2018 IL App (4th) 180026-U

NO. 4-18-0026

FILED
May 23, 2018
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re N.W., a Minor	)	Appeal from the
	)	Circuit Court of
(The People of the State of Illinois	)	McLean County
Petitioner-Appellee,	)	No. 17JA54
v.	)	
Nicole Wilburn,	)	Honorable
Respondent-Appellant).	)	Kevin P. Fitzgerald,
	)	Judge Presiding.

JUSTICE CAVANAGH delivered the judgment of the court.
Presiding Justice Harris and Justice Turner concurred in the judgment.

ORDER

¶ 1 *Held*: (1) Respondent's admission of the neglect allegation in the petition for adjudication of wardship was knowing and voluntary.

(2) The factual findings the trial court made in the dispositional hearing are not against the manifest weight of the evidence.

(3) Respondent has forfeited her claims of procedural error.

¶ 2 N.W., born June 9, 2017, is the son of respondent, Nicole Wilburn. On the basis of respondent's admission, the trial court found N.W. to be a neglected minor. Subsequently, in a dispositional hearing, the court made N.W. a ward of the court and awarded custody and guardianship of him to the Illinois Department of Children and Family Services (DCFS).

¶ 3 Respondent appeals, arguing that (1) her admission was not knowing and voluntary, (2) the court's findings in the dispositional hearing are against the manifest weight of the evidence, and (3) the court made procedural errors in the dispositional hearing. We disagree

with her first two arguments and conclude that she has forfeited her third argument. Therefore, we affirm the judgment.

¶ 4 I. BACKGROUND

¶ 5 A. The Petition For Adjudication of Wardship

¶ 6 On June 12, 2017, the State filed a petition to adjudicate respondent's son N.W. a ward of the court. N.W. was in protective custody at the time. Paragraph 3(A) of the petition alleged:

> "3. The minor is NEGLECTED under [section 2-3(1)(b) of the Juvenile Court Act of 1987 (705 ILCS 405/2-3(1)(b) (West 2016))] by reasons [*sic*] of the following facts:
>
> A. THE MINOR, WHO IS A NEWLY BORN INFANT, IS RESIDING IN AN ENVIRONMENT INJURIOUS TO HIS WELFARE IF IN THE CARE OF RESPONDENT MOTHER IN THAT SHE HAS CURRENT JUVENILE COURT INVOLVEMENT PURSUANT TO MCLEAN COUNTY CASE [NO.] 16-JA-63. IN THAT CASE, THREE PRIOR[-]BORN MINORS ARE IN THE CUSTODY OF THE ILLINOIS [DEPARTMENT OF CHILDREN AND FAMILY SERVICES (DCFS),] AND RESPONDENT MOTHER WAS MOST RECENTLY FOUND TO BE UNFIT ON JUNE 6, 2017. THIS CREATES A RISK OF HARM TO THE MINOR."

¶ 7 B. The Shelter Care Hearing

¶ 8 Also on June 12, 2017, the trial court held a shelter care hearing, in which the court decided to place N.W. in the temporary custody of DCFS.

¶ 9 The trial court told respondent:

"[N]ow that [N.W.] has been [p]laced in the temporary custody of [DCFS], I'm required to admonish you, you must cooperate with [DCFS], comply with the terms of the service plan[,] and correct the conditions which require him to be in care or if the [c]ourt at a later time declares them [*sic*] to be wards [*sic*] of the court, you may risk termination of your parental rights."

¶ 10 C. Respondent's Admission of Paragraph 3(A) of the Petition For Adjudication of Wardship

¶ 11 In a hearing on August 2, 2017, respondent's counsel told the trial court: "We're admitting paragraph [3(A)]." The trial court then admonished respondent:

"THE COURT: Ma'am, paragraph [3(A)] alleges that [N.W.] is neglected as that term is defined in the Juvenile Court Act, by reason of being a newly born infant residing in an environment injurious to his welfare, within your care, and that you have current juvenile court involvement in case [No.] 16-JA-63. In that case[,] three prior[-]born minors are in the custody of [DCFS], pending being most recently found unfit on June 6, 2017. Do you understand the allegations of that paragraph? You have to answer out loud.

[RESPONDENT]: No, not really, 'cause I don't see how I neglected my newborn baby, that's why.

THE COURT: Well, they're saying it creates the risk of harm to him because you're unfit in your other juvenile case.

[RESPONDENT]: But I'm not fit [*sic*] because I can't parent. I'm unfit for something else, for getting in trouble or something like that.

THE COURT: But you're unfit.

[RESPONDENT]: But I've been supporting this baby since they've had him. I buy the formula, the baby water, the baby wipes, clothes.

[DEFENSE COUNSEL]: Your Honor, I believe that my client is ready to admit the allegation, but we would like the [c]ourt to know that she is very interested in getting all of her children back as quickly as possible. And she has been buying formula, and baby wipes, and things of that nature for her infant son.

THE COURT: Okay. What they're alleging is that the finding of unfitness creates a risk of harm to him. Do you understand the allegations, ma'am?

[RESPONDENT]: Yeah.

THE COURT: Okay. Has anything been promised to you to get you to admit the allegation today?

[RESPONDENT]: No.

THE COURT: Do you feel like you've been forced or threatened in any manner to do so?

[RESPONDENT]: No.

THE COURT: All right. Court can take judicial notice of [case No.] 16-JA-63. Is there anything else with respect to a factual basis?

[ASSISTANT STATE'S ATTORNEY]: No, Your Honor.

THE COURT: Stipulate to a factual basis?

[DEFENSE COUNSEL]: Yes, Your Honor.

THE COURT: Court finds a factual basis, finds a free, voluntary, and knowing admission. Will adjudicate the minor to be neglected."

¶ 12 D. The Combined Permanency Hearing and Dispositional Hearing

¶ 13 1. *An Oral List of Documents*

¶ 14 On December 13, 2017, the trial court held a joint hearing, which was a combination of a permanency hearing in McLean County case No. 17-JA-54 and a dispositional hearing in the present case.

