

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).

2014 IL App (4th) 140754-U
NOS. 4-14-0754, 4-14-0755, 4-14-0756 cons.

FILED
December 2, 2014
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re: H.I., a Minor,)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,)	Circuit Court of
Petitioner-Appellee,)	Sangamon County
v. (No. 4-14-0754))	No. 13JA115
VICKIE INNIS,)	
Respondent-Appellant.)	
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In re: A.I., a Minor,)	No. 13JA116
THE PEOPLE OF THE STATE OF ILLINOIS,)	
Petitioner-Appellee,)	
v. (No. 4-14-0755))	
VICKIE INNIS,)	
Respondent-Appellant.)	
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In re: T.I., a Minor,)	No. 13JA117
THE PEOPLE OF THE STATE OF ILLINOIS,)	
Petitioner-Appellee,)	
v. (No. 4-14-0756))	Honorable
VICKIE INNIS,)	Matthew Maurer,
Respondent-Appellant.)	Judge Presiding.

JUSTICE STEIGMANN delivered the judgment of the court.

Justices Knecht and Harris concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court affirmed the trial court's judgment, which adjudicated the respondent minors neglected and made them wards of the court.

¶ 2 In August 2013, the State filed three separate wardship petitions, alleging that H.I. (born December 3, 1996), A.I. (born October 14, 2001), and T.I. (born November 1, 2005)—the minor children of respondent, Vickie Innis—were neglected within the meaning of section 2-3(1)

of the Juvenile Court Act of 1987 (705 ILCS 405/2-3(1) (West 2012)) because their environment was injurious to their welfare. Specifically, all three petitions alleged that the minors were at a substantial risk of being sexually abused because respondent allowed a sex offender to have access to the minors. Additionally, the petition involving H.I. alleged that said sex offender had sexually abused H.I.

¶ 3 Following a March 2014 adjudicatory hearing (which concluded in May 2014), the trial court (1) found that the State proved all allegations in its wardship petitions and (2) adjudicated the minors neglected. In announcing its ruling, the court found that (1) respondent had allowed the minors' older brother, Frank Jr., a sex offender, to stay in the home with the minors and (2) Frank Jr. had sexually abused H.I. In July 2014, following a dispositional hearing, the court made the minors wards of the court and appointed the Department of Children and Family Services (DCFS) as guardian.

¶ 4 Respondent appeals, arguing only that the trial court's findings of neglect were against the manifest weight of the evidence. We disagree and affirm.

¶ 5 I. BACKGROUND

¶ 6 The following pertinent evidence was presented at the May 2014 adjudicatory hearing.

¶ 7 A. The State's Evidence

¶ 8 H.I., who was 17 years old at the time of the hearing, testified that in June 2013, she completed a term of probation and moved from her aunt's house in Standard City, Illinois, to respondent's house in Thayer, Illinois. In the early morning hours of August 1, 2013, shortly after midnight, she was lying with her younger brother, T.I., in the top bunk of a bunk bed at respondent's house. She and T.I. had fallen asleep watching movies. H.I. woke up when she felt a

hand reaching up her shorts and touching her genitals. H.I. saw that the hand belonged to her older brother, Frank Jr., who was sitting on the edge of the top bunk. H.I. tried to squirm into a position to prevent Frank Jr. from touching her further. This seemed to last for 45 minutes, but H.I. was unsure if it actually lasted that long. At the time, H.I. was under the influence of prescription medicine that she took to help her sleep. Eventually, Frank Jr. left the room. The next day, Frank Jr. told H.I. that he was sorry and he "shouldn't have done that."

¶ 9 Several days later, H.I. told her friend about the incident involving Frank Jr. The friend convinced H.I. to report the incident to police, which H.I. agreed to do because she was concerned that Frank Jr. might harm her little sister, A.I., as well. Deputy Jason Hanson of the Sangamon County sheriff's department, who responded to the call, testified that H.I. gave him a brief statement about the incident, which was largely consistent with her testimony at the adjudicatory hearing.

