

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).

NO. 4-10-1052

Order Filed 5/10/11

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re: K.J. and J.J., Minors,)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,)	Circuit Court of
Petitioner-Appellee,)	McLean County
v.)	No. 10JA84
GLORIA BAKER,)	
Respondent-Appellant.)	Honorable
)	Kevin P. Fitzgerald,
)	Judge Presiding.

JUSTICE STEIGMANN delivered the judgment of the court.
Presiding Justice Knecht and Justice Pope concurred in
the judgment.

ORDER

Held: The trial court's neglect finding was not against the manifest weight of the evidence, given that the children's parents had a history of domestic violence that culminated in the mother chasing the father with a knife in close proximity to the children.

Following an October 2010 adjudicatory hearing, the trial court found K.J. (born May 5, 2010) and J.J. (born November 27, 2007) neglected. The court later ordered respondent, Gloria Baker, the children's mother, to cooperate with the Department of Children and Family Services (DCFS) in completing the terms of its service plan.

Baker appeals, arguing only that the trial court's neglect finding was against the manifest weight of the evidence. We disagree and affirm.

I. BACKGROUND

On June 11, 2010, the State filed a petition for adjudication of wardship, asserting that K.J. and J.J. were

neglected under section 2-3(1)(b) of the Juvenile Court Act of 1987 (705 ILCS 405/2-3(1)(b) (West 2008)) in that they were in an environment injurious to their welfare. In support of its petition, the State alleged the following facts: (1) Baker had unresolved issues of domestic violence that created a risk of harm to the children ("4a"); (2) Baker had unresolved issues of alcohol and/or substance abuse that created a risk of harm to the children ("4b"); (3) Baker had untreated mental-health issues that created a risk of harm to the children ("4c"); and (4) Leantwan Jones, the children's father, had unresolved issues of domestic violence that created a risk of harm to the children ("4d").

Following a June 14, 2010, shelter-care hearing, the trial court awarded DCFS temporary custody of K.J. and J.J., pending the outcome of an October 2010 adjudicatory hearing.

The following evidence was presented at that October 2010 adjudicatory hearing.

Police officer Scott Sikora testified that in June 2010 he responded to a report of a knife-wielding woman chasing a man. When Sikora arrived, he saw Baker and Jones each holding a child. After speaking to Jones, Sikora approached Baker. Baker admitted that she had a knife, which Sikora confiscated for safety reasons. Baker also admitted chasing Jones with the knife. (The knife blade was serrated and at least three to four inches long.)

Sikora testified further that Jones told him that Baker had become upset at him after she spoke to her mother over the

phone. A physical altercation ensued. Baker began throwing clothes out of the window and then chased Jones with the knife. After taking the parties' statements, Sikora arrested Baker.

Police officer Justin Gale testified that he spoke to Jones and observed damage inside the couple's apartment. Jones told Gale that he had contacted police after Baker made several threatening statements and damaged a number of items in their apartment.

Calveda Griffin, the child-welfare specialist assigned to the children's case, testified that DCFS placed the children with their maternal grandparents. Griffin also explained that Baker and Jones had a history of domestic violence dating back to 2008.

Glenda Gangler, the children's DCFS caseworker, testified that she was assigned the case in August 2009 as a result of a "hotline report," which indicated that Baker and Jones had been in a fight in J.J.'s presence. Gangler added that she believed that there had been "eight or so" police reports reflecting "domestic type" calls.

Gangler testified further that Jones was removed from the home after that August 2009 incident so that he and Baker could complete domestic-violence services. (Jones and Baker later completed their respective service plans.)

Susan Myers, a DCFS investigator assigned to the children's case, testified that she investigated the incident in which Baker chased Jones with a knife and concluded that the

children were present when it happened. Myers said that she spoke to Baker about that incident and Baker admitted pushing and hitting Jones, ripping his shirt off, and threatening to kill him with a knife while both children were in the home.

Jones testified that he had filed an affidavit in July 2010 to have a no-contact provision of Baker's bond vacated because he did not believe that Baker posed a threat to the children. Jones explained that it was his intention to live with Baker so that they could raise their children together.