¶ 15 At the beginning of the joint hearing, the trial court stated:

> "Matter is scheduled for permanency hearing today. This was originally set back in September. We have had a McLean County incident report, a CASA [(court-appointed special advocate)] report[,] and a permanency report filed at that time. There [has] been a subsequent CASA report filed.
>
> * * *
>
> *** There was also filed today[,] it looks like[,] copies of birth certificates,
>
> [D.] and [Z.], and an updated report from Chestnut [Family Health Center (Chestnut)] on [respondent]."

¶ 16 2. *Camelot's Dispositional Hearing Report*

¶ 17 On September 20, 2017, Camelot Care Centers, Inc. (Camelot), filed a dispositional hearing report. Two persons signed the report on September 13, 2017: the case manager, Frank Young, Jr.,; and a case management supervisor, Kathy Lutz.

¶ 18 According to the report, N.W. and his two siblings, J. and D., had been in the same foster home, in Peoria, Illinois, since August 29, 2017. They were "doing quite well." N.W. had been diagnosed with congenital adrenal hyperplasia, and his foster parent had been taking him every month to his primary-care physician, "for endocrinology." He had been prescribed various medications.

¶ 19 Young and Lutz wrote: "[Respondent] continues to cooperate and engage successfully in supervised weekly visits with her children. [She] has made satisfactory progress in all required services. [She] has strong family support and the desire to complete all services and requirements to have her children returned home."

¶ 20 Even so, for two reasons, Young and Lutz were unwilling as of yet to recommend returning the children to respondent's custody.

¶ 21 First, they had doubts about respondent's candor and truthfulness. They wanted to ask her landlord about respondent's utilities, but she had refused to allow them to do so, purportedly out of concern that her landlord would find out that her children were in the custody of DCFS. Also, "she tried to present an old court order at the hospital so that she could maintain custody of [N.W.] when he was born." Later, on May 27, 2017, she was arrested for filing a false police report—even though she was on probation until August 2018 for possession of methamphetamine.

¶ 22 Second, Young and Lutz had doubts about the soundness of respondent's decision-making and judgment, especially in her choice of paramours. A related concern was her apparent lack of insight into her present predicament, her failure to take personal responsibility for why her children had been removed from her custody. Young and Lutz wrote:

> "[Respondent] continues to engage in random relationships with men who have criminal backgrounds and current legal involvement. *** Most concerning is [her] inability to take responsibility for the reasons her children came into care. She does not take responsibility for her poor decision[-]making and poor choice of paramours as the reason the children came into care. [She] continues to

believe it is the fault of her previous paramour because he had the meth labs in the home.

It is Camelot's concern that [respondent] has successfully completed the required services and tasks, but as of this date, she has not made the inherent changes necessary to ensure the safety and well-being of her children long term. The psychological evaluation ruled out cognitive delay as a barrier to understanding the issues and what needs to be done to safely parent. [Respondent] has the ability to learn and change behavior, but continues to make poor decisions that would ultimately affect her children should they be returned to her care. [She] completed DV [(domestic violence)] counseling, but continues to engage in relationships with legally involved men."

¶ 23 The dispositional hearing report does not specify who the legally involved men were, but it notes that "Tracey [*sic*] Griffin" cosigned the lease for respondent's two-bedroom apartment in Bloomington, Illinois. A copy of the lease is in the record, immediately after the report, as if it were an attachment to the report. It is signed by respondent and Terry Griffin, in between the printed terms "RESIDENTS" and "TOTAL # OF RESIDENTS 2."

¶ 24 3. *The Testimony of Beth Wagner*

¶ 25 Beth Wagner testified she was a licensed clinical professional counselor at Chestnut and that she had been counseling respondent since October 2016. According to Wagner, respondent had been faithfully attending the counseling sessions, she had successfully completed the substance-abuse program at Chestnut to address her addiction to methamphetamine, she continued to "seek out the support of the recovery community," and she had been using and applying the skills and parenting strategies she had learned at Chestnut.

Wagner believed that respondent was able to take care of her children full-time. In fact, from the time she first met respondent, Wagner believed she had the skills necessary to be a parent.

¶ 26 Wagner persisted in this belief even after learning from respondent that (1) she had allowed a registered sex offender, Terry Griffin, to cosign her lease and (2) the day before the dispositional hearing, respondent shared a ride with Griffin. Respondent had assured Wagner that "she'd already taken [Griffin] off the lease."

¶ 27 The assistant State's Attorney asked Wagner:

> "Q. Did you have the opportunity to talk to her about being seen with Terry [Griffin] yesterday?
>
> A. We discussed that this morning.
>
> Q. Did she tell you why she was with him or how that came about?
>
> A. She said this morning that he had asked for a ride and she gave—they [(respondent and her mother)] gave him a ride because they were going to that place already.
>
> * * *
>
> Q. Did she tell you whether or not she had communicated any potential future interactions with Terry [Griffin] and if he requested something from her, what her response would be?
>
> A. She said that she had already spoken to him and told him that she could not do anything—that he could not have a ride, he could not ask for any favors from her[,] and she could not have anything to do with him outside of work."

Wagner believed that respondent had become better at recognizing "red flags" in relationships, a topic they had covered in counseling.

¶ 28 On cross-examination by the guardian *ad litem*, Wagner acknowledged her awareness that respondent was on probation for drug-related charges. A "friend" had installed a methamphetamine laboratory in respondent's home—"[t]he home she lived in with the children"—and that was why the children were removed. The guardian *ad litem* asked Wagner:

"Q. Okay. So[,] what in your counseling is addressing that issue, living in a home with people who are operating a meth lab?

A. She continues to be involved in the recovery community[,] and we talk about that. And her—

Q. Okay. Can I stop you for a second? Why is the recovery community important if she was in a home with a meth lab?

A. Due to the addiction at that point.

Q. So[,] she was addicted then?

A. Yes.

Q. So[,] the way you address the issue of living in a home with a meth lab is to address the substance abuse problem you may have?