¶ 10 H.I. further testified that although Frank Jr. was living in respondent's home, he was not lawfully allowed to do so because he was a sex offender and a park was within 500 feet of the home. Frank Jr. would usually sleep either on a couch in the dining room, in the basement, or in an unoccupied bedroom. H.I. talked to respondent and Frank Sr. (H.I.'s father and respondent's husband) about Frank Jr. living in the home, but respondent told H.I. that "nobody would know he was there if we didn't tell anybody." Respondent and Frank Sr. told H.I. not to tell anyone that Frank Jr. was living in the house. When H.I. told respondent about the August 1, 2013, incident involving Frank Jr., respondent accused H.I. of lying and said that H.I. "didn't need to do anything with it."

¶ 11 On August 13, 2013, investigators at the Child Advocacy Center (CAC) in Springfield conducted an interview of H.I. regarding her report of abuse involving Frank Jr.

H.I.'s statements during the CAC interview were largely consistent with her testimony at the adjudicatory hearing. At the time of her CAC interview, H.I. did not feel as though she could speak about the incident involving Frank Jr. with her parents because "in the past they told [her] to recant and lie about it all." H.I. admitted that she had previously recanted allegations of abuse that she made against Frank Sr. However, H.I. explained that she recanted those allegations because she was scared of Frank Sr. H.I. also admitted that she has lied to respondent about doing chores.

¶ 12 A.I. testified that Frank Jr. lived at respondent's house for three or four months prior to August 2013. Frank Jr. was alone with A.I. and T.I. in the house "once or twice" during that time period. (A.I. attempted to explain where H.I. was living during the pertinent time periods. Suffice it to say, H.I. appears to have lived a somewhat transient lifestyle from 2013 to 2014, living with various friends and family throughout rural Sangamon and Macoupin Counties.) Respondent and Frank Sr. acknowledged to A.I. that Frank Jr. was not allowed to stay at the house because a park was next door.

¶ 13 In a recorded CAC interview, T.I. stated that Frank Jr. lived in respondent's home with T.I., A.I., and H.I. Respondent and Frank Sr. told T.I. not to tell anyone that Frank Jr. was living at the home because they did not want Frank Jr. to go to jail. Frank Jr. left respondent's home after H.I. contacted the police.

¶ 14 Roger Washington, a DCFS caseworker, testified that Frank Sr. refused to let Washington see the family home, conduct a safety checklist, or talk with H.I. or A.I. Respondent also refused to speak with Washington and informed him that she did not want to cooperate. Washington overheard respondent speaking with someone on the phone and stating, "Frank didn't have any place to stay and [I] wasn't going to leave him out on the streets." Following H.I.'s

CAC interview, Washington took all three minors into protective custody. During the car ride away from respondent's house, T.I. told Washington that Frank Jr. was at the house and had stayed there for a long time.

¶ 15 Frank Jr., who appeared in custody, testified that in March 2013, he was released from jail after being sentenced to probation in exchange for his plea of guilty to the offense of criminal sexual abuse in Sangamon County case No. 12-CF-711. As a result of that conviction, Frank Jr. was required to register as a sex offender. From the time of his March 2013 release from jail until May 20, 2013, Frank Jr. lived at a friend's house. Thereafter, Frank Jr. registered as "homeless" for purposes of the sex-offender registry. During that time, he would live in ditches, culverts, corn silos, and an abandoned garage.

¶ 16 On August 28, 2013, Frank Jr. was arrested on a warrant following the filing of a petition to revoke probation in case No. 12-CF-711. In his testimony at the adjudicatory hearing, Frank Jr. denied ever being at respondent's house between May 20, 2013, and August 28, 2013. However, in an August 29, 2013, taped interview, Frank Jr. stated that prior to August 7, 2013, he occasionally entered respondent's home "for emergencies" with respondent's knowledge and permission, but only when no one was home. Frank Jr. also stated during the interview that H.I. accused him of sexual abuse because she wanted to "get her way" and "was going to do what she wants to get attention and what she wants."

