2015 IL App (4th) 141065-U

NO. 4-14-1065

FILED
May 6, 2015
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re: Ch. S., Am. S., Fr. S., Ni. S.,	)	Appeal from
Za. S., and Aa. S., Minors,	)	Circuit Court of
THE PEOPLE OF THE STATE OF ILLINOIS,	)	Champaign County
Petitioner-Appellee,	)	No. 14JA55
v.	)	
PAULINE JACKSON,	)	Honorable
Respondent-Appellant.	)	John R. Kennedy,
	)	Judge Presiding.

JUSTICE KNECHT delivered the judgment of the court.
Justices Holder White and Harris concurred in the judgment.

ORDER

¶ 1 *Held*: (1) The question of whether the trial court erred by entering the temporary custody order is moot.

(2) This court need not show whether a presumption of neglect arises, as the record does not show the trial court presumed neglect when the parent and her children resided with a registered sex offender.

(3) The trial court's finding of neglect is not against the manifest weight of the evidence.

(4) The trial court's fitness determination is against the manifest weight of the evidence.

¶ 2 Respondent mother, Pauline Jackson, appeals the orders finding her children,

Ch. S. (born October 14, 1998), Am. S. (born January 31, 2000), Fr. S. (born June 24, 2001),

Za. S. (born October 14, 2003), Ni. S. (born February 28, 2007), and Aa. S. (born February 28,

2009), neglected, making her children wards of the court, and placing custody and guardianship with the Department of Children and Family Services (DCFS). Pauline argues the trial court erred by (1) entering a temporary custody order placing temporary custody with DCFS; (2) acting under a presumption of neglect due to Pauline's marriage to a registered sex offender; (3) finding the children neglected, and (4) finding her unfit. We affirm in part, reverse in part, and remand with directions.

¶ 3 I. BACKGROUND

¶ 4 In August 2014, the State filed a petition for adjudication of neglect and shelter care on behalf of Pauline's six minor children. The State identified Mack S. as the putative father of the children. Mack S. is not a party to this appeal. The State alleged three counts of neglect, contending the children's environment was injurious to their welfare when they resided with Pauline because they were exposed to the following: (1) the risk of sexual abuse, (2) contact with a registered sex offender, and (3) inadequate supervision (705 ILCS 405/2-3(1)(b) (West 2012)).

¶ 5 The same day the State filed its petition, the trial court entered a temporary custody and admonition order. The court found probable cause to find the children were neglected. The court based this decision on testimony by Sheree Foley of DCFS. According to Foley, DCFS received a hotline report the children were exposed to a sex offender, Pauline's paramour Michael Jackson, who was not cooperating with treatment. The Rantoul police department conducted a compliance follow up, but Pauline would not allow the police department to conduct a search of her home.

¶ 6 In October 2014, a hearing was held on the State's petition. At the hearing, both parties presented testimony and evidence.

¶ 7 Tracy Wagner, a Champaign County sheriff's deputy, testified he was dispatched to Pauline's residence on February 4, 2014, for report of a battery. At the residence, Deputy Wagner spoke to Mack, who made the report. Pauline and Michael were also present. Mack reported he had been battered by Michael during a dispute. Mack had been on the telephone with a utility company and needed to speak to Pauline. When Mack unlocked the bathroom door to find Pauline, Michael became angry and punched Mack in the face. Mack left and called 9-1-1. Pauline reported Mack entered the bathroom without permission while she was taking a bath. She confronted him, and Mack slapped her. Michael stepped in to protect her.

¶ 8 According to Deputy Wagner, one or two of the children were there when he arrived. Pauline showed Deputy Wagner an order of protection from Cook County that mandated Mack not to be in Pauline's presence. She asked him to remove Mack. Mack was arrested for violating the order of protection; Michael was arrested for battery.

¶ 9 Bert Richter, a Rantoul police officer, testified in March 2014, he observed a vehicle owned by a registered sex offender was parked at the Rantoul Motel. Michael, a registered sex offender, identified himself as homeless. Officer Richter, upon finding Michael at the motel, arrested Michael for failure to change his registration.