A. Yes.

* * *

Q. So[,] did she suggest to you that the reason she lived in a home with a meth lab was to utilize that as a source for her habit?

A. I don't know that we discussed that.

Q. Okay. And I ask you that because doesn't living there with children raise a judgment issue on her part?

A. At that point in time, yes."

¶ 29 4. *The In-Court Reference to Camelot's Dispositional Hearing Report*

¶ 30 After Wagner was excused, the trial court stated:

"THE COURT: When I mentioned what had been filed, the last filing in the court file is the CASA report filed November 29th. I received a Camelot report that is not filemarked[,] and it's dated November 30th. So that has not been filed in the court file.

[(ASSISTANT STATE'S ATTORNEY)]: Your Honor, the case number that is identified on that report is incorrect. I've spoken with Ms. May about that[,] and that is probably why it's not been filed in the court file.

THE COURT: Okay. Well[,] it needs to be filed in this court file.

[THE FATHER'S ATTORNEY]: And when you say [']dated,['] that is on the last page?

THE COURT: Yeah, on the last page it's signed by Ms. May and her supervisor 11/30.

The report that was filed September 20th also had the wrong case numbers on it and it wasn't corrected.

[ASSISTANT STATE'S ATTORNEY]; Your Honor, Ms. May does have an extra copy[,] and she did amend the case number.

THE COURT: All right. Do you have any additional evidence you want to present?

[ASSISTANT STATE'S ATTORNEY]: I do. State calls [respondent]."

¶ 31 5. *The Testimony of Respondent*

¶ 32 In her testimony, respondent explained that Griffin was a coworker and nothing more. She denied he was her friend outside of work. She had mentioned to Griffin that because of her poor credit history, she was having difficulty finding decent housing for her children and that her relatives had balked at cosigning a lease. So, he offered to be a cosigner. She accepted his help without looking into his background. Because he was not going to associate with her children, she did not think his background was important.

¶ 33 It was not until September 2017 that respondent learned that Griffin was a registered sex offender, when her caseworker, Taylor May, told her so. Respondent then "immediately got ahold of [Griffin,] and [they] went to the apartment place and had him removed from the lease."

¶ 34 Griffin had never been to respondent's apartment, although "[t]he same guy that had come down there with him to get his name taken off the lease had [come] by one time during a [child] visit and asked for [Griffin]."

¶ 35 Respondent testified she had reformed herself—she had changed. She had stopped using drugs and alcohol, she had gotten her own apartment, and she had held a job for over a year.

¶ 36 On cross-examination, the guardian *ad litem* asked respondent:

> "Q. Did you spend time with Mr. Dorsey after this case was opened in March [2016]?
>
> A. Yes.
>
> Q. Okay. And you know he's on probation, correct?
>
> A. Yes.
>
> Q. Or parole. Do you know what it is?

A. He's on parole.

Q. And you don't want to share it with us?

A. I don't know what he's on parole for. I think it was residential burglary or something like that.

Q. And you know that is not the kind of person you should be associating with?

A. Right."

¶ 37 6. *The Testimony of Taylor May*

¶ 38 Taylor May testified she had been respondent's case manager at Camelot since October 2017, when she took over from Young.

¶ 39 The assistant State's Attorney asked May:

"Q. What is your opinion or recommendation[,] rather[,] as to fitness findings for each parent?

A. Prior to finding the information out regarding [respondent's] spending time with Mr. Griffin yesterday, my opinion has changed slightly. I am unsure in regards to fitness now. My original recommendation would have been fit but unable due to her decision[-]making. But evidenced by her just yesterday still making these poor decisions, I don't know if I feel comfortable recommending fitness at this time for her.

Q. So[,] I don't want to put words in your mouth, but are you saying that today you would recommend that she's unfit[,] or you're not sure what you would recommend?

A. I'm not sure.

* * *

Q. So what decision[-]making was cause for the concern that made you feel that she was fit but unable?

A. Mr. Griffin, just with the [cosigning] on the lease was an issue. The issue of someone looking for him at her apartment during a parent[-]child visit, and just not appearing very forthcoming with some of these issues.

Q. Now do you feel that at this point in time [respondent] is able to safely care for and protect these children?

A. I'm not sure if I can answer that. I believe that what I've witnessed in her parent[-]child visits, she can care for them physically very well. She does well during her visits once a week.

Whether or not she will make the appropriate decisions moving forward about who is around her kids or what kind of people she allows in her home or allows to care for them, I can't answer that.

Q. Well[,] no one knows what is going to happen in the future, right?

A. Correct.

Q. Do you feel confident in her abilities as of late regarding decision[-]making?"

A. Not at this time."

¶ 40 7. *The Trial Court's Decision*

¶ 41 After hearing arguments of counsel, the trial court found respondent to be, "for reasons other than financial circumstances alone: *** unfit *** to care for, protect, train, educate, supervise[,] or discipline" N.W. and that "placement with [respondent would be]

contrary to the health, safety[,] and best interest of [N.W.]," to quote the dispositional order. The court made N.W. a ward of the court and set a permanency goal of returning N.W. home within 12 months.

¶ 42 From the bench, the trial court gave the following explanation for its decision:

> "With respect to [respondent], these are some of the most difficult cases when they get through services and they are enthusiastic about getting services and they have good visits and good relationships with the kids, but the parent still shows poor judgment. I'm not sure what service can improve judgment. That is one of the difficult things in a case like this. If we have the psychological evaluation[,] which needs to be filed[,] and the counselor needs to work with her on those issues, maybe we can improve. You know, I think it was a poor judgment to have Mr. Griffin [cosign] for her. Now[,] her testimony is she went to her mother, her grandmother, her aunt[,] and her best friend and they all refused to help [cosign]. I see confusion in the back of the courtroom about that. So[,] I don't know how accurate that statement is. It makes me believe that there was more of a relationship with Mr. Griffin than she's willing to admit to. If there was, the thing that struck me in the report was something referenced by [the guardian *ad litem*] in that she said it was none of her—when asked why she didn't know Mr. Griffin was a sex offender, she said it was none of her business to ask.
>
> Apparently[,] she had a relationship with Mr. Dorsey. He was on parole. She says[,] ['']I don't know what he was on parole for.['] Apparently[,] she didn't ask. I mean, she's getting involved with people who potentially will be around her

kids and not making the most basic inquiries that she needs to be making about that. I mean, this is clearly a judgment case.

