2025 IL App (4th) 250097-U

NO. 4-25-0097

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
May 30, 2025
Carla Bender
4th District Appellate
Court, IL

In re L.R.-M., a Minor	)	Appeal from the
	)	Circuit Court of
(The People of the State of Illinois,	)	Knox County
Petitioner-Appellee,	)	No. 24JA30
v.	)	
Anastasia R.-M.,	)	Honorable
Respondent-Appellant).	)	Curtis S. Lane,
	)	Judge Presiding.

PRESIDING JUSTICE HARRIS delivered the judgment of the court.
Justices Steigmann and Zenoff concurred in the judgment.

ORDER

¶ 1 *Held*: The appellate court reversed and remanded, finding the trial court's finding of dispositional unfitness was against the manifest weight of the evidence.

¶ 2 The State filed a petition for adjudication of wardship concerning L.R.-M. (born August 2022), the minor daughter of respondent, Anastasia R.-M. The trial court entered an adjudicatory order finding that L.R.-M. was neglected in that she was in an environment injurious to her welfare. Following a dispositional hearing, the court entered an order making L.R.-M. a ward of the court, finding that respondent was unfit to care for L.R.-M., and granting custody and guardianship of L.R.-M. to the Illinois Department of Children and Family Services (DCFS).

¶ 3 Respondent appeals the dispositional order, arguing that (1) the trial court's finding of dispositional unfitness was against the manifest weight of the evidence, (2) the court's

"decision to select a dispositional order making [L.R.-M.] a ward of the court was an abuse of discretion," and (3) her appointed counsel was ineffective at the dispositional hearing. Respondent requests that we reverse and remand for a new dispositional hearing. The State has filed a brief confessing error as to the first two issues. We reverse and remand.

¶ 4 I. BACKGROUND

¶ 5 On April 1, 2024, the State filed a petition for adjudication of wardship concerning L.R.-M., which alleged L.R.-M. had been neglected in that her environment was injurious to her welfare (705 ILCS 5/2-3(1)(b) (West 2022)). The petition stated that L.R.-M. resided with her father, respondent, and her half-siblings, F.B. and L.W. (F.B. and L.W. shared the same father as L.R.-M. but had a different mother.) The petition alleged the children were left home alone, witnesses observed L.R.-M.'s father beating L.W., and F.B. reported that both her father and respondent struck her and L.W. on multiple occasions. The petition also alleged that respondent told L.W. and F.B. shortly before they left the home to reside with their legal guardian that "if they lose their baby, she will kill them."

¶ 6 Following a shelter care hearing, the trial court found there was probable cause to find L.R.-M. was neglected, and it entered an order placing her in the temporary custody of DCFS.

¶ 7 On April 24, 2024, a second amended petition was filed, which alleged L.R.-M. was neglected in that she was in an environment injurious to her welfare (*id.*) and she was abused (*id.* § 2-3(2)(i)). The neglect count contained the allegations from the original petition, as well as new allegations, including that F.B. had reported that their father struck L.R.-M. with a belt. The abuse count realleged the allegations from the neglect count.

¶ 8 On October 3, 2024, the trial court held an adjudicatory hearing. The State agreed

to remove two sentences from the second amended petition relating to respondent's alleged physical abuse of F.B. and L.W. Respondent then stipulated to the neglect count, and the abuse count was dismissed. The court accepted the stipulation and found the State had proven by a preponderance of the evidence that L.R.-M. was neglected.

¶ 9 On October 9, 2024, a dispositional report and a service plan (dated August 19, 2024) were filed. On November 12, 2024, an integrated assessment was filed.