¶ 10 Michael Kleppin, a clinical and forensic therapist, testified he conducted a sex-offender evaluation of Michael on March 28, 2014. This process included a lengthy interview, in which topics such as demographics, family, background, and history were discussed. Michael asked Kleppin to perform the evaluation so he could obtain a second opinion. Michael paid for the evaluation. Kleppin diagnosed Michael with specified paraphilic disorder. Kleppin specified Michael had an addiction to pornography. Kleppin, when asked about Michael's risk to reoffend,

opined the range was a low to moderate level of risk, which was the second lowest level on a six-level scale. Kleppin based this decision, in part, on the support system Michael had in place, his ownership over the behaviors that led to his use of child pornography, his willingness to comply with supervision, and his goals and aspirations. Kleppin explained the test used to ascertain the risk of reoffending was used and researched on contact offenders. Michael's offense was a noncontact offense.

¶ 11 Kleppin stated Michael was "quite participative and engaging." Michael's original offense was the viewing of child pornography while he served in the military. Michael was court-martialed for the offense and placed under house arrest.

¶ 12 Kleppin made several recommendations for Michael. Those included complying with the terms of registration, completing sex-offender treatment, avoiding pornography in any medium, abstaining from drug or alcohol usage, and avoiding unsupervised access to children. Michael had been participating in therapy before his meeting with Kleppin.

¶ 13 Sheree Foley, a child-protective investigator for DCFS, testified she investigated an August 2014 report Pauline's children were at risk of sexual harm because Michael was living in their home. A similar report had been made in February 2014. As a result of the February report, Foley spoke with Pauline regarding her relationship with Michael. Pauline was in a romantic relationship with Michael. She knew he was a sex offender, but she did not know whether he had completed treatment. Pauline did not believe Michael posed a risk to her children. As a result of this investigation, Michael obtained a sex-offender evaluation with Terry Campbell. Pauline did not agree with Campbell's conclusions. Michael then arranged to complete another evaluation with Kleppin. At this point, Foley made a referral for intact-family

services. Michael was not then residing in the home.

¶ 14 According to Foley, she received the second hotline call in August 2014. Foley spoke with Dr. Jeffrey Reynolds, who provided sex-offender treatment to Michael. Based on Foley's conversations with Reynolds, it was determined DCFS should take custody of the children.

¶ 15 Foley testified she went to speak to Pauline about taking the children into custody. Pauline believed DCFS was wrong in this decision. Pauline "had put [Michael] out of the home." Pauline stated when the police arrived, she did not allow them to look at the social media devices or cell phones and she believed she had the right to do so. Pauline did not allow Foley to enter her home.

¶ 16 Jeffrey Reynolds, the program director at the Community Resource and Counseling Center, testified he began treating Michael before the referral was made by DCFS. Michael's first group session with Dr. Reynolds occurred in March 2014; his last session was in August 2014. In August 2014, Michael transferred to the treatment program run by Kleppin. Michael also received individual counseling from another staff member. Michael was to attend group sessions weekly; his attendance was "very good." Dr. Reynolds read Kleppin's opinion on Michael's risk to reoffend and believed Kleppin "understated the risk slightly."

¶ 17 Dr. Reynolds believed Michael should not have been permitted to live with Pauline and her children. Dr. Reynolds did not believe Michael progressed in his treatment. Michael was "very resistant to the treatment process." Michael was argumentative and, at times, disrespectful. Michael did not exhibit a sense he needed to make changes in his life. Michael also failed to provide a copy of the report by Terry Campbell, despite Dr. Reynolds's request to

see it. Michael did not believe the report was accurate. Dr. Reynolds opined Michael had a moderate risk to reoffend. He recommended no unsupervised contact with the children. Dr. Reynolds opined Michael should not reside with Pauline and her children because "[i]t's difficult to imagine somebody being able to be supervised 24 hours a day while they are living in the home."

