgments, in all other proceedings under the Act appeals from final judgments shall be governed by the rules applicable to civil cases. *In re A.H.*, 207 Ill. 2d 590, 593-94 (2003). Illinois Supreme Court Rule 301 (eff. Feb.1, 1994) provides that every final judgment of a circuit court in a civil case is appealable as of right. Illinois Supreme Court Rule 303 (eff. May 30, 2008) governs the timing of an appeal from a final judgment of a circuit court.

¶ 35 "A judgment is considered final 'if it terminates the litigation between the parties on the merits or disposes of the rights of the parties, either on the entire controversy or a separate part thereof.' " *In re Curtis B.*, 203 Ill.2d 53, 59 (2002) (quoting *R.W. Duntelman Co. v. C/G Enterprises, Inc.*, 181 Ill. 2d 153, 159 (1998)). Here, the circuit court's order dismissing the subject petition for adjudication of wardship terminated the litigation between the parties on the merits or disposed of the rights of the parties on the entire controversy and as such, was a final and appealable order under Supreme Court Rules 301 and 303.

¶ 36 Turning to the merits of the appeal, the GAL contends the circuit court erred in finding that Alannah H. was neither abused nor neglected. The GAL argues that the circuit court's finding that the State failed to prove by a preponderance of the evidence that Alannah H. was abused or neglected is against the manifest weight of the evidence. We must disagree.

¶ 37 A proceeding for adjudication of wardship "represents a significant intrusion into the sanctity of the family which should not be undertaken lightly." *In re Arthur H.*, 212 Ill. 2d 441, 463 (2004) (quoting *In re Harpman*, 134 Ill. App. 3d 393, 396-97 (1985)). The best interest of the child is the paramount consideration whenever a petition for adjudication of wardship is brought under the Act. *In re N.B.*, 191 Ill. 2d 338, 343 (2000). At the adjudicatory stage, the focus of inquiry is on whether the child has been neglected or abused rather than on the conduct of the parents. *In re Arthur H.*, 212 Ill. 2d 441, 465-67 (2004).

¶ 38 The purpose of an adjudicatory hearing is to determine whether an allegation that a minor is neglected is supported by a preponderance of the evidence. *In re Arthur H.*, 212 Ill. 2d at 465. The State bears the burden of proving neglect or abuse by a preponderance of the evidence, which is "that amount of evidence that leads a trier of fact to find that the fact at issue is more probable than not." *In re K.G.*, 288 Ill. App. 3d 728, 735 (1997).

¶ 39 In its petition for adjudication of wardship, the State alleged that Alannah H. was neglected pursuant to section 2-3(1)(b) of the Act (705 ILCS 405/2-3(1)(b) (West 2010)), which provides that a neglected minor is "any minor under 18 years of age whose environment is injurious to his or her welfare." The petition further alleged that Alannah H. was abused pursuant to section 2-3(2)(ii) of the Act (705 ILCS 405/2-3(2)(ii) (West 2010)), which provides in part that an abused minor includes "any minor under 18 years of age whose parent or immediate family member, or any person responsible for the minor's welfare, or any person who is in the same family or household as the minor, or any individual residing in the same home as the minor *** creates a substantial risk of physical injury to such minor by other than accidental means which would be likely to cause death, disfigurement, impairment of emotional health, or loss or impairment of any bodily function."

¶ 40 The term "neglect" as used in Act " " is not a term of fixed and measured meaning. It takes its content always from specific circumstances, and its meaning varies as the context of the surrounding circumstances changes.' " *In re N.B.*, 191 Ill. 2d at 346 (quoting *People ex rel. Wallace v. Labrenz*, 411 Ill. 618, 624 (1952)). The term has generally been defined as the failure of a responsible adult to exercise the care that circumstances demand and encompasses both unintentional and willful disregard of parental duties. *In re John Paul J.*, 343 Ill. App. 3d 865, 879 (2003).