I don't believe a parent can be found fit but unable because they have got poor judgment. Poor [*sic*] judgment is part of being a fit parent[,] and I'm—I would be hopeful that she can make progress there because she has made progress in other areas. I know she's got a good relationship with the children and the visits go well and the kids want to be with her. But until I am satisfied that she's in a position to make better judgments, particularly with people that she is involved with and will expose the children to, I think she remains unfit."

¶ 43 Respondent filed no posttrial motion.

¶ 44 The notice of appeal, which was filed on January 8, 2018, states that the appeal is only from the dispositional order of December 13, 2017.

¶ 45 II. ANALYSIS

¶ 46 A. Our Subject-Matter Jurisdiction

¶ 47 In her notice of appeal, respondent appeals only the dispositional order of December 13, 2017. In her brief, however, she challenges not only the dispositional order but also the adjudicatory order of August 2, 2017.

¶ 48 Illinois Supreme Court Rule 303(b)(2) (eff. July 1, 2017) requires that the notice of appeal "specify the judgment or part thereof or other orders appealed from and the relief sought from the reviewing court." Because "[a] notice of appeal confers jurisdiction on a court of review to consider only the judgments or parts of judgments specified in the notice of appeal," it could be questioned whether we have subject-matter jurisdiction to review the adjudicatory order. *General Motors Corp. v. Pappas*, 242 Ill. 2d 163, 176 (2011).

¶ 49 As the State notes, the appellate court is divided on the question of whether a notice of appeal specifying only a dispositional order gives the appellate court jurisdiction to review a preceding adjudicatory order as well.

¶ 50 On the one hand, in *In re J.P.*, 331 Ill. App. 3d 220, 234 (2002), the First District held that a notice of appeal solely from the dispositional order did not give the appellate court jurisdiction to review a preceding adjudicatory order. The First District stated: "When an appeal is taken from a specified judgment, the appellate court acquires no jurisdiction to review other judgments or parts of judgments not specified *or fairly inferred* from the notice." (Emphasis added.) *Id.*

¶ 51 On the other hand, in *In re D.R.*, 354 Ill. App. 3d 468 (2004), the Third District disagreed with *J.P.* because an adjudicatory order was " 'fairly inferred' " in a subsequent dispositional order (*D.R.*, 354 Ill. App. 3d at 472) and, under *Burtell v. First Charter Service Corp.*, 76 Ill. 2d 427 (1979), an appellate court acquired jurisdiction to review an order unspecified in the notice of appeal if the unspecified order was "a ' "step in the procedural progression leading" ' to the judgment specified in the notice of appeal." *D.R.*, 354 Ill. App. 3d at 472 (quoting *In re F.S.*, 347 Ill. App. 3d 55, 69 (2004) (quoting *Burtell*, 76 Ill. 2d at 435)). The Third District explained that, under statutory law, it was only after the trial court held an adjudicatory hearing; found the minor to be abused, neglected, or dependent; and stated in writing the factual basis for its finding that the court could even schedule a dispositional hearing. *D.R.*, 354 Ill. App. 3d at 473 (citing 705 ILCS 405/2-21(1), (2) (West 2002)). "Because an adjudicatory hearing and subsequent order finding a minor abused, neglected, or dependent [were] prerequisites to a dispositional hearing and order," the Third District "h[e]ld that an adjudicatory order [was] a step in the procedural progression leading to the dispositional order."

Id. Thus, under *Burtell*, the Third District concluded it had jurisdiction to review the adjudicatory order, even though the notice of appeal specified only the dispositional order. *Id.*

¶ 52 We agree with the State that *D.R.* is the better-reasoned decision, and we choose to follow *D.R.* instead of *J.P.* Besides, we are unsure the First District would continue to follow *J.P.* in the light of its more recent decision in *McGill v. Garza*, 378 Ill. App. 3d 73 (2007).

¶ 53 In *McGill*, a law firm, Friedman & Solmor (F&S), represented Victoria McGill in a personal-injury action, under a contingency fee contract. *McGill*, 378 Ill. App. 3d at 74. They got into a disagreement over whether to settle the case, McGill filed a complaint against F&S with the Attorney Registration and Disciplinary Commission (ARDC), and the trial court then granted a motion by F&S to withdraw. *Id.* After F&S withdrew, McGill hired new counsel and settled with the personal-injury defendant. *Id.* F&S sent an attorney's lien to McGill and her new counsel and filed a petition to adjudicate the lien. *Id.* The court granted the petition, "allow[ing] F&S to collect fees on a *quantum meruit* basis." *Id.* at 74-75.

¶ 54 McGill appealed, arguing the trial court had erred by finding that the ARDC complaint had given F&S good cause to withdraw. *Id.* at 75. F&S disputed the appellate court's jurisdiction to address that argument, considering that "[McGill's] notice of appeal specifie[d] the court's August 26, 2006, order granting the fee petition, rather than the May 15, 2006, order finding that F&S ha[d] good cause to withdraw." *Id.* On the authority of *Burtell*, the First District held:

> "In this case, the good-cause finding was clearly a step in the procedural progression leading to the granting of the fee petition. Indeed, the good-cause finding was a necessary prerequisite to awarding F&S fees and costs in *quantum*

meruit. Accordingly, this court has jurisdiction to consider the merits of [McGill's] argument." *Id.*