¶ 18 On cross-examination, Dr. Reynolds explained why he disagreed with Kleppin's opinion on the risk of reoffense. Dr. Reynolds explained he reviewed Kleppin's report and believed Kleppin did not have the benefit of information Dr. Reynolds learned during treatment. For example, during treatment, Michael revealed in addition to downloading and viewing child pornography, he downloaded pornography depicting bestiality and searched online for "snuff films," which depict an actual murder and frequently have an element of sexual gratification from the murder. Dr. Reynolds could not tell from Kleppin's report whether Kleppin knew of this information.

¶ 19 According to Dr. Reynolds, Michael denied he continued to look at child pornography. Dr. Reynolds opined if Pauline completed the chaperone class, she could provide supervision for Michael with the children. Dr. Reynolds knew a safety plan was in place to prevent Michael from having unsupervised contact with the children. He knew of no violation of that safety plan.

¶ 20 The State presented Campbell's report and Kleppin's report into evidence. Campbell opined Michael "may pose a risk of sexual harm to children" and the risk "could be greater" if Michael had contact with children, particularly if he were allowed to groom the children. Campbell further opined a "qualified, licensed sex offender treatment provider would

be able to determine at what point in the future the client would be allowed to reside with children." Campbell diagnosed Michael with adult antisocial behavior (possession of child pornography, 2010) and narcissistic personality disorder with histrionic traits. Campbell concluded Michael minimized his behavior and may not have been entirely forthcoming in his responses. In addition to the conclusions to which Kleppin testified, Kleppin's report indicated Michael reported he was first exposed to child pornography in October 2009. At first, Michael was shocked, but then he gained an interest in those materials, and this progressed to "his fascination with other fetish images including (but not limited to) bestiality, images implying incestuous activities[,] *etc*."

¶ 21 Testifying for the defense, Teri McKean, a licensed clinical social worker and clinical supervisor at CBC Counseling, stated she worked with Pauline since March 2014. Pauline contacted CBC Counseling about the psychoeducation-on-sexual-abuse class. There were no openings at the time, but Pauline was referred to the Crisis Nursery class. In Crisis Nursery, participants addressed supervision needs and problematic behaviors of children and addressed myths and facts about sexual abuse and protecting the children. Pauline completed the class. Because she had contact with the offender, Pauline also took the modified chaperone class. In that class, participants learned to identify triggers, cycles, and "other things that the non-offending parent would need to be aware of if the offending parent was around." The chaperone class was taught individually due to the confidential nature of the material and because it provided individual therapy as well. Pauline had eight one-hour sessions. McKean opined Pauline was a "very active participant" who sought information and brought topics to discuss to the sessions. Pauline received a completion certificate, but McKean noted a caveat.

McKean stated the class was intended for both the non-offending and the offending parents at some point: "It starts off with the non-offending parent. Once the offending partner *** completed enough of their treatment, *** they will come in and we will do family safety planning. So we had created a plan specifically stating that that would need to be modified in the future once her paramour was at that point."

¶ 22 McKean testified she found Pauline sincere and believed Pauline was doing what she thought was best for her and her children. McKean last saw Pauline in July 2014. They maintained occasional e-mail and phone contact. When the sessions concluded, McKean recommended Pauline continue individual counseling at the Community Resource Counseling Center and continue with couple's counseling with Michael.

¶ 23 According to McKean, she and Pauline developed a safety plan during their sessions. McKean explained the family had been given a safety plan from the Center for Youth and Family Solutions (CYFS) in May 2014, when the goal was to return home. McKean opined the plan was good, but very broad. McKean and Pauline created a more detailed plan. This plan included banning Michael from baby-sitting, having separate bathrooms for the children and adults, and prohibiting horseplay or tickling. The plan also stated steps Pauline should take if Pauline felt something was happening, such as Michael being "on his cycle." McKean believed Pauline followed the safety plan.

¶ 24 On cross-examination, McKean testified, when she developed the safety plan, she had not contacted Michael's treatment providers because he had not signed a release. McKean did not recall whether she asked Michael to sign such a release.

¶ 25 On redirect, McKean testified Pauline was supervising Michael's contact with her

children. Pauline made it a point to ensure Michael was not alone with the children. He was not responsible for their hygiene procedures. McKean believed Pauline was knowledgeable about Michael's past. Pauline reported the offense occurred while Michael was on a military base. Michael had a pornography addiction and had been looking up more deviant pornography over time.