¶ 10 An updated dispositional report was filed on January 28, 2025. The report stated that respondent had moved to Chicago and was looking for employment there. She had satisfactorily cooperated with the caseworker by attending all meetings, filling out all releases, and notifying the caseworker as to changes in her address. She had completed all the services in the service plan and had been visiting L.R.-M. for two hours once a week since the case was opened, though the report stated the caseworker needed to "resubmit a referral for visitation" due to respondent's move to Chicago. The report stated respondent completed a domestic violence course in September 2024 and was not currently in a "domestic relationship." Respondent also completed a mental health assessment in September 2024 and a parenting course in August 2024. The report reflected that, after completing the parenting course, respondent stated she would follow the program concepts and remain calm, respectful, and accountable when stressful situations occurred. She completed a substance abuse evaluation in July 2024, and all of her drug drops had been negative. L.R.-M. was currently living in a relative foster home.

¶ 11 The updated dispositional report recommended that L.R.-M. be returned to respondent's home due to respondent's satisfactory progress, with respondent receiving six months of after-care. It also recommended that the permanency goal be that L.R.-M. remain with respondent and that the trial court find that respondent (1) had cooperated with DCFS, (2) had

completed the tasks outlined in the service plan, and (3) be deemed to have made reasonable efforts and progress.

¶ 12 On January 28, 2025, the trial court held a dispositional hearing. Upon the State's request, the court admitted into evidence the dispositional reports, the integrated assessment, and the service plan.

¶ 13 Respondent called Heather Stokes, the DCFS caseworker assigned to L.R.-M.'s case, as a witness. Stokes testified that DCFS had recommended that respondent (1) complete domestic violence services, parenting classes, substance abuse services, and mental health services; (2) secure housing; (3) cooperate with DCFS; and (4) attend visitation. Stokes testified that respondent completed random drug drops as directed, and they were all negative. DCFS requested that respondent see a mental health counselor, which she did. Respondent had completed parenting classes and domestic violence classes, and she was no longer in a relationship with L.R.-M.'s father. Respondent moved to Chicago in November 2024, where she had a lot of family support, and she was living with her aunt. A DCFS investigator had observed the home, and there were no concerns with it. Stokes stated that respondent was not working but was actively looking for employment. Respondent had given birth to a second child a few weeks before the dispositional hearing. Stokes stated a DCFS safety plan had initially been in effect for the newborn, but it was closed because DCFS had no concerns about the baby being in the home. Stokes testified that it was DCFS's position that there were no concerns with L.R.-M. returning to respondent's care.

¶ 14 The State and the guardian *ad litem* indicated that they had no objection to DCFS's recommendations with regard to L.R.-M. Respondent's counsel requested that the trial court find her fit, as she had completed all requested services and was actively seeking

employment.

¶ 15 The trial court instead ordered that guardianship of L.R.-M. would be placed with DCFS, and there would be a return home goal for 12 months. The court stated:

> "I'm not gonna sit here and close a case after the allegation *** that [respondent] told certain minors that if she loses her baby ***, she will kill them. So I have no idea what DCFS's position [is] on that. I don't care one bit what Cook County does with that child. We are not Cook County, and we do not behave in that way.
>
> I am not gonna sit here and close out a case a few months after the mother threatens to kill children if another baby is taken from her. So whether this causes problems to the new baby and [respondent] or not, well, maybe you don't make those types of comments."

¶ 16 The trial court then found respondent unfit. The court ordered that respondent cooperate with DCFS, stating: "I don't care if [respondent] has completed the services anyway, something's obviously wrong and—and needs to be reevaluated here." The court then stated, "If there was not counseling or *** some type of psychological evaluation ordered for [respondent], threatening to kill the kids, that will be ordered and *** any services after that will be necessarily [*sic*] to be completed."

¶ 17 The trial court entered a written dispositional order, finding that making L.R.-M. a ward of the court was in her best interest and was consistent with her health, welfare, and safety. The court further found that respondent was unfit to care for, protect, train, supervise, or discipline L.R.-M. and that placement with respondent would be contrary to L.R.-M.'s best interest. The court ordered that L.R.-M. be made ward of the court, granted custody and

guardianship to DCFS, and set the permanency goal as return home within 12 months. The court ordered that respondent cooperate with a psychological evaluation and all recommendations.

¶ 18 This appeal followed.