¶ 55 The same logic applies to the present case. The adjudicatory finding of neglect clearly was a step in the procedural progression leading to the dispositional order, just as the good-cause finding in *McGill* was a step in the procedural progression leading to the granting of the fee petition. See 705 ILCS 405/2-21(1), (2) (West 2016). The trial court could not have held a dispositional hearing and could not have made N.W. a ward of the court without first finding, in an adjudicatory hearing, that she was neglected. See *id.* §§ 2-21(1), (2). "Because an adjudicatory hearing and subsequent order finding a minor abused, neglected, or dependent are prerequisites to a dispositional hearing and order," we agree with *D.R.* that "an adjudicatory order is a step in the procedural progression leading to the dispositional order." *D.R.*, 354 Ill. App. 3d at 473. Therefore, the notice of appeal gives us jurisdiction to review the trial court's adjudicatory finding of neglect. See *id.*

¶ 56 B. The Adjudicatory Finding of Neglect

¶ 57 On August 2, 2017, in the adjudicatory hearing, respondent admitted paragraph 3(A) of the petition for adjudication of wardship—or, more precisely, respondent admitted the paragraph through her attorney. The supreme court has stated: "A stipulation, or a judicial admission, is an agreement between the parties *or their attorneys* with respect to business before the court" and that such a stipulation or admission "has the effect of withdrawing a fact from issue and dispensing wholly with the need for proof of that fact." (Emphasis added.) *Lee v. Chicago Transit Authority*, 152 Ill. 2d 432, 462 (1992). "If an attorney is employed to manage a party's conduct of a lawsuit[,] he has *prima facie* authority to make relevant judicial admissions by pleadings, by oral or written stipulations, or by formal opening statement, which[,] unless

allowed to be withdrawn[,] are conclusive." (Internal quotation marks omitted.) *Dora Township v. Indiana Insurance Co.*, 67 Ill. App. 3d 31, 32 (1979). We are unaware of any case holding that attorneys of parents lack such authority in an adjudicatory hearing under section 2-18(1) of the Juvenile Court Act of 1987 (705 ILCS 405/2-18(1) (West 2016)).

¶ 58 The appellate court has held, however: "To be valid, an admission in a Juvenile Court Act proceeding must be intelligently and voluntarily made; that is, it must be apparent from the record that the party making the admission was aware of the consequences of his admission." *In re Johnson*, 102 Ill. App. 3d 1005, 1012 (1981). For the following three reasons, respondent disputes the voluntariness and intelligence of her admission:

> "(1) it is not apparent in the record that she was aware of her rights, including the right to be heard, to present evidence, and to contest the allegations of neglect against her; (2) the facts to which [respondent] admitted do not constitute neglect under section 2-3(1)(b) of the Juvenile Court Act [of 1987 (Act) (705 ILCS 405/2-3(1)(b) (West 2016))]; and (3) the circuit court had no authority to take judicial notice at the adjudicatory hearing of [respondent's] entire prior juvenile court case concerning other minors."

¶ 59 We will consider those three reasons one at a time.

¶ 60 1. *The Lack of a Showing in the Record That Respondent Was Aware of Her Rights*

¶ 61 Respondent argues that because the record fails to show "that she was aware of her rights, including the right to be heard, to present evidence, and to contest the allegations of neglect against her," the record fails to show that her admission of paragraph 3(A) was voluntary and intelligent.

¶ 62 Actually, though, respondent's admission of paragraph 3(A) was *involuntary* only if she made the admission under duress or against her will. In the adjudicatory hearing, she denied she had "been forced or threatened in any manner to" make the admission. Thus, the record shows the voluntariness of her admission. Insufficient or incorrect information can make an admission inadequately informed but not involuntary.

¶ 63 Inadequate admonitions can make an admission inadequately informed. Section 1-5(3) (705 ILCS 405/1-5(3) (West 2016)) provides that, "[a]t the first appearance before the court by [the minor's] parents, *** the court shall explain the nature of the proceedings and inform the parties of their rights under [subsections (1) and (2) [(705 ILCS 405/1-5(1), (2) (West 2016))]." Those rights are the rights "to be present, to be heard, to present evidence material to the proceedings, to cross-examine witnesses, to examine pertinent court files and records and *** the right to be represented by [appointed or retained] counsel." 705 ILCS 405/1-5(1) (West 2016); see also *In re Andrea F.*, 208 Ill. 2d 148, 160 (2003).

¶ 64 The trial court did not inform respondent of those rights when she first appeared before the court, on June 12, 2017, in the shelter care hearing. At the conclusion of the hearing, however, the court told her:

> "[N]ow that [N.W.] has been [p]laced in the temporary custody of [DCFS], I'm required to admonish you, you must cooperate with [DCFS], comply with the terms of the service plan[,] and correct the conditions which require him to be in care *or if the [c]ourt at a later time declares them* [*sic*] *to be wards* [*sic*] *of the court, you may risk termination of your parental rights*." (Emphasis added.)

¶ 65 Respondent cites *In re Moore*, 87 Ill. App. 3d 1117, 1120 (1980), in support of the following proposition: "A new adjudicatory hearing is required where the parent enters into an

admission of neglect and it is not apparent in the record that the parent was aware of his or her rights, including the right to be heard, to present evidence, and to contest the allegations of neglect against her." It is true that the First District held in *Moore*: "[A] new adjudicatory hearing is required where the parent enters into an admission of neglect and it is not apparent that the parent was aware of his or her rights." *Moore*, 87 Ill. App. 3d at 1120. But the case the First District cites, *In re Smith*, 77 Ill. App. 3d 1048, 1053 (1979), does not support that holding.