¶ 26 Pauline testified she and Michael married in June 2014. The ages of her children ranged from 5 to 16. She had sole custody of her children after her 2012 divorce from Mack. Pauline and Michael began dating in early 2013. Michael disclosed his conviction at the beginning of their relationship. They decided to live together in November 2013. Mack sometimes stayed at her residence. The order of protection was a "no unlawful contact order of protection." It allowed Mack to visit Pauline and the children.

¶ 27 According to Pauline, she and Michael had rules when he moved into her home. Michael was not to be alone with the children. If Pauline went to the store, Michael went with her. Michael did not baby-sit. When he was at the house, she was there "100% of the time." Pauline set these rules because the law stated Michael could not have unsupervised contact with the children. There had been no unsupervised contact between Michael and the children.

¶ 28 Pauline testified Michael had lived with her and the children for approximately two months. Mack was living there, too, at the same time. Regarding the incident during which the police arrived at the house, Pauline stated she was taking a bath in the adult bathroom. There was a special lock on the bathroom door to prevent the children from entering. Mack knew the combination and entered while Michael was using the bathroom. Mack remained persistent. Michael defended Pauline. After this incident, Mack left the residence and had not returned to

see his children.

¶ 29 According to Pauline, two days later, "[t]hey" asked Michael to move out, and he did. From February until March, Michael, who was a student at the University of Illinois, slept on campus. From March until May, Michael stayed in a Rantoul hotel. After caseworkers asked Michael to leave, Pauline went to DCFS voluntarily and asked how to fix the situation. A supervisor told Pauline she would send intact services to Pauline's home. Before those services arrived, Pauline and Michael found a treatment provider for Michael. Pauline went to the Crisis Nursery and began "Darkness into Light" training. Pauline paid for her training. At Crisis Nursery, Pauline learned how to use appropriate words with children, to identify behaviors indicative of a sexually abused child, and to keep children safe. Pauline also underwent eight sessions of psychosexual-education counseling and chaperone counseling.

¶ 30 Pauline described the safety plan she and McKean developed. They maintained separate bathrooms for adults and children, installed special locks on bedroom doors, and prohibited children from entering the master bedroom. Michael was not present at night. Pauline monitored the computers regularly. Michael was not to baby-sit or be left alone with the children at any time. Michael signed the plan.

¶ 31 Pauline testified she had no contact with Michael from February until May under DCFS rules. From May until August 7, 2014, when Michael resided in the house, they strictly followed the plan. Since August 7, 2014, Michael has had no contact with the children.

¶ 32 According to Pauline, Michael fully disclosed his conviction and background. Pauline had Michael's military records and "read everything." Pauline testified she "quickly" did "[e]very single thing they have asked me to do."

¶ 33 Pauline testified the first evaluation of Michael was performed by Terry Campbell. Campbell was selected because he had the earliest opening in his schedule. Pauline said the evaluation was inadequate, as it was supposed to include an assessment of risk but did not. The appointment lasted only 40 minutes, which included 20 minutes of conversation. Kleppin performed the second evaluation.

¶ 34 Pauline and Michael participated in marital counseling as recommended by McKean. After the children were removed from her home, the referral stopped. Pauline's therapist at the time, however, would occasionally see the two of them together. Pauline and Michael's relationship was "a little strained" because the children were removed. Pauline's goal was to get her children back. She also wanted to stay with Michael, who was still in treatment and had not missed a week.

¶ 35 On cross-examination, Pauline denied the family safety plan required Michael to "make progress." The requirement was that Michael would attend weekly counseling sessions and successfully complete them. Michael left counseling with Dr. Reynolds because he was not getting enough individual time and because of transportation issues. Michael was getting treatment from Kleppin.

¶ 36 Pauline testified regarding the locks on the children's bedroom doors. The older children had locks they could open with a key. The younger kids had a "special kind," which Pauline would lock after she put the children to bed. All rooms could be opened without a key from the inside. Pauline also had a key. All but one of the children were at school during the bathroom incident. The youngest was with Mack, and they were not inside the house at first.