¶ 17 Detective Benjamin Helton of the Sangamon County sheriff's department testified that a gap existed in Frank Jr.'s sex-offender-registration status during July and August 2013. Frank Jr. told Helton that he had registered as a sex offender with the Thayer police department. (Helton noted that the village of Thayer has no police department.) Frank Jr. also admitted to Helton that he had occasionally entered respondent's home during the summer of 2013. H.I.,

A.I., and T.I. all told Helton that Frank Jr. was living in respondent's home. T.I reported to Helton that Frank Sr. and respondent told him to lie about Frank Jr. living in the home.

¶ 18 B. Respondent's Evidence

¶ 19 Adam Parrish testified that he lived in Thayer and visited respondent's home two or three times per week in July and August 2013. Parrish never saw Frank Jr. inside the home, although he acknowledged that it was possible someone could have been in the basement during his visits.

¶ 20 Joshua Ronan testified that he lived across the street from respondent and, during July 2013, he was a "stay-at-home" father. Ronan interacted with respondent and Frank Sr. almost daily during that time period and on a weekly basis he entered their home to feed their dogs while they were away. Ronan never saw Frank Jr. or any signs that he had been in respondent's home.

¶ 21 C. The Trial Court's Ruling

¶ 22 Following the parties' arguments, the trial court found that the State proved all the allegations in its wardship petitions. Specifically, the court found that Frank Jr.—whose testimony the court did not find credible—had been living in respondent's home with respondent and Frank Sr.'s permission. The court specifically found the minors' testimony credible, noting that the court would have been more skeptical if all of the minors had told the exact same story without any inconsistencies. The court rejected the notion that H.I. was lying to get her way because no evidence existed to suggest that H.I. had anything to gain by falsely accusing Frank Jr. of sexual abuse.

¶ 23 These appeals followed, which we consolidated on the State's motion.

¶ 24

II. ANALYSIS

¶ 25 Respondent argues that the trial court's findings of neglect were against the manifest weight of the evidence. We disagree.

¶ 26

A. Section 2-3 of the Act and the Standard of Review

¶ 27 Under section 2-3 of the Act, "[t]he terms 'neglect' and 'injurious environment' do not have fixed and measured meanings but, rather, take their content from the particular circumstances of each case." *In re Gabriel E.*, 372 Ill. App. 3d 817, 823, 867 N.E.2d 59, 65 (2007). "[C]ases involving such allegations are *sui generis* and must be decided on the basis of their unique facts." *Id.* The State has the burden of proving the allegations of neglect by a preponderance of the evidence. *Id.* "The reviewing court gives deference to the trial court's findings of fact as the trial court is in the best position to observe the conduct and demeanor of the parties and witnesses, assess their credibility, and weigh the evidence." *In re Sharena H.*, 366 Ill. App. 3d 405, 415, 852 N.E.2d 474, 482 (2006).

¶ 28

"A trial court's finding that a minor has been neglected or abused under section 2-3 of the Act will not be reversed unless it is against the manifest weight of the evidence." *In re L.S.*, 2014 IL App (4th) 131119, ¶ 60, 11 N.E.3d 349. "In determining whether a judgment is against the manifest weight of the evidence, this court will view the evidence in the light most favorable to the appellee; where evidence permits multiple reasonable inferences, we will accept those inferences that support the trial court's judgment." *In re Abel C.*, 2013 IL App (2d) 130263, ¶ 19, 998 N.E.2d 175.

¶ 29

B. The Trial Court's Judgment

¶ 30

In this case, each of the State's wardship petitions alleged that H.I., A.I., and T.I. were neglected in that respondent allowed a sex offender, Frank Jr., to have access to the minors.