¶ 66 In *Smith*, the Fifth District observed that, under section 1-20(3) of the Juvenile Court Act (Ill. Rev. Stat. 1977, ch. 37, par. 701-20(3)), which was a previous version of section 1-5(3) (705 ILCS 405/1-5(3) (West 2016)), parents had "the 'right to be present, to be heard, to present evidence material to the proceedings, to cross-examine witnesses, to examine pertinent court files and records' and to be represented by the public defender or appointed counsel at the request of any party financially unable to employ counsel." *Smith*, 77 Ill. App. 3d at 1053 (quoting Ill. Rev. Stat. 1977, ch. 37, par. 701-20(1)). The Fifth District then stated:

> "Although there is little or no authority as to what would constitute adequate admonitions under this section, it is clear that the statutory language imposes a mandatory duty on the trial court to inform the parties of the nature of the proceedings. [Citation.] In cases in which the State seeks an adjudication of neglect or a child otherwise in need of supervision, *the parents, at the very minimum, must be informed that their child may become a ward of the State and that, upon such a determination, they may lose the custody of their child*." (Emphasis added.) *Id.*

The Fifth District overturned the adjudication of neglect not because of the trial court's failure to inform the respondent of her rights under the statute but, rather, because of "[t]he failure *** of

the court to inform the mother at her first appearance that she could be deprived of the custody of her son at the dispositional hearing." *Id.*

¶ 67 According to the appellate court's latest guidance on the subject, an admission in an adjudicatory hearing is intelligent or knowing if, when making the admission, the parent knew the potential consequence of the admission, namely, that the minor could become a ward of the court. *Johnson*, 102 Ill. App. 3d at 1012-13; see also *In re Andrea F.*, 208 Ill. 2d 148, 164 (2003) ("[*Smith* and *Moore*] stand only for the proposition that[,] in proceedings under the Act, parents must be made aware that they could lose custody of their children and that their children could become wards of the court."). The First District held in *Johnson*:

> "To be valid, an admission in a Juvenile Court Act proceeding must be intelligently and voluntarily made; that is, it must be apparent from the record that the party making the admission was aware of the consequences of his admission. [Citation.] Thus, for the admission of a parent to be valid in the adjudicatory phase of a neglect proceeding, it must be apparent from the record that the parent making the admission understood the consequences of his admission—that a finding of neglect gives the court jurisdiction of the minor[,] who then becomes subject to the dispositional powers of the court." *Id.*

¶ 68 In the adjudicatory hearing, respondent, through her attorney, admitted the neglect allegation of a petition titled "Petition for Adjudication of Wardship" and which requested, in its concluding paragraph, that "the minor be adjudged a ward(s) of the court." A couple of months earlier, in the shelter care hearing, after awarding temporary custody of N.W. to DCFS, the trial court admonished respondent: "[Y]ou must cooperate with [DCFS], comply with the terms of the service plan[,] and correct the conditions which require him to be in care or *if the [c]ourt at a*

later time declares them [*sic*] *to be wards* [*sic*] *of the court, you may risk termination of your parental rights*." (Emphasis added.) Thus, from our review of the record, we infer respondent's awareness that N.W. could become a ward of the court as a result of her admission of the neglect allegation, and, therefore, we find her admission of that allegation to be intelligent or knowing. See *Johnson*, 102 Ill. App. 3d at 1012-13; *Smith*, 77 Ill. App. 3d at 1053.

¶ 69 2. *The Sufficiency of the Allegations That Respondent Admitted*

¶ 70 Respondent argues that "the allegations to which she admitted did not constitute neglect as defined by section 2-3(1)(b)" (705 ILCS 405/2-3(1)(b) (West 2016)) She points out that, in *In re Arthur H.*, 212 Ill. 2d 441, 468 (2004), the supreme court cautioned that the neglect of a child's sibling is not "conclusive proof" that the child was neglected. The supreme court stated in *Arthur H.*:

> "Although section 2-18(3) *** (705 ILCS 405/2–18(3) (West 2000)) provides that the proof of neglect of one minor 'shall be admissible evidence' on the issue of the neglect of any other minor for whom the parent is responsible [citation], we emphasize that the mere admissibility of evidence does not constitute conclusive proof of the neglect of another minor. Each case concerning the adjudication of minors, including those cases pursued under a theory of anticipatory neglect based upon the neglect of a child's sibling, must be reviewed according to its own facts." *Arthur H.*, 212 Ill. 2d at 468-69.

¶ 71 But we are aware of no case holding that a petition for adjudication of wardship has to allege *conclusive* proof of neglect. Section 2-18(3) provides that the proof of neglect of one minor "shall be admissible evidence" on the issue of the neglect of any other minor for whom the parent is responsible. 705 ILCS 405/2-18(3) (West 2016). Whether this admissible

evidence is enough to prove anticipatory neglect of the child in question depends on the facts of each case. *Arthur H.*, 212 Ill. 2d at 468-69.

¶ 72 By formally admitting paragraph 3(A) of the petition for adjudication of wardship, respondent admitted that, on the facts of her case, her neglect of N.W.'s siblings was enough to prove her neglect of N.W. As we explained earlier, this was a judicial admission. "A judicial admission is a formal act which waives or disposes of the production of evidence, by conceding for the purposes of litigation that a proposition of fact is true. [Citation.] The effect of a judicial admission is to remove the proposition in question from the field of disputed issues." *Dauen v. Board of Fire & Police Commissioners of City of Sterling*, 275 Ill. App. 3d 487, 491 (1995). Paragraph 3(A) plainly alleged that "[*t*]*he minor* [*was*] *NEGLECTED* under 705 ILCS 405/2-3(1)(b) *** by reasons [*sic*] of the following facts," and "the following facts" were that respondent was found to be unfit in McLean County case No. 16-JA-63. (Emphasis added.) By admitting that paragraph, respondent "remove[d] *** from the field of disputed issues" (*Dauen*, 275 Ill. App. 3d at 487) the proposition that the neglect of N.W.'s siblings was sufficient evidence that N.W. likewise "was NEGLECTED" as stated in paragraph 3(a).

¶ 73 3. *The Trial Court's Authority To Take Judicial Notice of Case No. 16-JA-63*

¶ 74 Respondent argues the trial court lacked "authority to take judicial notice at the adjudicatory hearing of [respondent's] entire prior juvenile court case concerning other minors."

¶ 75 In the adjudicatory hearing, the trial court stated: "Court can take judicial notice of 16-JA-63." Respondent did not object. "Where a party fails to make an appropriate objection in the court below, he or she has failed to preserve the question for review[,] and the issue is waived," that is to say, forfeited. *In re April C.*, 326 Ill. App. 3d 225, 242 (2001). Not only was respondent required to make a contemporaneous objection, but she also was required to reiterate

the objection in a posttrial motion. See *In re Madison H.*, 215 Ill. 2d 364, 379 (2005). She never filed a posttrial motion.