¶ 41 Similarly, the term "injurious environment" has been recognized "as an amorphous concept that cannot be defined with particularity." *In re Arthur H.*, 212 Ill. 2d at 463. The term has generally been interpreted to include " 'the breach of a parent's duty to ensure a "safe and nurturing shelter" for his or her children.' " *In re Arthur H.*, 212 Ill. 2d at 463 (quoting *In re N.B.*, 191 Ill. 2d at 346).

¶ 42 Cases involving adjudication of neglect, abuse, and wardship are *sui generis* and each case must ultimately be decided on the basis of its own particular facts. *In re K.T.*, 361 Ill. App. 3d 187, 201 (2005). A circuit court has broad discretion when determining whether a child has been neglected or abused, and its discretion will not be disturbed on review unless it is against the manifest weight of the evidence. *In re Stephen K.*, 373 Ill. App. 3d 7, 20 (2007). A court's finding is against the manifest weight of the evidence only if the opposite conclusion is clearly evident. *In re Arthur H.*, 212 Ill. 2d at 464.

¶ 43 With these principles in mind we conclude, after reviewing the evidence, that the circuit court's finding that Alannah H. was neither abused nor neglected, was not against the manifest weight of the evidence. The evidence shows that Alannah H. was in the care of her mother for eighteen months before DCFS removed her from the home and that during that time period the

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child was well cared for, she was healthy, and was developmentally on target. The evidence shows that respondent-mother took Alannah H. to the doctor for regular medical checkups and that the child was current on her immunizations. Respondent-mother presented treatment notes from Alannah H.'s pediatrician, Dr. Clara Akhigbe, for the dates of July 2, 2012, July 24, 2012, August 24, 2012, October 31, 2013, January 4, 2013, March 25, 2013, and July 6, 2013, all consisting of "well-baby" assessments.

¶ 44 When respondent-mother went to work, she placed Alannah H. in the care of a licensed daycare provider. Ms. Hunter, the daycare provider, testified that Alannah H. always looked well cared for and was developmentally on target. She testified that she never noticed any marks, bruises, or suspicious scratches on Alannah H. that would have caused her to be concerned that the child was being abused or neglected. She also testified that respondent-mother and Alannah H. appeared to be bonded.

¶ 45 Nevertheless, the GAL argues the circuit court erred in finding that Alannah H. was not abused nor neglected. The GAL raises a number of challenges to the circuit court's finding, none of which do we find convincing.

¶ 46 The GAL argues the circuit court erred in giving respondent-mother's testimony any credibility in light of Guzick's testimony that respondent-mother had once perjured herself by testifying in court that Alannah H. had died at birth. In this case, the circuit court heard testimony from respondent-mother and had ample time to form an opinion concerning her credibility. The circuit court was in the best position to determine the credibility and weight of her testimony and to resolve conflicts in her testimony because the court had the opportunity to observe her demeanor and conduct. See, *e.g.*, *In re A.P.*, 179 Ill. 2d 184, 204 (1997).

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Accordingly, as a reviewing court, we will not substitute our judgment for that of the circuit court

on questions concerning the credibility of witnesses or the weight to be given their testimony. *In re D.F.*, 201 Ill. 2d 476, 498-99 (2002).

¶ 47 The GAL next argues that the fact that respondent-mother was previously convicted of aggravated battery to Alannah H.'s minor sibling poses an imminent safety risk to Alannah H. and places her in an injurious environment. We disagree.

¶ 48 The doctrine of anticipatory neglect recognizes that a parent's treatment of one child is probative of how that parent may treat his or her other children. *In re T.S-P.*, 362 Ill. App. 3d 243, 248-49 (2005). "Under the anticipatory neglect theory, the State seeks to protect not only children who are direct victims of neglect or abuse, but also those who have a probability to be subject to neglect or abuse because they reside, or in the future may reside, with an individual who has been found to have neglected or abused another child." *In re Arthur H.*, 212 Ill. 2d at 468.