It is undisputed that H.I., A.I., and T.I. all stated—either in testimony at the adjudicatory hearing, during interviews with investigators, or both—that Frank Jr. spent time in respondent's house with the minors.

¶ 31 The thrust of respondent's argument on appeal is that the minors' collective stories were inconsistent and incredible. However, as the trial court noted, it should not be expected that three minor siblings—ages 16, 11, and 7 at the time of the investigation—could be in complete agreement about anything, much less the precise comings and goings of their older brother over a period of several months. We find no logical support for respondent's suggestion that the inconsistencies in the minors' testimonies prove that Frank Jr. *was not* in the house during the relevant time period. Instead, the more reasonable conclusion is that the minors accurately remembered that Frank Jr. was in the house, but they could not remember precisely when. The court was free to reject the suggestion that the three minors were conspiring to frame their parents in these adjudicatory proceedings by falsely reporting that Frank Jr. had been in the home.

¶ 32 Further, for purposes of the State's allegation that Frank Jr. had access to the minors, the exact times that Frank Jr. was in the house were not dispositive. Instead, the State was simply required to prove by a preponderance of the evidence that respondent and Frank Sr. allowed Frank Jr. to have access to the minors after March 20, 2013 (the date Frank Jr. was adjudicated a sex offender). The trial court found that the State proved this allegation based, in part, on (1) the statements of the minors, (2) Frank Jr.'s admissions to investigators, and (3) Frank Jr.'s incredible testimony at the adjudicatory hearing.

¶ 33 Respondent also points out that H.I., who on several different occasions was called upon to describe the incident involving Frank Jr., did not always mention the same facts each time she told the story. Respondent further notes that H.I. has been known to lie in the past

to get her way. Although we acknowledge that H.I. did not always recount the incident involving Frank Jr. with pinpoint consistency, we flatly reject respondent's suggestion that the trial court was duped into believing a complete lie. As the court noted, the evidence revealed no possible motive for H.I. to lodge a false accusation of sexual abuse against her brother. Because the court was in the best position to observe H.I.'s demeanor and judge her credibility, we decline respondent's invitation to second-guess the truth of H.I.'s testimony.

¶ 34 In any event, we need not address the trial court's finding as to the allegation that Frank Jr. sexually abused H.I. because we conclude that the State proved its allegation that respondent and Frank Sr. allowed Frank Jr. to have access to the minors. See *In re Faith B.*, 216 Ill. 2d 1, 14, 832 N.E.2d 152, 159 (2005) ("Only a single ground for neglect need be proven, and thus when the circuit court has found a minor neglected on several grounds, we may affirm if any of the circuit court's bases of neglect may be upheld."). Accordingly, the court's judgment that the minors were neglected was not against the manifest weight of the evidence. Because respondent has not addressed the court's dispositional order on appeal, we affirm that portion of the court's judgment without discussion.

¶ 35 As a final matter, we note that each of respondent's opening briefs in these consolidated appeals failed to include statements of facts. Illinois Supreme Court Rule 341(h)(6) (eff. Feb. 6, 2013) provides, in pertinent part, that an appellant's brief must include a "Statement of Facts, which shall contain the facts necessary to an understanding of the case, stated accurately and fairly without argument or comment, and with appropriate reference to the pages of the record on appeal." Counsel appointed to represent a parent on appeal from child-custody proceedings should be familiar with the rules governing appeals, which are freely accessible on the supreme court's website. See <http://www.state.il.us/court/SupremeCourt/Rules/> (visited Nov. 20,

2014).

¶ 36 We also note that the State, citing respondent's failure to comply with Rule 341(h)(6), provided this court with a full statement of facts in its brief. We express our gratitude to the State for taking this extra step, which was not required under the supreme court rules. We also express our appreciation to the trial court for its detailed and thoughtful explanation of its findings and reasoning in this case, which we found helpful in our consideration of these appeals.

¶ 37 III. CONCLUSION

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

¶ 39 Affirmed.