Following the October 2010 adjudicatory hearing, the trial court found K.J. and J.J. neglected, ordering, in pertinent part, Baker to cooperate with DCFS in completing the terms of its service plan, as follows:

"Well, *** in trying to analyze petitions that are based on allegations of unresolved issues of domestic violence *** the [c]ourt looks at all *** levels of domestic violence and whether it's just a verbal confrontation, whether there is an isolated incident or a pattern of domestic violence, whether there's physical contact involved, whether there's weapons involved, certainly whether children are present during some or all of the incident. [The court does not] think that it's proper just to look at a particular incident in a microscope and

say[, ']'did someone act totally appropriately
or mostly appropriate *** in this
incident.['] *** [I]n this case, *** it
really involved all the worst types of crite-
ria attributable to a domestic violence inci-
dent. There was physical contact ***, throw-
ing clothes out and then hitting [Jones],
ripping his shirt. Then there was a weapon.
And when [the court] looked at that knife ***
that had a large blade on it, *** we're all
fortunate that some serious injury didn't
occur here either to *** Jones, maybe to the
kids in this heat of passion that [Baker] was
in at the time. And the kids were present
during this *** incident. So this was a
significant domestic violence incident as far
as the [c]ourt is concerned. [E]ver since
their relationship started[,] there have been
numerous *** incidents[--]there have been
eight police contacts. There's been a prior
conviction. There's been all kinds of evi-
dence of having these domestic violence is-
sues over the course of this relationship.

* * *

[O]verall, this couple has extensive

domestic violence issues that the [c]ourt believes are unresolved, and particularly in light of the evidence of the history of having these conflicts, at least several of which have been in the presence of at least one child or both children since the younger one was born. Those are unresolved issues, and that does create a risk of harm based on this history and the unresolved issues that the [c]ourt sees. So, *** the State has proven, at least by a preponderance of the evidence, 4(a) and 4(d) [of its petition]. 4(b) and 4(c) are not proven. So the [c]ourt is going to adjudicate the minors neglected." This appeal followed.

II. BAKER'S CLAIM THAT THE TRIAL COURT'S NEGLECT FINDING WAS AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE

Baker argues only that the trial court's neglect finding was against the manifest weight of the evidence. We disagree.

"[C]ases involving allegations of neglect and adjudication of wardship are *sui generis*, and must be decided on the basis of their unique circumstances." *In re Arthur H.*, 212 Ill. 2d 441, 463, 819 N.E.2d 734, 747 (2004). Because proceedings for adjudication of wardship are a significant intrusion into the sanctity of the family that should not be undertaken lightly, the State bears the burden to prove allegations of neglect by a

preponderance of the evidence. *Arthur H.*, 212 Ill. 2d at 463-64, 819 N.E.2d at 747. On appeal, a trial court's neglect findings will not be reversed unless they are against the manifest weight of the evidence. *Arthur H.*, 212 Ill. 2d at 464, 819 N.E.2d at 747. "A finding is against the manifest weight of the evidence only if the opposite conclusion is clearly evident." *Arthur H.*, 212 Ill. 2d at 464, 819 N.E.2d at 747.

Utilizing the framework outlined by the supreme court in *In re Arthur H.*, the court in *In re R.S.*, 382 Ill. App. 3d 453, 460, 888 N.E.2d 542, 549 (2008) defined the term "neglect," as follows:

"'The concept of "neglect" is not static; it has no fixed and measured meaning, but draws its definition from the individual circumstances presented in each case.' [Citation.] 'Generally, "neglect" is defined as the "'failure to exercise the care that the circumstances justly demand.'" [Citations.] Neglect also encompasses "'willful as well as unintentional disregard of duty. It 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 surrounding circumstances changes.'" [Citations.]"

In this case, the trial court found K.J. and J.J.

neglected in light of their parents' unresolved "issues" of domestic violence. As previously outlined, the record shows that the court reached its decision after carefully considering the parties' extensive history of serious domestic violence, often occurring in close proximity to the children. Given this evidence, we conclude that the court's neglect finding was not only not against the manifest weight of the evidence, but is fully supported by the record.

Accordingly, we reject Baker's contention that the trial court's neglect finding was against the manifest weight of the evidence.

III. CONCLUSION

For the reasons stated, we affirm the trial court's judgment.

Affirmed.