¶ 37 The trial court found all counts proved by clear and convincing evidence.

¶ 38 The dispositional hearing was held in November 2014. At the hearing, the trial court considered a dispositional report authored by DCFS. In the dispositional report, Lisa D. Barkstall, a licensed clinical social worker, wrote DCFS received a report on August 7, 2014, Pauline's children were at risk of sexual abuse as Michael resided in the same house with the children. The report indicated Michael was not cooperating with sex-offender treatment. That same day, Rantoul police officers went to Pauline and Michael's home, as they were completing sex-offender compliance checks. Pauline denied the officers access to their home.

¶ 39 According to the report, in May 2014, CYFS allowed Michael to move into the home with the children. CYFS put in a supervision plan. Michael was not to be in the home alone with the children at any time. CYFS monitored the plan through home visits. CYFS did not speak to Michael's treatment provider before initiating this plan. The plan continued until the children were removed from the home in August 2014.

¶ 40 Barkstall further reported Michael, born in June 1985, was court-martialed in December 2010 for receiving photographic visual and video depictions of minors engaged in sexual conduct. Caseworkers met with Dr. Reynolds, who opined Michael was performing poorly in treatment as of August 2014. Dr. Reynolds recommended Michael be further along in his treatment before he could be returned to the children's home. Dr. Reynolds was concerned about Michael's refusal to permit police to look at his phone and other digital devices in the home.

¶ 41 According to the report, Pauline complied with services and attended all four visits offered her. The visits went well. The children were bonded to Pauline.

¶ 42 At the hearing, Pauline testified. Pauline disputed the report she and Michael

refused police access to their home on August 7, 2014. According to Pauline, the police were in her home for approximately 35 minutes before Bridgette Walls from CYFS arrived. The police had free access to Michael's items, but they refused to search because Pauline asked the police not to enter the children's bedrooms. Walls did not ask to enter the home.

¶ 43 Pauline testified the report was also inaccurate regarding her education. She had a bachelor's degree in nutrition from Ashford University, and she was working on her master's degree. Pauline disagreed with DCFS's opinion she did not understand the safety concerns with having Michael in her home. Pauline pointed to McKean's conclusions in support.

¶ 44 Pauline suggested the children be returned to her and Michael should be removed from the home until he completed treatment. Pauline testified to the following: "When they initially asked me to remove because they were concerned about access, that's exactly what [I] did. I never allowed Michael to have any access that we were not given permission for him to have. The kids never had any involvement or even saw him until such time as CYFS told me to allow Michael back into the house."

¶ 45 Pauline was ordered to have weekly visits with her children, but she had not received them. The children wanted to return home.

¶ 46 The trial court found Pauline unfit for reasons other than financial circumstances alone to care for, protect, train, and discipline her children. The court found it contrary to the children's health, safety, and best interests to be in Pauline's custody. The court found the goal should be to return home.

¶ 47 This appeal followed.

¶ 48 II. ANALYSIS

¶ 49 A. Temporary Custody Order

¶ 50 Pauline first argues the trial court erred in finding probable cause of neglect and in concluding there was an immediate and urgent necessity to remove the children. Pauline emphasizes there was no proof the children were neglected or harmed by Michael's presence in the home and reasonable efforts were made to prevent removal.

¶ 51 The State contends this issue is moot. We agree. An appeal of findings in a temporary custody hearing is generally moot when a subsequent adjudication of wardship is supported by adequate evidence. *In re J.W.*, 386 Ill. App. 3d 847, 852, 898 N.E.2d 803, 808 (2008) (quoting *In re Ivan H.*, 382 Ill. App. 3d 1093, 1100, 890 N.E.2d 604, 611 (2008)). Here, as shown below, the record adequately supports the adjudication of neglect. The issue is moot. See *id.*

