2025 IL App (2d) 240754-U
No. 2-24-0754
Order filed March 19, 2025

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

In re S.W., a Minor	)	Appeal from the Circuit Court
	)	of McHenry County.
	)	
	)	No. 24-JA-94
	)	
(The People of the State of Illinois, Petitioner-Appellee, v. Wendy C., Respondent-Appellant).	)	Honorable
	)	Mary H. Nader,
	)	Judge, Presiding.

JUSTICE MULLEN delivered the judgment of the court.
Presiding Justice Kennedy and Justice Jorgensen concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court's finding that the minor was neglected because of an injurious environment was not against the manifest weight of the evidence. Moreover, respondent's claim that the trial court erred in finding her unfit and unable to care for the minor was moot and barred by the doctrine of invited error, and, in any event, was not against the manifest weight of the evidence. We therefore affirm the trial court's findings that the minor was neglected and that it is in the minor's best interest that she be made a ward of the court.

¶ 2 Respondent, Wendy C., is the biological mother of S.W., the minor named in this proceeding. Following an adjudication hearing, the circuit court of McHenry County determined that S.W. was neglected because of an injurious environment. See 705 ILCS 405/2-3(1)(b) (West 2024). At the conclusion of the dispositional hearing which followed, the trial court determined

that, for reasons other than financial circumstances alone, respondent was unfit and unable to care for, protect, educate, supervise, or discipline S.W. As such, the court adjudged S.W. a ward of the court and granted custody and guardianship of her to the Illinois Department of Children and Family Services (DCFS). Respondent has appealed, arguing that the trial court's finding that S.W. was neglected because of an injurious environment was against the manifest weight of the evidence. Respondent further argues that the trial court's finding that she is unfit and unable to care for S.W. was against the manifest weight of the evidence. We affirm.

¶ 3 I. BACKGROUND

¶ 4 S.W. was born to respondent on June 3, 2021. S.W. is autistic and nonverbal. On August 2, 2024, a call to the DCFS hotline indicated that respondent and S.W. were living in a car. The caller reported that S.W. sleeps strapped in her car seat and that respondent and S.W. remain in the car in extreme weather. The caller further reported that S.W., who receives special education services, often comes to school dirty. Although respondent was provided with housing options and resources, she was resistant to these opportunities and continued to reside in her vehicle with S.W. S.W. was taken into protective custody on September 6, 2024.

¶ 5 On September 9, 2024, the State filed a petition for adjudication of wardship on behalf of S.W. The petition was later amended to correct a scrivener's error and add a putative father.[1] As amended, the petition alleged that S.W. was a neglected minor for two reasons. The first was that S.W. was "not receiving the proper or necessary support, education as required by law, or medical or other remedial care recognized under State law as necessary for a minor's well-being, or other

[1] The original petition listed the putative father as unknown. The amended petition named William P. as the putative father. At the dispositional hearing, it was noted that William failed to respond to DCFS or the court. William was therefore found unfit, unable, and unwilling to care for, protect, train, educate, supervise, or discipline S.W. William is not a party to this appeal.

care necessary for *** her well-being, including adequate food, clothing and shelter." See 705 ILCS 405/2-3(1)(a) (West 2024). The second was that S.W.'s environment was injurious to her welfare. See 705 ILCS 405/2-3(1)(b) (West 2024). The petition further alleged that it was in the best interests of S.W. that she be adjudged a ward of the court.

¶ 6 The State set forth the following facts in support of its petition. Respondent and S.W. have been homeless since October 2023. Between November 2023 and May 2024, respondent and S.W. were living at a PADS shelter. However, that placement was terminated due to respondent's failure to follow through on tasks requested of her, including housing and employment. Since May 2024, respondent and S.W. have been residing in respondent's car. Respondent reported that she has stayed in the car with S.W. in subzero temperatures and when the temperature exceeded 101 degrees. Respondent's car does not have air conditioning, so respondent and S.W. sleep in the vehicle with the windows rolled down. Respondent was offered a voucher to stay in a hotel for a week, but needed to develop a plan for where she and S.W. would reside after leaving the hotel. Respondent failed to create the required plan. Respondent was also offered a voucher for housing in Lake County, but refused because she did not like the location of the housing. In addition, respondent refused intact family services and a referral to Home of the Sparrow for housing, employment, and childcare. S.W.'s school reported there were days when S.W. came to school wearing dirty clothing and appeared unkempt.

