

No. 1-21-1047

NOTICE: This order was filed under Supreme Court Rule 23 and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

<i>In re</i> A.P.,)	Appeal from the
)	Circuit Court of
a Minor,)	Cook County,
)	Child Protection Division.
(The People of the State of Illinois,)	
)	
Petitioner-Appellee,)	No. 20 JA 1718
v.)	
)	
Araceli P.,)	Honorable
)	Patrick T. Murphy,
Respondent-Appellant).)	Judge Presiding.

JUSTICE CUNNINGHAM delivered the judgment of the court.
Presiding Justice Delort and Justice Connors concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court's finding of neglect due to an injurious environment was not against the manifest weight of the evidence and the court's judgment is affirmed.

¶ 2 On December 28, 2020, the State filed a petition for the adjudication of wardship for the minor, A.P., alleging the minor was neglected and abused. On March 9, 2021, the trial court found the minor neglected and, after a dispositional hearing, made the minor a ward of the court. On appeal, A.P.'s mother, Araceli P. (Araceli), argues that the trial court erred by making its finding

of neglect based solely on the prior abuse or neglect of the minor's siblings. For the reasons that follow, we affirm the judgment of the circuit court of Cook County.

¶ 3

BACKGROUND

¶ 4 On December 28, 2020, the State filed a petition for adjudication of wardship for A.P., alleging that she was neglected due to an injurious environment, and that she was abused due to a substantial risk of physical injury. The petition alleged that A.P.'s mother, Araceli, had four prior indicated reports; had five other children who lived with their fathers pursuant to a care plan; had her parental rights terminated for her sixth child; had failed to complete recommended services including substance abuse treatment; had multiple reports of domestic violence between Araceli and A.P.'s father, who lived in the home; and did not cooperate with the Department of Children and Family Services' (DCFS) efforts to assess A.P.'s safety in the home. On December 28, 2020, the trial court conducted a temporary custody hearing and took temporary custody of A.P., appointing DCFS as temporary custodian of the minor.

¶ 5 On March 9, 2021, the adjudication hearing for A.P. commenced. The State called two witnesses, Anahi Chacon and Victoria Largin. Anahi Chacon testified she had been employed for the past four years as a case manager¹ at Association House.² Ms. Chacon testified that from December 2017 to October 2019, she serviced the case of J.R.-P., A.P.'s sibling, who was also a child of Araceli and A.P.'s father. She stated she was not aware of the existence of A.P. until these court proceedings began and her last contact with Araceli was in March 2019. She testified that Araceli was not compliant with the recommended services, and, at the last parent-child supervised

¹ Case manager is a term that some social work agencies use to denote their case workers.

² A social services organization that does contract work for DCFS.

visit, she told Araceli that she needed to reengage with the recommended services. The last referral she made for Araceli was for driving under the influence (DUI) and substance abuse treatment at Pilsen Wellness Center.

¶ 6 The State then introduced a certified copy of the termination of parental rights order for J.R.-P., which had been entered on December 11, 2019. In that case, the trial court had found Araceli unfit due to her failure to make reasonable progress in the specified nine-month period. The court in that case also found that Araceli had deserted J.R.-P. The State next called Ms. Largin to testify.

¶ 7 Ms. Largin testified that she was employed by Little City³ and was the caseworker for J.R.-P. beginning in January 2020, after parental rights were terminated. Prior to her assignment, she had no contact with Araceli and did not know Araceli was pregnant with A.P. On cross-examination, she stated she became aware of A.P. due to a hotline call in December 2020. The State admitted three additional exhibits: the complete and certified records from Mujeres Latinas En Accion; certified Comer Children's Hospital record for the minor, A.P.; and certified Comer Children's Hospital records for the mother, Araceli. The Comer Children's Hospital records were from the minor's birth and stay in the hospital.