¶ 49 The doctrine of anticipatory neglect is codified in section 2-18(3) of the Act, which states in relevant part that "proof of the abuse, neglect or dependency of one minor shall be admissible evidence on the issues of the abuse, neglect or dependency of any other minor for whom the respondent is responsible." 705 ILCS 405/2-18(3) (West 2010). Although the doctrine of anticipatory neglect is well recognized by our courts, there is no *per se* rule that the neglect of one child establishes the neglect of another child in the same household. *In re S.R.*, 349 Ill. App. 3d 1017, 1021 (2004). Rather, 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." *In re S.S.*, 313 Ill. App. 3d at 128.

¶ 50 The prior abuse of Alannah H.'s sibling Adriann, was *prima facie* evidence that Alannah H. was neglected based upon an injurious environment. See, e.g., *In re J.P.*, 331 Ill. App. 3d 220, 235 (2002) ("Sibling abuse may be *prima facie* evidence of neglect based upon an injurious environment."). "However, this presumption is not permanent; it weakens over time and can be rebutted by the introduction of other evidence." *In re J.P.*, 331 Ill. App. 3d at 235.

¶ 51 In this case, evidence of respondent-mother's past neglect or misconduct was rebutted by more recent proof of her capacity to parent. As the circuit court stated: "I find that [respondent-mother] has changed. She is a good mother. She has cared for [Alannah H.] for a year-and-a-half without incident and, in fact, the child has thrived in her care." In making its determination that Alannah H. was not neglected or abused, the circuit court took into consideration the findings of neglect entered in Adriann's case and the fact that respondent-mother pled guilty to aggravated battery of the minor. Looking at the current care and condition of Alannah H. and not simply at the circumstances that existed at the time of the incident involving her sibling Adriann, in addition to the fact that the injury to Adriann occurred in 2009, three years prior to Alannah H.'s birth and that the children never shared the same household, we find the evidence presented at the adjudication hearing supports the circuit court's finding that Alannah H. was not neglected under an anticipatory neglect theory.

¶ 52 The GAL also contends that respondent-mother's failure to complete necessary and recommended services places Alannah H. at risk of harm. In addition, the GAL maintains that respondent-mother's failure to adequately address the alleged domestic-violence aspect of her relationship with respondent-father and seek counseling compromises the safety of Alannah H. Again, we must disagree.

¶ 53 Respondent-mother testified that she did not live with respondent-father and was not in a relationship with him. She informed the court that she maintained a cordial relationship with him because she had learned from the services she completed that this was in the best interests of her children. The record shows that respondent-mother successfully completed a number of services to correct the conditions that caused Alannah H.'s two older siblings to be removed from the home. Respondent-mother testified that pursuant to her sentence in the criminal case, she participated and successfully completed the Sheriff's female furlough program where she received two years of services. The program included anger management counseling, domestic violence classes, parenting classes, and self-esteem classes. In addition, respondent-mother engaged in individual counseling, health education, life skills training, and submitted to random drug drops.

¶ 54 Respondent-mother successfully completed her term of probation and received her GED. Since completing the Sheriff's female furlough program, respondent-mother has obtained and maintained employment, she has obtained suitable housing, and has not been re-arrested for anything. Moreover, after Alannah H. was removed from the home in December 2013, Volunteers of America recommended that respondent-mother reengage in additional services, which she did. Ms. Liggett testified that respondent-mother was currently engaged in individual therapy and was consistently attending her weekly sessions. Respondent-mother testified she was in individual therapy and was in the process of obtaining a psychiatric evaluation.

¶ 55 For the reasons set forth above, we find it was not contrary to the manifest weight of the evidence for the circuit court to find that the State failed to meet its burden of proof that Alannah H. was neglected due to an injurious environment or abused due to a substantial risk of physical

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injury. Accordingly, we affirm the order of the circuit court entered on March 11, 2015, dismissing the State's petition for adjudication of wardship filed on behalf of Alannah H.

¶ 56 Affirmed.