

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> B.R. and C.R., Minors,)	Appeal from the
)	Circuit Court of
(The People of the State of Illinois,)	Cook County.
)	
Petitioner-Appellee,)	Nos. 21 JA 1132
)	21 JA 1133
v.)	
)	Honorable
Melissa R.,)	Patrick T. Murphy,
)	Judge presiding.
Respondent-Appellant.))	

JUSTICE MITCHELL delivered the judgment of the court.
Justices Lyle and Navarro concurred in the judgment.

ORDER

¶ 1 *Held:* We affirm the trial court's adjudication and disposition orders where the court's findings of neglect and abuse were not against the manifest weight of the evidence and where there was no violation of the respondent's due process rights.

¶ 2 Respondent Melissa R., the biological mother of B.R. and C.R., minors, appeals the circuit court's order making the minors wards of the court due to abuse and neglect. Appearing *pro se*, she raises two issues: (1) were the trial court's findings of abuse and neglect against the manifest weight of the evidence because there was no credible evidence; and (2) did the trial court deny Melissa R. due process? For the following reasons, we affirm.

¶ 3

BACKGROUND

¶ 4 Minor B.R. was born on March 25, 2012, and was ten years old at the time of the adjudication hearing. Minor C.R. was born on July 10, 2014, and was eight years old at the time of the adjudication hearing. Melissa R. is the biological mother of both minors, and the minors' biological father, Brandon R., does not reside with them. Melissa R.'s paramour, Jesse L., currently resides with Melissa.

¶ 5 The Department of Children and Family Services first brought B.R. and C.R. to the court in January 2021 along with Ka., the minors' 14-year-old older stepsister. The stipulated facts in these earlier cases described an incident in which Brandon R. sexually penetrated Ka. when he visited Melissa R.'s home. In a medical exam, Ka. tested positive for chlamydia. This prompted Brandon R.'s indicated report of sexual penetration and substantial risk of sexual abuse and sexually transmitted diseases. It was further stipulated that in an argument over chores, Melissa R. punched and choked Ka., which B.R. and C.R. witnessed. B.R. and C.R. had also witnessed Ka.'s physical altercation with Jesse L.'s daughter. There was also an incident in which Jesse L. repeatedly struck B.R. with a plastic brush, which broke from the force of the impact. The trial court found Ka. neglected due to an injurious environment, abused due to a substantial risk of physical injury, physically abused, and sexually abused.

¶ 6 On November 22, 2021, the trial court closed the minors' cases, allowing them to remain in Melissa R.'s care while Ka. remained in a relative's substitute care.

¶ 7 On that same day, November 22, 2021, Melissa R. asked Niaomi C., C.R.'s godmother, to take care of C.R. through the week. Upon C.R.'s arrival, Niaomi C. took her to shower as usual. When C.R. handed Niaomi C. her used towel after showering, Niaomi C. discovered blood on the

towel as well as on C.R.'s underwear. Niaomi C. asked C.R. what happened, and C.R. said that B.R. had put a toy in her vagina. Melissa R. was unresponsive to calls and text messages and was not at home. Niaomi C. immediately took C.R. to the hospital. The medical record indicates that C.R. was bleeding around the vaginal area and had erythema surrounding the opening.

¶ 8 At a victim-sensitive interview and in a subsequent interview with a child protection investigator, C.R. stated that she and B.R. were in their shared bedroom with the door closed and that B.R. put a red, sharp toy in her vagina. Melissa R. came into the room, saw what was happening, and told B.R. to stop. When B.R. did not stop, Melissa R. whipped him with her belt. C.R. also reported that this was not the first time B.R. touched her and hurt her vagina with the red toy. Niaomi C. later testified that, about two years ago, C.R. told her about a similar incident. In texts to Niaomi C., Melissa R. denied that B.R. had touched C.R.

¶ 9 After an investigation, the Department again filed petitions for adjudication of wardship of B.R. and C.R.—the subject of this appeal. After several appointments and withdrawals of court-appointed counsel, Melissa R. proceeded *pro se* with a court-appointed standby counsel.

¶ 10 While the case was pending, Melissa R. participated in an assessment for service needs and was recommended the following services: parenting, parent coaching, a parenting capacity assessment and the resulting recommendations, and individual therapy. Melissa R. also had service recommendations for Ka.'s case, which she did not complete. The caseworker made referrals for the services in April 2022 but Melissa R. refused to engage in any of the services "until after court." At her own request, Melissa R. had an intake with another agency but again declined its services.

¶ 11 Following a hearing, the trial court found, by a preponderance of the evidence, that both B.R. and C.R. are neglected due to an injurious environment and abused due to a substantial risk of physical injury. 705 ILCS 405/2-3(1)(b), 2-3(2)(ii) (West 2020). The court subsequently adjudged B.R. and C.R. wards of the court and placed them in the custody of the Department's guardianship administrator with right to place the minors. Melissa R. timely appealed *pro se*. Ill. S. Ct. R. 301 (eff. July 1, 2017).