¶ 8 The parties entered into a stipulation of the testimony of Department of Child Protection investigator Leticia Arroyo. The stipulation read, as follows:

“If called to testify, Leticia Arroyo would state that she is a Department of Child Protection investigator employed by DCFS, and in that capacity in December 2020

³ A social services organization that does contract work for DCFS.

she received investigatory duties for [A.P.], [Araceli], and [A.P.'s father], and that a) [Araceli] has four prior indicated reports for inadequate supervision, medical neglect, and substantial risk of physical injury/environment injurious; b) on December 24, 2020 at 9:30 a.m., she went to [Araceli's home] accompanied by the police to see [A.P.], and [A.P.'s father] answered the door, appeared to be under the influence of alcohol, said he had some beers this morning, and said that [A.P.] and [Araceli] were sleeping; then [Araceli] awoke and said she did services at Mujeres Latinas, and [A.P.'s father] said he has not done services due to his job; and when he was told protective custody was being taken of A.P., [Araceli] told [A.P.'s father] that it was his fault that [A.P.] was being taken due to his drinking and being aggressive towards her, and [A.P.'s father] replied that it was her fault for calling the police.”

¶ 9 On March 9, 2021, after closing arguments, the trial court made a finding that A.P. was neglected due to an injurious environment. On July 27, 2021, after the dispositional hearing proceedings, the trial court found Araceli unable to care for, protect, train, or discipline A.P. and made A.P. a ward of the court. On August 24, 2021, Araceli filed a notice of appeal.

¶ 10 ANALYSIS

¶ 11 Jurisdictional Analysis

¶ 12 We note that we have jurisdiction to consider this matter, as Araceli filed a timely notice of appeal. See Ill. S. Ct. R. 301 (eff. Feb. 1, 1994); R. 303 (eff. July 1, 2017).

¶ 13 On appeal, Araceli argues the trial court erred in its finding that A.P. was neglected due to an injurious environment. She argues that the evidence in the case was insufficient to find A.P. neglected, as it was based solely on the termination of parental rights for another sibling without a

description of the underlying unfitness.

¶ 14 “[C]ases involving allegations of neglect and adjudication of wardship are *sui generis* and must be decided on the basis of their unique circumstances.” *In re Arthur H.*, 212 Ill. 2d 441, 463 (2004). The State bears the burden to prove the allegations of neglect by a preponderance of the evidence. *In re A.P.*, 2012 IL 113875, ¶ 17. On review, a trial court’s finding of neglect will not be reversed unless it is against the manifest weight of the evidence, *i.e.*, “the opposite conclusion is clearly evident.” *A.P.*, 2012 IL 113875, ¶ 17. “A proceeding for the adjudication of wardship ‘represents a significant intrusion into the sanctity of the family which should not be undertaken lightly.’ ” *Arthur H.*, 212 Ill. 2d at 463 (quoting *In re Harpman*, 134 Ill. App. 3d 393, 396-97 (1985)). “[T]he paramount consideration is the best interests of the child.” *A.P.*, 2012 IL 113875, ¶ 18. A trial court must employ a “two-step process to decide whether a minor should become a ward of the court.” *A.P.*, 2012 IL 113875, ¶ 18. Step one is the adjudicatory hearing on the petition for adjudication of wardship where the court should consider “whether the minor is abused, neglected, or dependent.” 705 ILCS 405/2-18(1) (West 2020). The purpose of the hearing is to determine if the allegations in the petition for an adjudication of neglect are supported by a preponderance of the evidence. 705 ILCS 405/1-3(1) (West 2020). “ ‘[N]eglect’ is defined as the ‘ “failure to exercise the care that circumstances justly demand.” ’ ” *Arthur H.*, 212 Ill. 2d at 463 (quoting *In re N.B.*, 191 Ill. 2d 338, 346 (2000), quoting *People ex rel. Wallace v. Labrenz*, 411 Ill. 618, 624 (1952)).

¶ 15 When proceeding under a theory of anticipatory neglect, the State aims to protect “not only children who are the direct victims of neglect or abuse, but also those who have a probability to be subject to neglect or abuse because they reside, or in the future may reside, with an individual who

has been found to have neglected or abused another child.” *Arthur H.*, 212 Ill. 2d at 468. “Under the theory of anticipatory neglect, where there is evidence of prior neglect by the parents, the trial court should not be deterred from acting until another child is injured.” *In re J.V.*, 2018 IL App (1st) 171766, ¶ 228. Courts of review in Illinois “have also held that there is no *per se* rule that the neglect of one child conclusively establishes the neglect of another child in the same household.” *Arthur H.*, 212 Ill. 2d at 468. Instead, the neglect of the minor should not only be judged by the circumstances surrounding the neglect of the sibling but also the condition of the minor in question. *Arthur H.*, 212 Ill. 2d at 468.