¶ 76 C. The Findings in the Dispositional Hearing

¶ 77 1. *The Trial Court's Consideration of Reports and Birth Certificates*

¶ 78 Respondent complains that, in the dispositional hearing, the trial court considered a McLean County incident report, two reports by the court-appointed special advocate, a permanency report, birth certificates of N.W.'s siblings, and a report by Chestnut Health Systems. Citing section 2-18(1) (705 ILCS 405/2-18(1) (West 2016)), respondent argues that the rules of evidence apply to a dispositional hearing, and she now objects to the consideration of those documents.

¶ 79 At the beginning of the dispositional hearing, however, before the State called its first witness, the court listed all those materials and asked, "So, is there any additional evidence[,] information[,] or documentation?" Respondent did not object to the court's consideration of any of those materials, let alone reiterate the objection in a posttrial motion. Therefore, the objection is forfeited. See *Madison H.*, 215 Ill. 2d at 379; *April C.*, 326 Ill. App. 3d at 242.

¶ 80 In any event, section 2-22(1) provides:

> "(1) At the dispositional hearing, the court shall determine whether it is in the best interests of the minor and the public that he be made a ward of the court, and, if he is to be made a ward of the court, the court shall determine the proper disposition best serving the health, safety[,] and interests of the minor and the public. The court also shall consider the permanency goal set for the minor, the nature of the service plan for the minor[,] and the services delivered and to be

delivered under the plan. *All evidence helpful in determining these questions, including oral and written reports, may be admitted and may be relied upon to the extent of its probative value, even though not competent for the purposes of the adjudicatory hearing*." (Emphasis added.) 705 ILCS 405/2-22(1) (West 2016).

Also, the hearsay rule does not exclude "[f]acts contained in records, *** in any form, of births, *** if the report thereof was made to a public office pursuant to requirements of law." Ill. R. Evid. 803(9) (eff. Apr. 26, 2012).

¶ 81 2. *The Question of Whether the Trial Court's Finding of Unfitness Is Against the Manifest Weight of the Evidence*

¶ 82 Respondent argues:

> "The manifest weight of the evidence showed that [respondent] was not unfit at the time of the dispositional hearing. No witness at the dispositional hearing recommended that [she] be found unfit. Each witness and each report available to the [trial] court reiterated that [she] had completed all of her services in a timely, successful, and enthusiastic manner. Although the circumstances leading to the removal of her children—a methamphetamine 'lab' and addiction—were certainly very serious, no report and no witness indicated that [she] had any current problem with methamphetamines. To the contrary, each reporter stated that [she] was perfectly capable of caring for her children. Instead, the only evidence weighing against [her] fitness was her limited interaction with a coworker, Terry Griffin, and the oblique admission by [respondent] that she had spent time with Mr. Dorsey at some point since March 2016. However, the court's finding of 'poor judgment' is not one of the definitions of unfitness identified in the relevant statute. *See* 750 ILCS 50/1(D)."

¶ 83 Actually, the statute that respondent cites, section 1(D) of the Adoption Act (750 ILCS 50/1(D) (West 2016)), is irrelevant. Only if the State petitions for the termination of parental rights must the State prove, by clear and convincing evidence, that the respondent meets one of the definitions of an "unfit person" in section 1(D) of the Adoption Act. See 705 ILCS 405/2-29(2) (West 2016). In the hearing of December 13, 2017, the State did not petition for the termination of respondent's parental rights. Instead, the purpose of that dispositional hearing was, first, to decide whether it would be in the best interests of N.W. and the public to make him a ward of the court and, second, if he was to be made a ward of the court, to determine the disposition best serving the health, safety, and interests of him and the public. See *id.* § 2-22(1).

¶ 84 One possible disposition was to "commit the minor to [DCFS] for care and service." *Id.* § 2-27(1)(d). But that disposition was available only if the trial court found the parents to be "unfit or are unable, for some reason other than financial circumstances alone, to care for, protect, train[,] or discipline the minor or [were] unwilling to do so, and that the health, safety, and best interest of the minor [would be] jeopardized if the minor remain[ed] in the custody of his *** parents." *Id.* § 2-27(1).

¶ 85 Being "unfit" under section 2-27(1) of the Juvenile Court Act of 1987 is different from being an "unfit person" under section 1(D) of the Adoption Act. See *In re K.S.*, 203 Ill. App. 3d 586, 600 (1990). The term "unfit person" in section 1(D) is specially defined, whereas the term "unfit" in section 2-27(1) is not specially defined. We should give words in a statute their ordinary meaning unless the statute specially defines them. *Wauconda Fire Protection District v. Stonewall Orchards, LLP*, 214 Ill. 2d 417, 430 (2005); *Wahlman v. C. Becker Milling Co.*, 279 Ill. 612, 622 (1917). The ordinary meaning of a word can be found in a dictionary. *Stein v. Chicago Park District*, 323 Ill. App. 3d 574, 577 (2001). According to a dictionary, the word

"unfit," when used in reference to a person, means "not having the requisite qualities or skills to undertake something competently." New Oxford American Dictionary 1844 (2001). Judgment is requisite to being a parent, and someone deficient in judgment could reasonably be regarded as "unfit" to care for and protect a child. See *Vaughn v. City of Carbondale*, 2016 IL 119181, ¶ 23 (a decision is against the manifest weight of the evidence "only when the findings appear to be unreasonable, arbitrary, or not based on evidence, or when an opposite conclusion is apparent.").