¶ 52 In her reply brief, Pauline maintains the issue is not moot. She argues there continues to be an actual controversy as to whether probable cause existed to remove the children from the home and whether reasonable efforts were undertaken to prevent the removal of the children. Pauline, however, fails to develop this argument. She cites no authority to show these alleged "actual controversies" create an exception to the general rule for mootness as stated in *J.W.* Her case law, at best, only explains the mootness doctrine. See, *e.g.*, *In re Andrea F.*, 208 Ill. 2d 148, 156, 802 N.E.2d 782, 787 (2003). Pauline has forfeited this argument. See Ill. S. Ct. R. 341(h)(7) (eff. Feb. 6, 2013) ("Points not argued are waived ***."); *Campbell v. Wagner*, 303 Ill. App. 3d 609, 613, 708 N.E.2d 539, 543 (1999) (stating "the appellate court is not a depository into which the burden of research may be dumped and failure to cite legal authority in the argument section of a party's brief waives the issue for review").

¶ 53 Pauline further argues the temporary custody order falls into at least two well-recognized exceptions to the mootness doctrine: the short-duration exception and the public-interest exception. Regarding the short-duration exception, Pauline maintains it is clear the challenged action is too short to be fully litigated before the end and there is a reasonable expectation she will have another child and would be confronted with another shelter-care proceeding on the same issue.

¶ 54 For the short-duration exception to apply, a party seeking its implementation must show both (1) the challenged action is too short in duration to be fully litigated before it ends, and (2) a reasonable expectation exists the same party will be subjected to the same action again. See *People v. Bailey*, 116 Ill. App. 3d 259, 261-62, 452 N.E.2d 28, 30-31 (1983). Pauline has failed to establish a reasonable expectation she will be subjected to the same action again. Whether probable cause exists to support a temporary custody order is a fact-specific inquiry. The circumstances in this case, including Pauline's participation in therapy and efforts to bring her children home and Michael's efforts in addressing his sex-offender status, will be different than they were when presented in the trial court in August 2014. A finding by this court on these facts would have no bearing on whether probable cause for DCFS involvement exists in the future.

¶ 55 As to the second purported exception, the public-interest exception, we find the issue forfeited. See Ill. S. Ct. R. 341(h)(7) (eff. Feb. 6, 2013). Pauline merely sets forth the requirements of the exceptions and states "the nature of the shelter[-]care hearing and the importance of establishing clear guidelines for such a proceeding where the issues can arise a significant percent of the time that a wardship petition is filed, lends this type of order to review

under the public[-] interest exception." Pauline cites no authority nor develops any legal argument on which this court could find the public-interest exception is applicable to these facts. This court will not develop the argument for her. See *Campbell*, 303 Ill. App. 3d at 613, 708 N.E.2d at 543.

¶ 56 B. Presumption of Neglect

¶ 57 Pauline next raises the issue of "whether there is a presumption of neglect where a parent and the parent's children reside with a registered sex offender." Pauline begins the argument by stressing the hotline calls made to DCFS were made solely on the basis Pauline resided with a registered sex offender and this posed some risk of sexual abuse. Pauline develops a lengthy argument to establish the United States Constitution prohibits such a presumption and, because one was made and because there were no allegations of actual sexual misconduct or attempted misconduct, the case should be dismissed.

¶ 58 We need not address this argument because Pauline's underlying premise fails. Pauline fails to cite any trial court statement or any evidence in the record to establish the neglect adjudication was solely based on the fact a registered sex offender resided in the home of the children. While the hotline call and the initial investigation may have been triggered by a report that a sex offender was residing with children, there is no indication that fact alone prompted a presumption of neglect or a transference of the burden of proof. The State did not rely solely on the fact Michael was a registered sex offender. In addition to the sex-offender history and status, the State pointed to Campbell's report, Dr. Reynolds's conclusions, and the fact Michael had not been successfully treated. Whether Michael's status, when considered with the other evidence presented by the State, supports a neglect finding is a proper question—one we next address.

¶ 59 C. Neglect Adjudication

¶ 60 An adjudication of wardship significantly intrudes into the sanctity of the family; that option should not be undertaken lightly. *In re A.P.*, 2012 IL 113875, ¶ 18, 981 N.E.2d 336. A court undertakes a two-step process in deciding whether a child should be made a ward of the court. *Id.* The first step is the adjudicatory hearing, during which the court considers whether a child is abused, neglected, or dependent. *Id.* ¶ 19, 981 N.E.2d 336. At this hearing, the State bears the burden of proving abuse, neglect, or dependency by a preponderance of the evidence, which is proof showing the condition is more probable than not. *In re N.B.*, 191 Ill. 2d 338, 343, 730 N.E.2d 1086, 1088 (2000).