¶ 19 II. ANALYSIS

¶ 20 On appeal, respondent argues that (1) the trial court's finding that she was unfit was against the manifest weight of the evidence, (2) the court's decision to enter a dispositional order making L.R.-M. a ward of the court was an abuse of discretion, and (3) her attorney rendered ineffective assistance at the dispositional hearing by failing to (a) present evidence as to why her statement that she would kill F.B. and L.W. should no longer be a concern to the court and (b) make an argument as to L.R.-M.'s best interest in asking the court to find her fit. The State agrees that L.R.-M. should not have been made a ward of the court and that respondent should not have been found dispositionally unfit and has filed a brief confessing error to that effect.

¶ 21 "A proceeding for adjudication of wardship represents a significant intrusion into the sanctity of the family which should not be undertaken lightly." (Internal quotation marks omitted.) *In re A.P.*, 2012 IL 113875, ¶ 18. The "paramount consideration" in such a proceeding is the best interest of the child. *Id.* In determining whether a minor should be made a ward of the court, the trial court employs a two-step process. *Id.* The court first determines at an adjudicatory hearing whether the allegations in the petition that the minor has been abused or neglected have been proven by a preponderance of the evidence. *Id.* ¶ 19.

¶ 22 If the trial court finds that a minor is abused or neglected, the court holds a dispositional hearing to "determine whether it is consistent with the health, safety and best interests of the minor and the public that the minor be made a ward of the court." 705 ILCS

405/2-21(2) (West 2022). If the trial court determines that a minor should be made a ward of the court, the court may then "issue a dispositional order affecting the future conduct of the parents." *In re C.L.*, 384 Ill. App. 3d 689, 693 (2008). Section 2-23(1)(a) of the Juvenile Court Act of 1987 (Act) (705 ILCS 405/2-23(1)(a) (West 2022)) sets forth four possible dispositions for minors made wards of the court. Such minors may be: (1) continued in the custody of their parents; (2) restored to the custody of their parents, "provided the court shall order the *** parents *** to cooperate with [DCFS] and comply with the terms of an after-care plan, or risk the loss of custody of the child and the possible termination of their parental rights"; (3) partially or completely emancipated; or (4) placed in accordance with section 2-27 of the Act. *Id.*

¶ 23 Section 2-27(1) of the Act sets forth the trial court's options for placing custody and guardianship of a minor in the event that the court determines the minor's parents are "unfit or are unable, for some reason other than financial circumstances alone, to care for, protect, train or discipline the minor or are unwilling to do so," and that the minor's health, safety, and best interest would be jeopardized if he or she remained in the custody of his or her parents. *Id.* § 2-27(1). Before the trial court may consider whether a parent is dispositionally unfit under section 2-27(1), the court must find that it is in the minor's best interest to be made a ward of the court. See *In re M.M.*, 2016 IL 119932, ¶ 19, n.1 ("The trial court's finding that it is in the best interest of the minor to become a ward of the court must precede the court's consideration of whether a parent is dispositionally unfit and the need for guardianship.").

¶ 24 "A trial court's determination regarding dispositional unfitness will be reversed 'only if the findings of fact are against the manifest weight of the evidence or if the trial court committed an abuse of discretion by selecting an inappropriate dispositional order.' " *In re K.B.*, 2012 IL App (3d) 110655, ¶ 23 (quoting *In re T.B.*, 215 Ill. App. 3d 1059, 1062 (1991)). "A

decision is against the manifest weight of the evidence if the facts clearly demonstrate that the court should have reached the opposite result." *In re N.B.*, 191 Ill. 2d 338, 346 (2000).