¶ 7 A shelter-care hearing was scheduled for the same date the petition for adjudication was filed. Although the record does not contain a transcript of that proceeding, an order indicates that the trial court determined there was probable cause to believe that S.W. was neglected. The court granted temporary custody of S.W. to DCFS. In addition, the court assigned CASA of McHenry County to the case and appointed an attorney to act as a guardian *ad litem* (GAL) for S.W.

¶ 8 The trial court held an adjudication hearing on November 7, 2024. At that proceeding, the State called Sharon Rademacher, a child welfare specialist with DCFS. Rademacher testified that she was assigned to investigate the subject family on June 10, 2024, after a report came in concerning respondent and S.W. being homeless. Rademacher met with respondent and S.W. on June 11, 2024. During the meeting, Rademacher learned that respondent and S.W. had been living in respondent's car for a month or two. Prior to that, they had been staying at a PADS shelter. Respondent told Rademacher that they stayed at the PADS shelter "the length that they were allowed to stay." Rademacher offered respondent "a bunch of resources" and discussed intact services. Respondent declined the intact services, and Rademacher never followed up with respondent to determine if she had contacted any of the resources. Ultimately, Rademacher closed the investigation as unfounded. At the time the investigation was closed, respondent and S.W. were still living in respondent's car. Rademacher stated that any concerns she had about respondent and S.W. living in a car were alleviated because the weather was good.

¶ 9 On cross-examination, Rademacher testified that she did not take protective custody of S.W. because respondent was "meeting the needs of the child." In her view, S.W. appeared healthy. Moreover, respondent was using services for S.W.'s autism through Options and Advocacy, including speech therapy and occupational therapy. Asked on redirect examination if there was a temperature that would concern her about sleeping in a vehicle, Rademacher responded, "[b]elow freezing or over 100 degrees."

¶ 10 The State next called DCFS investigator Jeanne Billimack Andersen. Andersen testified that on August 2, 2024, she was assigned a case involving S.W. following a report of inadequate shelter. After an investigation, Andersen found the report indicated. The report of Andersen's findings was admitted into evidence without objection. Andersen testified that at the time of her

investigation, respondent and S.W. had moved out of the PADS shelter and were living in respondent's car. Respondent reported that she and S.W. had been in the car when it had been negative 27 degrees outside and when it had been 100 degrees outside. Respondent told Andersen that the car lacked air conditioning, so she would lower the windows of the car while S.W. was strapped in her car seat. Respondent further related that she would station her vehicle at night in various places, including a park.

¶ 11 Andersen testified that DCFS conveyed an offer for housing services through Home of the Sparrow, but respondent declined. DCFS then offered respondent housing assistance using "Norman Funds."[2] Norman Funds were available for housing in Lake County. Respondent told Andersen that Lake County was not feasible because it was not an area where she preferred to live, plus S.W. attended school and received services in a different county. DCFS also offered respondent funds to stay at a hotel in McHenry County for one week. To access those funds, respondent was required to submit a housing plan for when she moved out of the hotel. Ultimately, the hotel funds were not made available to respondent because she did not develop the required plan. Andersen testified that she then "circled back" to Lake County, but that housing had been filled and there was no housing available in McHenry County.

¶ 12 On cross-examination, Andersen testified that before protective custody was taken, she observed respondent and S.W. on one occasion, when they were in their car at a park. At that time, S.W. was healthy and did not have any injuries or bruises. Andersen further acknowledged that

[2] "Norman Funds" refers to a program administered by DCFS that offers cash assistance to help obtain or maintain housing. See *Norman Services: Information on Housing Advocacy, Cash Assistance, and Other Services*, https://dcfs.illinois.gov/content/dam/soi/en/web/dcfs/documents/loving-homes/preserving-families/documents/normanservices.2.0.pdf (last visited March 5, 2025).