¶ 86 Respondent minimizes her lapses of judgment by arguing that her "interaction" with Griffin was "limited" and that she only "oblique[ly]" admitted "spen[ding] time with Mr. Dorsey." By contract, however, Griffin was a coresident of her apartment. Because he was, legally, a cotenant, she would have had no right to exclude him from the apartment. See *NAB Bank v. LaSalle Bank, N.A.*, 2013 IL App (1st) 121147, ¶ 22 ("A tenant in common cannot: (1) exclude the other [cotenants] nor (2) designate any portion of the real estate as his own."). Respondent testified she had Griffin's name removed from the lease. The record, however, does not appear to include the purported new lease, and it is unclear why the landlord would have agreed to release Griffin from the lease (or what consideration would have supported the modification), considering that, from the start, the landlord required a cosigner and, in Griffin, the landlord had one. It also was unexplained why, during child visitation, a man stopped by the apartment and asked for Griffin. Specifically, it was unexplained why the man would have assumed that Griffin might be there. So, the court understandably was skeptical about respondent's testimony that she had no relationship with Griffin outside work ("It makes me believe that there was more of a relationship with Mr. Griffin than she's willing to admit").

¶ 87 In short, we are unconvinced the trial court took an unreasonable view of the evidence when concluding that (1) respondent continued to show a lack of judgment by having

relationships with legally involved men and (2) such relationships posed a threat to the children. Therefore, the finding of parental unfitness is not against the manifest weight of the evidence. See *In re T.B.*, 215 Ill. App. 3d 1059, 1062 (1991).

¶ 88 3. *The Question of Whether the Disposition Was an Abuse of Discretion*

¶ 89 In choosing a disposition, a trial court must use its discretion, and, on appeal, we ask whether the court abused its discretion in its choice of a disposition. *April C.*, 326 Ill. App. 3d at 257; *T.B.*, 215 Ill. App. 3d at 1062. Respondent challenges the trial court's decision to make N.W. a ward of the court and to award custody and guardianship of him to DCFS. She argues: "For a newborn to be in substitute care for an extended period already causes irreparable harm to the child, and the extreme nature of N.W.'s medical needs make a return to the care and comfort of his natural mother all the more urgent."

¶ 90 A decision is an abuse of discretion only if it is arbitrary or only if it exceeds the bounds of reason. *Ruback v. Doss*, 347 Ill. App. 3d 808, 811-12 (2004). The record appears to contain no evidence that substitute care causes irreparable harm to a newborn infant. See Ill. S. Ct. R. 341(h)(7) (eff. Nov. 1, 2017) ("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*." (Emphasis added.)). We disagree that it was arbitrary and beyond the bounds of reason for the trial court to keep N.W. in substitute care until respondent showed, with some consistency, by her conduct, that she had remedied the deficiencies in parental judgment that had caused N.W. to be removed from her custody.

¶ 91 4. *Consideration of the Service Plan*

¶ 92 Section 2-22(1) provides that, at the dispositional hearing, the trial court "shall consider *** the nature of the service plan for the minor and the services delivered and to be

delivered under the plan." 705 ILCS 405/2-22(1) (West 2016). Respondent observes: "Here, no service plan was ever filed into the court record, and no party offered any service plan into evidence at any hearing."

¶ 93 As the State observes, however, respondent never raised this issue in the proceedings below. Thus, the issue is forfeited. "It is well established that, to preserve an alleged error for appellate review, a party must, even in child custody cases, object at trial and file a written posttrial motion addressing it." *In re William H.*, 407 Ill. App. 3d 858, 869-70 (2011).

¶ 94 Besides, a service plan does not have to be filed for the trial court to consider it. Section 2-22(1) says: "All evidence helpful in determining these questions, including *oral* and written reports, may be admitted and may be relied upon to the extent of its probative value, even though not competent for the purposes of the adjudicatory hearing." (Emphasis added.) 705 ILCS 405/2-22(1) (West 2016). In the dispositional hearing, the court heard testimony about respondent's progress in meeting the goals of the service plan. Also, as the State notes, the court found in the dispositional order that "[t]he service plan [was] appropriate."

¶ 95 5. *The Asserted Failure of the Trial Court To State the Factual Context and the Conclusions of the Reports It Considered in the Dispositional Hearing*

¶ 96 Section 2-22(2) provides: "Before making an order of disposition the court shall advise the State's Attorney, the parents, guardian, custodian[,] or responsible relative or their counsel of the factual contents and the conclusions of the reports prepared for the use of the court and considered by it, and afford fair opportunity, if requested, to controvert them." 705 ILCS 405/2-22(2) (West 2016).

¶ 97 On December 13, 2017, at the beginning of the joint hearing, the trial court listed some documents, namely, a McLean County incident report, a CASA report, a permanency

report, a subsequent CASA report, the birth certificates of D. and Z, and an updated report from Chestnut. Respondent argues:

> "None of these documents were offered into evidence by any party, nor were any of the documents identified by the court filed into the record in the instant case prior to the dispositional hearing. No evidence in the record indicates that the court took judicial notice of any of these documents for purposes of the dispositional hearing. The court did not indicate that it considered either the [s]helter [c]are [r]eport or the [d]ispositional [r]eport that were present in the record at that time. [Citations.] The court also did not advise any party of the content of any report, nor did the court advise any party as to the recommendations of any report.
>
> The [trial] court's consideration of evidence that was not offered by any party, not filed into the record, and not noticed by the court deprived [respondent] of her statutory right to cross-examine witnesses and examine pertinent court files and records under section 1-5 [(705 ILCS 405/1-5 (West 2016))]. The court's failure to advise any party as to the content or conclusion of any of the reports it considered as required by section 2-22 *** deprived [respondent] of her statutorily guaranteed opportunity to controvert them."

¶ 98 When the trial court listed the documents at the beginning of the joint hearing, respondent did not object that she lacked copies of the documents. In the middle of the hearing, when the assistant State's Attorney, in conversation with the court, referred to the dispositional report that Camelot filed on September 20, 2017, respondent did not object that she lacked a

copy of that document, either. Respondent never filed a posttrial motion. Therefore, this issue is forfeited. See *Madison H.*, 215 Ill. 2d at 379; *William H.*, 407 Ill. App. 3d at 869-70.

¶ 99 III. CONCLUSION

¶ 100 For the foregoing reasons, we affirm the trial court's judgment.

¶ 101 Affirmed.