¶ 61 Pauline begins her argument on this issue by setting forth three different standards of review. In her first sentence, Pauline states a trial court's neglect determination will not be disturbed on appeal unless it is against the manifest weight of the evidence. However, Pauline follows this statement with a citation to a criminal case and the statement "evidentiary rulings are reviewed for abuse of discretion." In the last sentence, Pauline states the standard of review on the question of whether the trial court correctly applied an evidentiary statute is *de novo*.

¶ 62 Pauline's first standard-of-review statement is the proper one. This court will not disturb a finding of neglect unless the finding is against the manifest weight of the evidence, meaning the opposite conclusion is clearly evident. *In re Arthur H.*, 212 Ill. 2d 441, 464, 819 N.E.2d 734, 747 (2004). On this matter, Pauline does not challenge an evidentiary ruling or point to a specific statute and argue it was applied incorrectly.

¶ 63 Pauline next restates the preponderance-of-the-evidence standard of proof for the adjudicatory hearing and argues the State failed to show her children were neglected. Pauline

emphasizes the evidence shows the children received "the proper or necessary support, education as required by law, or medical or other remedial care recognized *** as necessary for a minor's well-being." See *In re Edricka C.*, 276 Ill. App. 3d 18, 25, 657 N.E.2d 78, 82 (1995). In support, Pauline undermines the conclusions of Dr. Reynolds by showing he did not perform a sex-offender evaluation. Pauline emphasizes Kleppin's testimony Michael presented a low-moderate risk to reoffend, the lack of evidence establishing Michael had any unsupervised contact with the children or any inappropriate contact with the children, the low rate of recidivism by sex offenders, and Pauline's efforts to complete the chaperone class, to secure Michael's treatment, and to insure her children had no unsupervised contact with him.

¶ 64 Pauline's argument essentially asks this court to reweigh the evidence and assess witness credibility. This is something we will not do. *In re Chyna B.*, 331 Ill. App. 3d 591, 595, 772 N.E.2d 301, 305 (2002) (concluding it is not the duty of the appellate court to reweigh evidence). On appeal, we may not overturn a trial court's findings even if we would have reached a different conclusion. *Id.* Our task is to examine the court's neglect finding to determine whether it is contrary to the manifest weight of the evidence. *Id.*

¶ 65 Employing the applicable standard of review, we find no reversible error. Pauline's children were found neglected in that their environment was injurious to their welfare when the children resided with Pauline in that they were exposed to: (1) the risk of sexual abuse, (2) contact with a registered sex offender, and (3) inadequate supervision (705 ILCS 405/2-3(1)(b) (West 2012)). A minor is neglected if the child's environment is injurious to his or her welfare. *Id.* An "injurious environment" is an amorphous concept that has been interpreted to include a breach of the duty of a parent to provide a safe and nurturing shelter for his minor

children. *A.P.*, 2012 IL 113875, ¶ 22, 981 N.E.2d 336.

¶ 66 The trial court found the State proved each allegation of neglect by a preponderance of the evidence. This finding, the children reside in an injurious environment, is not against the manifest weight of the evidence because the opposite result is not clearly evident. The record supports the trial court's conclusions. It shows the children resided in a home with Michael, who had not, at that time, successfully completed sex-offender treatment. Experts opined Michael had a risk to reoffend, with a low-moderate risk at the lowest end. Dr. Reynolds, who worked with Michael, opined the children should not be exposed to him. Kleppin opined Michael should not have unsupervised access to children, and Dr. Reynolds opined he did not believe the children could be supervised 24 hours a day.

¶ 67 While Dr. Reynolds may not have completed a "licensed sex offender evaluation," this does not sufficiently undermine his opinion regarding whether Michael should be residing with the children that the trial court erred in giving it weight. Dr. Reynolds had a history of working with sex offenders. Dr. Reynolds spent multiple hours with Michael over a number of weeks. Dr. Reynolds heard Michael report his crimes and his pornography addiction. Dr. Reynolds observed Michael's attitude and demeanor. His opinion and observations do not amount to conjecture, guess, or speculation, as argued by Pauline.