¶ 25 Initially, we reject respondent's argument that the trial court erred by making L.R.-M. a ward of the court and the State's confession of error on this point. Neither party's brief sets forth an argument establishing why this determination was improper. In the section of her brief addressing wardship, respondent argues that the court "abused its discretion in selecting an inappropriate dispositional order that kept [L.R.-M.] from [respondent's] custody." However, the determination that a minor should be made a ward of the court is not a dispositional order that necessarily prevents a parent from being given custody of the minor. Rather, it is a threshold determination that must be made *before* the court selects one of the four possible dispositions set forth in section 2-23(1)(a) of the Act. See *C.L.*, 384 Ill. App. 3d at 693. While the parties' briefs contain ample discussion of the propriety of the court's determinations regarding dispositional fitness and custody, they do not set forth a basis for finding the court erred by determining that L.R.-M. should be made a ward of the court.

¶ 26 Moreover, contrary to the State's argument in its brief, its confession of error as to the trial court's determination that L.R.-M. should be made a ward of the court was not actually consistent with the position it took in the trial court. At the dispositional hearing, the State adopted DCFS's recommendation that L.R.-M. be restored to respondent's custody with six months of after-care. A finding that the minor should be made a ward of the court would necessarily precede such a disposition. See 705 ILCS 405/2-23(1) (West 2022); *C.L.*, 384 Ill. App. 3d at 693.

¶ 27 We agree, however, with respondent's argument that the trial court's finding that she was unfit to care for, protect, or train L.R.-M. was against the manifest weight of the

evidence, and we accept the State's confession of error on that point. At the dispositional hearing, Stokes testified that respondent had completed all recommended services in the service plan, including parenting classes, domestic violence classes, counseling, substance abuse services, cooperation with DCFS, and visitation. The evidence at the dispositional hearing showed that respondent was no longer in a relationship with L.R.-M.'s father and was living with her aunt. Stokes testified that DCFS had no concerns about respondent's current home, and the agency had closed a case for respondent's newborn because it had no concerns about the baby being in the home. The dispositional report filed on January 28, 2025, recommended that L.R.-M. be returned to respondent with six months of after-care due to her satisfactory progress.

¶ 28 The trial court's finding of dispositional unfitness in this case was based solely on a statement that respondent had made to F.B. and L.W. that she would "kill them" if she lost the baby. Obviously, respondent threatening the children in this manner was inexcusable. However, it appears this was an isolated statement made prior to the filing of the petition for adjudication of wardship in April 2024. The evidence at the dispositional hearing showed that, subsequent to making that statement, respondent completed a mental health assessment, attended counseling, completed parenting classes, and completed domestic violence classes. Apparently, there were no subsequent similar threats made, and the record does not reflect any ongoing concerns by DCFS. Given respondent's cooperation with DCFS and completion of all the requested services, the court's determination that she was unfit to care for L.R.-M. based solely on the earlier isolated threat she made to F.B. and L.W. was against the manifest weight of the evidence.

¶ 29 We also note that the trial court appeared to erroneously conclude that its only options were either to find respondent unfit or "close out the case." Had the court ordered that L.R.-M. be restored to respondent's custody with six months of after-care, as was recommended

by DCFS, respondent would have still been required to "cooperate with [DCFS] and comply with the terms of an after-care plan, or risk the loss of custody of the child and the possible termination of [her] parental rights." 705 ILCS 405/2-23(1)(a)(3) (West 2022). We also note that, while custody of a minor cannot be granted to a third party when a parent is fit, the court "can continue to oversee the care of the child and the provision of services to the parent by granting guardianship to DCFS." *In re K.E.S.*, 2018 IL App (2d) 170907, ¶ 71; see *In re M.P.*, 408 Ill. App. 3d 1070, 1074 (2011); *In re E.L.*, 353 Ill. App. 3d 894, 898 (2004).

¶ 30 Accordingly, we reverse the trial court's finding that respondent was unfit and remand the cause for a new dispositional hearing. In light of our holding, we need not reach respondent's argument that she received ineffective assistance of counsel at the dispositional hearing. Also, pursuant to the State's request, the mandate of this court shall issue immediately.

¶ 31 III. CONCLUSION

¶ 32 For the reasons stated, we reverse the trial court's finding that respondent was dispositionally unfit and remand the matter for further proceedings.

¶ 33 Reversed and remanded; mandate to immediately issue.