S.W. was bonded with respondent, had food and clothing, was dressed appropriately, was enrolled in school, and was engaged in services.

¶ 13 Following Andersen's testimony, the State rested. Respondent moved for a directed finding, asserting that the State failed to meet its burden of proving neglect. The trial court denied respondent's motion.

¶ 14 Respondent testified that she became homeless in October or November of 2023. She stayed at a PADS shelter for a while. But, in May 2024, she and S.W. began living in her car. Respondent met with Andersen in August 2024 regarding housing assistance. Respondent testified that some of the housing options Andersen provided pertained to veterans only. Respondent further testified that she declined housing options in Lake County, noting that S.W. goes to school in McHenry County and S.W.'s pediatrician is in McHenry County. Respondent testified that she was not aware that the funds offered her to stay at a hotel were contingent on having a housing plan for after the hotel stay. Moreover, according to respondent, at no time was she advised that she could not sleep in her car with S.W. or that the conditions in which S.W. was living were unsafe.

¶ 15 On cross-examination by the GAL, respondent testified that during the summer of 2024, when she and S.W. were living in the car, there were times when the external temperature would be exceptionally high or exceptionally low. Respondent stated, however, that "there was never an issue with heat at nighttime ever" because the temperature "drastically drops" at night. Respondent further testified that it never got drastically cold, but added that, blankets were available. Respondent also explained that she and S.W. communicate using American Sign Language, but admitted that S.W.'s fluency in the medium is "minimal."

¶ 16 On cross-examination by the State, respondent testified that when S.W. slept in the car, the minor was strapped in her car seat. Respondent admitted that her car did not have air conditioning. As a result, when it was warm during the summer, respondent would roll down the car windows. Respondent testified that she would park her car at night at a "well-lit Walmart parking lot in Algonquin" that had cameras. She denied ever parking the car in a park or on a street to sleep at night. Respondent further testified that she was asked to leave the PADS shelter because the shelter needed the beds for new intakes. PADS provided respondent with resources for Home of the Sparrow, but respondent declined the offer. Respondent also testified that housing was available to her in Lake County, specifically Gurnee, Illinois and Kenosha, Wisconsin. Respondent testified that she did not want to live in Gurnee or Kenosha because those areas were too far from McHenry County.

¶ 17 Following arguments by the parties, the court found S.W. to be a neglected minor in that she is in an environment that is injurious to her welfare (see 705 ILCS 405/2-3(1)(b) (West 2024)). In its ruling, the court stated that it had a problem with respondent's credibility. Notably, the court found it improbable that respondent was referred to housing services for veterans only or housing in Wisconsin. The court also observed that respondent declined multiple housing opportunities and thwarted attempts to make services available to her. In addition, respondent reported that she and S.W. would sleep in the car even when the temperature was below zero or above 100 degrees. The court noted that while respondent indicated that she would roll down the car windows when the external temperature was elevated, this put S.W. at a greater risk of being kidnapped or injured. Moreover, the court noted that, according to Andersen's report, S.W.'s teacher reported that the minor came to school dirty and with bug bites. The court remarked, "You've got a child who can't talk *** strapped into a car in the middle of the night at a Walmart with all of the windows rolled

down. Who in their right mind would think that that was not injurious?" The court scheduled a dispositional hearing for November 22, 2024.

¶ 18 At the dispositional hearing, the State directed the court to an integrated assessment dated November 12, 2024, a court report filed by DCFS on November 15, 2024, and a service plan dated September 30, 2024. Based on those documents, the State asked the court to find respondent unfit and unable to care for S.W. and to make S.W. a ward of the court. The State further requested that the court order respondent to comply with the services outlined in the service plan, follow any recommendations arising from the proposed services, and maintain safe living arrangements. The GAL joined in the State's recommendations. Respondent's attorney requested a finding that respondent is fit but unable due to her lack of housing. The State responded that the basis for a finding that respondent is unfit is premised on mental health concerns and respondent's failure to recognize the "inappropriate conditions" that brought the minor into care.