¶ 68 In addition, we note Pauline contends the opinions of the experts do not meet the *Frye* standard of admissibility. Pauline does not argue this issue was raised before the trial court, nor does she cite the record accordingly. This argument is forfeited. See Ill. S. Ct. R. 341(h)(7) (eff. Feb. 6, 2013) ("Argument, which shall contain the contentions of the appellant and the reasons therefor, with citation of the authorities and the pages of the record relied on."); see also

In re Marriage of Culp, 399 Ill. App. 3d 542, 550, 936 N.E.2d 1040, 1047 (2010) (holding arguments not made at trial may not be raised on appeal).

¶ 69 D. Dispositional Order

¶ 70 After a finding of neglect, a dispositional hearing is held. *A.P.*, 2012 IL 113875, ¶ 21, 981 N.E.2d 336 (citing 705 ILCS 405/2-21(2) (West 2010)). At this hearing, a trial court decides whether to commit a child to DCFS custody and guardianship. The court may grant custody and guardianship to DCFS if it finds (1) the parents are "unfit or *** 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 [(2)] the health, safety, and best interest of the minor will be jeopardized if the minor remains in the custody of his or her parents." 705 ILCS 405/2-27(1)(d) (West 2012). On appeal, we will not overturn a trial court's decision on fitness unless the findings of fact are against the manifest weight of the evidence or the court abused its discretion in selecting an improper dispositional order. *In re Ta. A.*, 384 Ill. App. 3d 303, 307, 891 N.E.2d 1034, 1037-38 (2008).

¶ 71 Pauline disputes the conclusions of the dispositional report. Pauline argues, since DCFS became involved, she complied with the services and did what was required of her. Pauline emphasizes CYFS put in a safety plan that permitted Michael to be in the home, pursuant to that plan she allowed Michael in the home, and then DCFS opined she does not understand the risk of his being there.

¶ 72 We agree with Pauline. The finding she was not a fit and willing parent is against the manifest weight of the evidence. The record establishes, after the initial hotline call in February 2014, DCFS set up intact services for Pauline and her family. Pauline actively sought

treatment and services necessary to preserve her family. The only testimony on the issue shows Michael had no contact with the children starting at that time. Pauline participated in a Crisis Nursery class and therapy. Dr. Reynolds opined Pauline would be an appropriate supervisor for the children upon successfully completing the chaperone class, which she did. In May 2014, CYFS created a safety plan and allowed Michael to return to the home. According to McKean's testimony, Pauline's safety plan was more developed and narrower than the broad plan provided by CYFS. The uncontradicted testimony shows from May 2014 until August 2014, when the children were removed, Pauline, Michael, and the children lived according to the CYFS plan. There is no finding by the trial court that Pauline was not credible. When DCFS became involved again in August 2014, the children were taken. Pauline's efforts did not end when her children were taken. The dispositional report shows she complied with services and visits.

¶ 73 While this scenario placed the children in a situation where there were in an injurious environment, Pauline's decision to allow Michael in the home was authorized by an agency. Under the circumstances of this case, that cannot be a basis for finding her unfit.

¶ 74 Our decision the unfitness finding is against the manifest weight of the evidence does not authorize the return of the children to a home in which Michael resides. Given the neglect findings, we believe DCFS should remain involved and the children should not be placed in a situation where unsupervised interaction may occur. Pauline has shown her willingness to comply with DCFS directives and receive education, and she has demonstrated a commitment to her children's welfare. We question Michael's place in her children's lives, but that is best left to DCFS and the trial court after further consideration.

¶ 75 We reverse the trial court on the issue of Pauline's fitness and remand for a new

dispositional hearing.

¶ 76 III. CONCLUSION

¶ 77 We reverse the trial court's dispositional order and remand for a new dispositional hearing. We affirm in all other respects.

¶ 78 Affirmed in part and reversed in part; cause remanded with directions.