¶ 16 Araceli argues this case is analogous to *In re Edricka C.*, 276 Ill. App. 3d 18 (1995). In that case, the mother of the two minors in question had six other children. *Edricka C.*, 276 Ill. App. 3d at 20-21. The State filed a petition for medical neglect for Edricka since she received an initial diagnosis of a blood disorder, galactosemia, but her mother did not take her for further testing to confirm. *Edricka C.*, 276 Ill. App. 3d at 20. A petition was also filed for Edricka’s brother, Zemaj, under a theory of anticipatory neglect due to the alleged medical neglect of Edricka. *Edricka C.*, 276 Ill. App. 3d at 20. On February 20, 1993, the court ordered the mother to have Edricka tested for galactosemia, which came back negative for the blood disorder. *Edricka C.*, 276 Ill. App. 3d at 20. The petitions went to trial and the argument revolved around the mother’s past contact with DCFS. DCFS first came in contact with the family in 1987 due to one of the mother’s children being severely beaten in 1987 by her and the minor’s father. *Edricka C.*, 276 Ill. App. 3d at 21. In 1989, there was another incident where a fire broke out at the mother’s apartment while the mother’s five other children were left unsupervised. *Edricka C.*, 276 Ill. App. 3d at 21. The caseworker, despite testifying about those historical events, stated that the minors, Edricka and

Zemaj, had stayed with their mother without incident for approximately six months and one year and seven months, respectively. *Edricka C.*, 276 Ill. App. 3d at 21. The caseworker also testified that the mother had completed domestic violence services and had undergone a substance abuse evaluation in Minnesota between 1989 and 1990. *Edricka C.*, 276 Ill. App. 3d at 21. It was determined that the parents did not have a substance abuse problem. *Edricka C.*, 276 Ill. App. 3d at 21. The trial court made a finding of neglect due to an injurious environment for both minors, based on the parent's prior history with DCFS. *Edricka C.*, 276 Ill. App. 3d at 25. The appellate court reversed, finding it was against the manifest weight of the evidence for the trial court to find the minors neglected where the minors were in good health, the mother had completed counseling services and parenting classes, and the caseworker testified the minors were not at risk. *Edricka C.*, 276 Ill. App. 3d at 29-30. The appellate court emphasized while prior sibling abuse or neglect is admissible, it *alone* does not indicate that the minor in question is in imminent risk of abuse or neglect. *Edricka C.*, 276 Ill. App. 3d at 30.

¶ 17 The State in the case, which is before us, has proceeded under a theory of anticipatory neglect. As noted, the trial court need not wait until a minor is neglected, injured, or abused before intervening and taking the minor into custodial care. Here, Araceli had four prior indicated reports to DCFS and after the minor A.P. was born, her parental rights were terminated for A.P.'s sibling, J.R.-P. While this court is not privy to the underlying neglect or abuse and what services the mother was required to engage in, it is clear from the testimony and termination findings that the mother was not making reasonable progress toward the completion of the required services for reunification with her other child, J.R.-P. Additionally, Araceli had not visited A.P.'s sibling, J.R.-P., for about nine months prior to the termination of her parental rights for that child. While this

court recognizes Araceli's accurate assertion that a trial court cannot make a finding of neglect based solely on the neglect of a sibling, the facts and circumstances of this case make it clear that was not the sole basis for the finding of neglect. The other significant reason was that Araceli was not making progress in the required services that were necessary to correct the injurious environment within the home. Unlike the *Edricka* case, there was no evidence presented that Araceli corrected the conditions that created the injurious environment. For example, unlike the parents in *Edricka C.*, who continued to participate in community-based programs after their parental rights were terminated, Araceli rejected efforts to secure her participation in the social service programs designed to improve the home environment. See *Edricka C.*, 276 Ill. App. 3d at 29-30 (the appellate court noted the mother participated in programs out of state, on her own). Based on the facts and circumstances of this case and the record before this court, we cannot say the trial court's finding was against the manifest weight of the evidence. Therefore, we affirm the judgment of the trial court finding A.P. to be neglected.

¶ 18

CONCLUSION

¶ 19 For the foregoing reasons, we affirm the circuit court of Cook County's finding A.P. neglected due to an injurious environment.

¶ 20 Affirmed.