¶ 19 The court determined that, for reasons other than financial circumstances alone, respondent was unfit and unable to care for, protect, educate, supervise, or discipline S.W. The court further found that it was in S.W.'s best interest to be made a ward of the court based on "serious concerns regarding the child" at the adjudication hearing. The written dispositional order states that placement with respondent is contrary to S.W.'s health, safety, and best interest because respondent needs services. The court granted custody and guardianship of S.W. to DCFS. The order directs respondent to comply with the services outlined in the service plan, follow any recommendations, and maintain safe living arrangements. The court set the permanency goal as return home within 12 months. This appeal followed.

¶ 20 II. ANALYSIS

¶ 21 On appeal, respondent raises two issues. First, she contends that the trial court's finding that S.W. was neglected because of an injurious environment was against the manifest weight of the evidence. Second, respondent argues that the trial court's finding that she is unfit and unable to care for S.W. was against the manifest weight of the evidence.

¶ 22 A. Neglect

¶ 23 The trial court's order adjudicating S.W. a neglected minor and making her a ward of the court was entered pursuant to the Juvenile Court Act of 1987 (Act) (705 ILCS 405/1-1 *et seq*. (West 2024)). The purpose of the Act is to "secure for each minor hereto such care and guidance *** as will serve the safety and moral, emotional, mental, and physical welfare of the minor and the best interests of the community." 705 ILCS 405/1-2 (West 2024); *In re V.S.*, 2025 IL 129755, ¶ 50. The Act sets forth a two-stage process for removing a minor from the custody of his or her parent and making the minor a ward of the court. *In re Z.L.*, 2021 IL 126931, ¶ 58. The first step, which occurs during the adjudication hearing, addresses only whether the child is abused, neglected, or dependent. 705 ILCS 405/2-18(1) (West 2024); *In re V.S.*, 2025 IL 129755, ¶ 50. The State must prove the allegations in the petition for adjudication by a preponderance of the evidence. *In re V.S.*, 2025 IL 129755, ¶ 51; *In re Z.L.*, 2021 IL 126931, ¶ 61. Under this standard, the State must establish that the allegations are more probably true than not. *In re V.S.*, 2025 IL 129755, ¶ 51.

¶ 24 On review, we consider whether the trial court's finding of neglect, abuse, or dependency was against the manifest weight of the evidence. *In re V.S.*, 2025 IL 129755, ¶ 52; *In re Z.L.*, 2021 IL 126931, ¶ 61. A finding is against the manifest weight of the evidence only if an opposite conclusion is clearly apparent or the decision is unreasonable, arbitrary, or not based on the evidence. *In re Keyon R.*, 2017 IL App (2d) 160657, ¶ 16. Under the manifest-weight-of-the-

evidence standard, a reviewing court gives deference to the trial court as the finder of fact since the trial court is in a better position to observe the conduct and the demeanor of the parties and the witnesses and has a greater degree of familiarity with the evidence. *In re A.W.*, 231 Ill. 2d 92, 102 (2008). Hence, as a reviewing court, we must not substitute our judgment for that of the trial court regarding the credibility of witnesses, the weight to be given the evidence, or the inferences to be drawn from the evidence. *In re A.W.*, 231 Ill. 2d at 102.

¶ 25 In its petition for adjudication, the State alleged that S.W. was a neglected minor on two grounds, but the trial court adjudicated her neglected on only one of these grounds—injurious environment. See 705 ILCS 405/2-3(1)(b) (West 2024). While neglect has been defined as the failure to exercise the care that circumstances justly demand, our supreme court has recognized that the meaning of neglect is fluid and that it comprises unintentional as well as intentional disregard of duty. *In re Arthur H.*, 212 Ill. 2d 441, 463 (2004). Likewise, the term "injurious environment" is "an amorphous concept that cannot be defined with particularity." *In re Arthur H.*, 212 Ill. 2d at 463. Thus, cases involving neglect are "*sui generis*, and must be decided on the basis of their unique circumstances." *In re V.S.*, 2025 IL 129755, ¶ 51. Generally, "injurious environment" encompasses situations in which a parent fails to provide his or her children with a safe and nurturing shelter. *In re Arthur H.*, 212 Ill. 2d at 463.