¶ 12 ANALYSIS

¶ 13 Melissa R. purports to challenge the trial court's findings of neglect and abuse, claiming that there was no credible evidence to support those findings. We review whether a trial court's finding of neglect or abuse is against the manifest weight of the evidence. *In re Arthur H.*, 212 Ill. 2d 441, 464 (2004). A finding is against the manifest weight of the evidence only if the opposite conclusion is clearly evident. *Id.*

¶ 14 Section 2-3 of the Juvenile Court Act defines a neglected minor to include "any minor under 18 years of age *** whose environment is injurious to his or her welfare." 705 ILCS 405/2-3(1)(b) (West 2020). Generally, "neglect" is defined as the "failure to exercise the care that circumstances justly demand," and the term embraces both willful and unintentional disregard of duty. (Internal quotation marks omitted.) *In re Arthur H.*, 212 Ill. 2d at 463. The term "injurious environment" includes "the breach of a parent's duty to ensure a 'safe and nurturing shelter' for his or her children." *In re N.B.*, 191 Ill. 2d 338, 346 (2000) (quoting *In re M.K.*, 271 Ill. App. 3d 820, 826 (1995)). An abused minor, under section 2-3 of the Act, includes one whose parent "creates a substantial risk of physical injury to such minor by other than accidental means which would be likely to cause death, disfigurement, impairment of emotional health, or loss or

impairment of any bodily function.” 705 ILCS 405/2-3(2)(ii). The same facts that support a finding of neglect based on an injurious environment can also support a finding of abuse based on a substantial risk of physical injury. See, *e.g.*, *In re A.S.*, 2020 IL App (1st) 200560, ¶ 34. The State bears the burden to prove allegations of neglect or abuse by a preponderance of the evidence. *In re Arthur H.*, 212 Ill. 2d at 463-64.

¶ 15 At the adjudication hearing, the State presented witnesses and documentary evidence in support of its allegations of neglect and abuse. In several interviews during the investigation stage, C.R. consistently recounted that B.R. had put a toy in her vagina in the bedroom that they shared and that this conduct has been recurring. Niaomi C. (C.R.’s godmother) also testified that she saw blood on C.R.’s towel and underwear and that C.R. had told her that B.R. put a toy in her vagina. C.R. also had told her of a similar incident about two years ago, and Niaomi C. texted Melissa R. about it. Niaomi C.’s testimony as well as the medical records of C.R.’s vaginal bleeding and erythema corroborated C.R.’s account.

¶ 16 Further, there were recent findings of neglect and abuse with respect to Ka., C.R.’s older sister, based on the stipulated facts indicating that Ka. was physically and sexually abused, contracted chlamydia, and now refuses to have any contact with Melissa R. It is recognized that a parent’s treatment of one child is probative of how that parent may treat her other children. *In re Erin A.*, 2012 IL App (1st) 120050, ¶¶ 33-34 (the trial court’s finding of neglect due to an injurious environment of a minor was premised in part on a finding that her sibling was neglected); see also *In re Angela P.*, 2022 IL App (1st) 211092, ¶ 49 (affirming a neglect finding where the minor resided with the mother who was charged with attempted murder and child endangerment of the minor’s sibling).

¶ 17 Melissa R. contends, without any supporting authority or explanation, that the evidence was not credible to support neglect and abuse findings. However, it is well settled that “the trial court, having observed the witnesses and heard their testimony, is in the best position to make credibility determinations.” *In re D.W.*, 386 Ill. App. 3d 124, 136 (2008). The evidence presented at the hearing in its totality supports the trial court’s findings that B.R. and C.R. are neglected and abused by a preponderance of the evidence, and these findings were not against the manifest weight of the evidence.

¶ 18 While Melissa R. does not appear to challenge the trial court’s disposition order finding Melissa R. unable to care for, protect, train, or discipline the minor, we, in an abundance of caution, find that the trial court’s finding in its disposition order, too, was not against the manifest weight of the evidence. A parent’s refusal to participate in the recommended services supports a finding that the parent is unable to parent the minor. *In re Harriet L.-B.*, 2016 IL App (1st) 152034, ¶ 33; *In re Malik B.-N.*, 2012 IL App (1st) 121706, ¶ 60 (“Because respondent has not completed individual therapy, the evidence supports the court’s finding that respondent is unable to care for *** [the minor.]”). At the time of the disposition hearing, Melissa R. had not completed any of the recommended services and explicitly refused to do any services until after court. She also had outstanding services in Ka.’s case. This refusal to complete the recommended services supports the disposition order’s finding that Melissa R. is unable to care for B.R. and C.R.

¶ 19 Next, Melissa R. complains that her due process rights were violated throughout the proceedings. Her cryptic argument can be read as twofold: that the trial court exhibited bias towards her paramour, Jesse L., and that the court did not afford her opportunities to adequately represent herself. Initially, we note that the record contains transcripts of only the adjudication and

disposition hearings. An appellant has the burden to present a sufficiently complete record of the proceedings at trial. *In re D.W.*, 386 Ill. App. 3d 124, 134 (2008). In the absence of such a record, we will presume that the trial court's order was in conformity with law and had a sufficient factual basis and will resolve any doubts against the appellant. *Foutch v. O'Bryant*, 99 Ill. 2d 389, 392 (1984).