¶ 26 Respondent maintains that the State failed to show that S.W.'s environment was injurious. Respondent argues that the trial court's finding that S.W. was a neglected minor was based largely upon the fact that she and S.W. were homeless. Citing the Bill of Rights for the Homeless Act (775 ILCS 45/1 *et seq*. (West 2024)), respondent contends that homelessness by itself is an insufficient basis upon which to prove the neglect of a minor. Respondent contends that the State must show a nexus between the parent's homelessness and the treatment of the minor. According to

respondent, she was meeting S.W.'s basic needs and the State failed to present any evidence that S.W. was negatively affected by her living conditions or suffered any adverse effects from the temperature extremes. Thus, respondent concludes, the trial court erred in finding S.W. to be a neglected minor.

¶ 27 The State responds that the trial court's finding of neglect based on an injurious environment was not against the manifest weight of the evidence where S.W. has been homeless since October 2023, has been living in respondent's car since May 2024, and S.W. has significant special needs.

¶ 28 The trial court found S.W. neglected based on dangerous living conditions and S.W.'s special needs, which made her particularly vulnerable. The evidence presented at the adjudication hearing supports the trial court's finding. Significantly, the evidence demonstrates that respondent and S.W. moved out of a shelter to live in respondent's car. While living in the car, S.W. was subject to extreme temperatures and bug bites. Respondent would strap S.W. into her car seat and park at night in a parking lot. Because S.W.'s vehicle had no air conditioning, respondent would roll down the window. The trial court found that this put S.W. at a greater risk of being kidnapped or injured. This danger was compounded by the fact that S.W. is nonverbal and autistic. Although respondent testified that she communicates with S.W. using sign language, respondent admitted that S.W.'s fluency in the medium is "minimal." This limits S.W.'s ability to communicate if she were to overheat, get injured, or otherwise need help. Respondent claims that there was no evidence that S.W. was negatively affected by her living conditions or suffered any adverse effects from the temperature extremes. This argument is not persuasive because evidence that a parent exposed a child to a risk of danger is sufficient to support a finding of injurious environment even if the child has not yet been harmed by the danger. *In re K.F.*, 2023 IL App (1st) 220816, ¶ 50. In

short, considering this record, we cannot say that a conclusion opposite that of the trial court is clearly apparent or that the trial court's finding of neglect premised on injurious environment is unreasonable, arbitrary, or not based on the evidence. Accordingly, we hold that it was not against the manifest weight of the evidence for the trial court to adjudicate S.W. neglected based on an injurious environment.

¶ 29 B. Unfitness

¶ 30 Respondent also argues that the trial court's finding that she is unfit and unable to care for S.W. was against the manifest weight of the evidence. According to respondent, the evidence presented at the dispositional hearing showed that she was fit to provide for the health and safety of S.W. because it established that she was working to find appropriate housing for herself and S.W. and she was meeting the special needs of the minor.

¶ 31 The State's response is threefold. First, the State argues that the doctrine of invited error bars respondent's argument that the trial court's finding at the dispositional hearing was against the manifest weight of the evidence. Second, the State argues that respondent's claim is moot because, while she challenges the trial court's unfitness finding on appeal, she makes no developed argument that the trial court's finding that she was unable to care for S.W. was error. These procedural bars aside, the State asserts that the trial court's finding that respondent is unfit to care for S.W. was not against the manifest weight of the evidence.

¶ 32 As noted above, the Act sets forth a two-stage process for removing a minor from the custody of his or her parents and making the minor a ward of the court. *In re Z.L.*, 2021 IL 126931, ¶ 58. The first step, discussed above, addresses only whether the child is abused, neglected, or dependent. 705 ILCS 405/2-18(1) (West 2024); *In re V.S.*, 2025 IL 129755, ¶ 50. If the court adjudicates the minor abused, neglected, or dependent, the second step is to hold a dispositional

hearing. 705 ILCS 405/2-21(2) (West 2024); *In re V.S.*, 2025 IL 129755, ¶ 50. At the dispositional hearing, the trial court must determine whether it is in the best interests of the minor and the public that the minor be made a ward of the court and, if so, the disposition that will best serve "the health, safety and interests of the minor and the public." 705 ILCS 405/2-22(1) (West 2024); *In re K.E.S.*, 2018 IL App (2d) 170907, ¶ 49. The Act sets out four basic types of dispositional orders with respect to a ward of the court. 705 ILCS 405/2-23(1)(a) (West 2024). The minor may be: (1) continued in the custody of his or her parents, guardian, or legal custodian; (2) placed in accordance with section 2-27 of the Act (705 ILCS 405/2-27 (West 2024)); (3) restored to the custody of his or her parent, parents, guardian, or legal custodian; or (4) ordered partially or completely emancipated. 705 ILCS 405/2-23(1)(a) (West 2024); *In re M.M.*, 2016 IL 119932, ¶ 18.

¶ 33 Section 2-27 of the Act provides that, prior to committing the minor to the custody of a third party, such as DCFS, a trial court must first determine whether the parent is unfit, unable, or unwilling to care for the minor and whether the best interest of the minor will be jeopardized if the minor remains in the custody of his or her parents, guardian, or custodian. 705 ILCS 405/2-27(1) (West 2024); *In re M.M.*, 2016 IL 119932, ¶ 21. At the dispositional stage, the State bears the burden of proving that a parent is unfit, unable, or unwilling to care for the minor by a preponderance of the evidence. *In re K.E.S.*, 2018 IL App (2d) 170907, ¶ 51. On review, we will not overturn the trial court's dispositional determination unless its factual findings are against the manifest weight of the evidence or it commits an abuse of discretion by selecting an inappropriate disposition. *In re K.E.S.*, 2018 IL App (2d) 170907, ¶ 51; *In re L.O.*, 2016 IL App (3d) 150083, ¶ 17. As noted earlier, a finding is against the manifest weight of the evidence only if an opposite conclusion is clearly apparent or the decision is unreasonable, arbitrary, or not based on the evidence. *In re Keyon R.*, 2017 IL App (2d) 160657, ¶ 16. A trial court abuses its discretion where

no reasonable person would take the view adopted by the trial court. *In re Marriage of Schneider*, 214 Ill. 2d 152, 173 (2005).

¶ 34 Initially, we consider the State's claim that respondent's challenge to the trial court's dispositional finding is moot. The language of section 2-27(1) of the Act is disjunctive, meaning that a minor may be removed from a parent based on any one of three findings: (1) parental unfitness; (2) parental inability; or (3) parental unwillingness. 705 ILCS 405/2-27(1) (West 2024) (providing for the removal of a minor from the parent if the parent is *either* unfit *or* unable *or* unwilling to care for the minor); *In re Joseph J.*, 2020 IL App (1st) 190305, ¶ 29. Here, the trial court found respondent unfit *and* unable to care for S.W. On appeal, respondent asserts in the heading of the argument section addressing the dispositional finding that the trial court erred in finding that she was "dispositionally unfit and unable" to care for S.W. However, respondent does not develop an argument in the body of her brief that the trial court's parental-inability finding was improper. Rather, in the argument section of her brief, she simply maintains that the trial court "erred in making S.W. a ward of the court because [respondent] was *fit* to provide for the health and safety of S.W. regardless of her homelessness." (Emphasis added.) Likewise, in the conclusion section of her brief, she merely argues that the trial court erred in finding her *unfit*. Under the Act, an appeal is moot where the trial court cites multiple grounds for a disposition but the appellant challenges only one of those grounds on appeal. *In re V.S.*, 2025 IL 129755, ¶ 60; *In re M.B.*, 332 Ill. App. 3d 996, 1004 (2002). Here, the trial court found respondent both unfit *and* unable to care for S.W. Respondent's failure to substantively challenge the parental-inability finding means that it would remain in effect even if this court were to find error with respect to the parental-unfitness finding. Accordingly, by not challenging the parental-inability finding, the issue of whether the