¶ 20 The trial court's orders in the record describe Jesse L.'s appearances and involvement in this case.¹ The court first permitted Jesse L. to appear in a remote proceeding because Melissa R. claimed that "he was a support." However, the court noted that "he seemed to try to control her and interfered constantly." It also came to the trial court's attention that Jesse L. had recorded the remote status hearing in violation of the Illinois Supreme Court Rule 44 (eff. Dec. 16, 2020) and the circuit court's general administrative orders. Because of these concerns, the trial court ordered Melissa L. to appear in future remote proceedings alone and only at the juvenile courthouse where she could be monitored by a sheriff's deputy. Later, the trial court learned that Jesse L. had threatened the caseworkers and sent emails to Melissa R.'s standby counsel and that he had recorded the remote proceedings and posted some on social media. In one of the emails, he stated that he will post more videos over time and send "hard drives to news networks."

¶ 21 Under the Act, juvenile court proceedings are closed to the general public. 705 ILCS 405/1-5(6) (West 2020). For the minor's safety and protection, the court thus may prohibit any person or agency present in court from disclosing the minor's identity. *Id.* "Photographic recording, digital capturing, or other recording" of a remote proceeding is strictly prohibited without the court's

¹ Because the record does not contain transcripts of any status hearings or temporary custody hearings, the only portions in the record that give insight into what happened during the proceedings are the trial court's well-summarized orders.

approval. Ill. S. Ct. R. 44. Consistent with the law's emphasis on confidentiality and integrity of the judicial process, and based on the concerns regarding Melissa R.'s and Jesse L.'s recording and posting on social media, the court acted well within its discretion when ordering Jesse L. not to attend remote status hearings, prohibiting Melissa R. from appearing with him, and ordering all subsequent proceedings to take place in open court.

¶ 22 Further, nothing in the record supports Melissa R.'s argument that she was denied due process. Section 1-5(1) of the Act provides for procedural safeguards, affording the minor and his or her parents "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 also *** the right to be represented by counsel." 705 ILCS 405/1-5(1) (West 2020). Melissa R. had notice of the proceedings, was present in those proceedings, and had ample opportunities to defend herself, whether through an appointed counsel or *pro se*.

¶ 23 She contends that appointed counsel was forced upon her, but the record reflects the contrary. The court on multiple occasions attempted to appoint counsel for Melissa R. and strongly encouraged her to rely on experienced counsel, warning her of the difficulties inherent in *pro se* representation. However, when the court's efforts did not succeed due to counsel's withdrawal and refusal to accept appointment (because of Jesse L.'s threats), the court clearly provided for Melissa R.'s access to pertinent case documents and records. That Melissa R. could view sensitive case files only in the State's Attorney's office does not necessarily render it a due process violation, especially when there had been unauthorized recording of the court proceedings and social media posting. See *In re Daveisha C.*, 2014 IL App (1st) 133870, ¶¶ 13, 43 (affirming a protective order

that restricted making copies of the victim sensitive interview to protect the interview's sensitive nature and to prevent unauthorized access).

¶ 24 The record further reveals that during the adjudication and disposition hearings, Melissa R. benefited from having standby counsel, to whom she deferred for objections during witness testimony and closing argument. She could have also presented her own evidence, including her own testimony, for her defense but rested without doing so. Due process is not denied when a party fails to avail herself of the opportunity to be heard after it is offered to her. *In Interest of E.L.*, 152 Ill. App. 3d 25, 33 (1987) ("That respondents were not able to persuade the court to exonerate them from the charges of abuse brought forth by the State appears to be more a function of the weaknesses inherent in their case rather than a failure of the judiciary to adhere to the procedural safeguards provided in the Act.").

¶ 25 Lastly, the appellees altogether point out procedural deficiencies in Melissa R.'s brief under Illinois Supreme Court Rule 341 (eff. Oct. 1, 2020). Under Rule 341(h), appellant's brief must include, among other things, a statement of facts with citations to the record, and an argument section containing the appellant's contentions and the reasons, with citation to the authorities and the record. Ill. S. Ct. R. 341(h)(6), (7). A party's *pro se* status does not relieve the party from compliance with the Supreme Court Rules. *Voris v. Voris*, 2011 IL App (1st) 103814, ¶ 8. The lack of a cohesive and reasoned argument, the lack of citations to authorities or the record, and the deficient record, impede the appellate review. While noncompliance with the Supreme Court Rules provides an additional basis to affirm the judgment, we have nonetheless reviewed Melissa R.'s claims on the merits as best as we can. See *Atlas v. Mayer Hoffman McCann, P.C.*, 2019 IL App

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(1st) 180939, ¶ 33 (an issue that fails to satisfy Rule 341(h)(7) is forfeited); *Wing v. Chicago Transit Authority*, 2016 IL App (1st) 153517, ¶ 10.

¶ 26

CONCLUSION

¶ 27 For the reasons stated, the judgment of the circuit court of Cook County is affirmed.

¶ 28 Affirmed.