trial court properly found her unfit is moot. See *In re Joseph J.*, 2020 IL App (1st) 190305, ¶¶ 29-30; *In re M.B.*, 332 Ill. App. 3d at 1004; *In re Lakita B.*, 297 Ill. App. 3d 985, 991-93 (1998).

¶ 35 Moreover, even if claimant had challenged the parental-inability finding on appeal, we agree with the State that it would be barred by the doctrine of invited error. Under the doctrine of invited error, " '[a] party is estopped from taking a position on appeal that is inconsistent with a position the party took in the trial court.' " *In re William H.*, 407 Ill. App. 3d 858, 870 (2011) (quoting *In re Stephen K.*, 373 Ill. App. 3d 7, 25 (2007)). The rationale for the doctrine is that it would be manifestly unfair to grant a party relief based on error that he or she induced the court to make or to which he or she consented. *In re E.S.*, 324 Ill. App. 3d 661, 670 (2001).

¶ 36 As noted earlier, the language of section 2-27(1) of the Act is disjunctive, so a minor may be removed based on a finding of *either* parental unfitness *or* parental inability *or* parental unwillingness to care for the minor. 705 ILCS 405/2-27(1) (West 2024); *In re Joseph J.*, 2020 IL App (1st) 190305, ¶ 29. At the dispositional hearing, the State argued that respondent was unfit *and* unable to care for S.W. In response, respondent's attorney requested a finding that respondent is fit but unable due to her lack of housing, stating:

> "Judge, I would be objecting to [respondent] being found unfit. We'd be asking that [respondent] be found fit. I'm guessing the State was agreeing that she is willing. *It's just she is unable at this time due to housing*, but she's been participating in everything else that's been asked of her. So we'd ask that she be found fit. *It's just unable at this time*." (Emphases added.)

Thus, trial counsel admitted that respondent was unable, which is consistent with the trial court's ruling. Respondent cannot now argue that the trial court's inability finding was error when her own attorney agreed she was unable. In short, respondent is estopped from arguing on appeal that

the trial court erred in finding that she is unable to care for S.W. because her attorney conceded this point at the dispositional hearing.

¶ 37 Additionally, even if we were to consider the merits of this argument, we would conclude that the trial court's finding of dispositional unfitness was not against the manifest weight of the evidence. The principal reason this case was initiated was because respondent refused offered housing services and instead chose to reside in her car with S.W., an autistic and nonverbal toddler. While sleeping in the vehicle, S.W. was strapped in her car seat and exposed to extreme temperatures, bugs, and other risks. S.W. would arrive at school dirty. Further, the integrated assessment admitted at the dispositional hearing notes that S.W. was not meeting developmental milestones in various areas, including communication, gross motor skills, fine motor skills, problem solving, and personal-social skills. The integrated assessment also notes that respondent is unemployed, had been in multiple abusive relationships, and relies on donations from others to provide for basic needs. We also observe that respondent has yet to address the lack of stable and safe living arrangements for S.W. While respondent claims that evidence was presented to show that she was taking part in efforts to find appropriate housing for herself and S.W., she does not direct us to the portion of the record where such evidence appears. Significantly, the evidence supports a finding that respondent's poor judgment and decision making have placed S.W.'s safety and well-being at risk by exposing her to extreme temperatures, bug bites, and other dangers. As respondent has not shown that the trial court's finding that she is dispositionally unfit is against the manifest weight of the evidence, we affirm that finding. In addition, we conclude that the disposition entered by the trial court did not constitute an abuse of discretion.

¶ 38 III. CONCLUSION

¶ 39 For the reasons set forth above, we affirm the judgment of the circuit court of McHenry County.

¶ 40 Affirmed.