

**NOTICE**  
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2023 IL App (5th) 220710-U

NO. 5-22-0710

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

**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).

<i>In re</i> K.W., a Minor,	)	Appeal from the
	)	Circuit Court of
(The People of the State of Illinois,	)	Macon County.
	)	
Petitioner-Appellee,	)	
	)	
v.	)	No. 22-JA-46
	)	
Calli B,	)	Honorable
	)	Phoebe S. Bowers,
Respondent-Appellant).	)	Judge, presiding.

JUSTICE MCHANEY delivered the judgment of the court.  
Justices Cates and Vaughan concurred in the judgment.

**ORDER**

¶ 1 *Held:* Where the trial court’s adjudicatory and dispositional orders finding that K.W. was a neglected minor, making the minor a ward of the State, and awarding custody and guardianship to the Department of Children and Family Services were not contrary to the manifest weight of the evidence, we affirm the orders.

¶ 2 Calli B. (Calli) appeals from two of the trial court’s orders—the July 11, 2022, adjudicatory order and the September 15, 2022, dispositional order. We affirm.

¶ 3 I. BACKGROUND

¶ 4 K.W., a female child, was born on February 19, 2022. K.W.’s mother is Calli, and her father is Marlon W. (Marlon). Calli and Marlon also have a son, Ka.W., born on February 13, 2021. Although this case only involves K.W., the background for K.W.’s case stems from a case

opened by the Department of Children and Family Services (DCFS) involving Ka.W., and thus we briefly outline the details of Ka.W.'s case.

¶ 5 In early June 2021, police were called to Calli's home in response to a report that Calli was screaming at and shaking Ka.W. by the shoulders. Ka.W. was transported to St. Mary's Hospital in Decatur where DCFS placed Ka.W. in protective custody. From the record on appeal, it appears that Ka.W. remained in Calli's care until early November 2021. On November 2, 2021, police responded to Calli's home following a report of domestic battery instigated by Calli against the individual who called the police to the home. Ka.W. was not injured during this altercation. DCFS determined that because Calli was the perpetrator of domestic violence at a time when Ka.W. was present, DCFS halted its "aftercare process" for Ka.W.'s safety. DCFS removed Ka.W. from Calli's care and placed Ka.W. with Calli's sister. When Ka.W. was removed from Calli's care, Calli was herself a minor and lived with her mother, Krisa. DCFS noted that there was a longstanding history of domestic violence between Calli and Krisa.

¶ 6 K.W. was born prematurely and remained in the neonatal intensive care unit in a Springfield hospital until her discharge on March 10, 2022. DCFS took protective custody of K.W. upon her hospital discharge, and DCFS placed K.W. with Calli's sister.

¶ 7 Based upon the November 2, 2021, domestic violence incident, DCFS labeled its investigation of Calli as "positive." The assigned DCFS caseworker spoke with the domestic violence education service provider to extend Calli's services. Before this November 2, 2021, incident, and the resulting removal of Ka.W. from Calli's home, the DCFS caseworker spoke with the parenting education provider where Calli received parenting education and learned that Calli was not fully engaging in services. Calli had also stopped attending high school even though she had been enrolled in a program that allowed her to bring Ka.W. to school with her.

¶ 8 DCFS referred Calli for services designed to educate and assist her in coping with issues that were impacting her parenting ability. The domestic violence and anger management service provider provided a progress report dated December 28, 2021, regarding the services provided to Calli. The provider reported that Calli had been attending classes regularly, was engaged in services, and was “making good progress.” Calli reported that she had no new anger issues and was attending high school. Calli’s parenting educator provided a status report on December 29, 2021. Calli had been enrolled in the 32-week parenting education program since August 4, 2021, and when present at the sessions was engaged, participated, and appeared to understand the lesson material. However, Calli had missed 9 of the 18 sessions. Notably, she had just recently missed the sessions on December 16, 2021, and December 23, 2021. The parenting education provider stated that if Calli missed the upcoming December 30, 2021, session, she could be closed out of the parenting program. The parenting education provider rated Calli’s progress as unsatisfactory.

¶ 9 The DCFS shelter care report filed with the court on March 14, 2022, summarized Calli’s progress as follows:

“Recently it does seem that Callie is engaging consistently and attempting to correct [the] conditions that brought the child(ren) into care. Calli does have many sessions to go before services will be completed. Calli is not attending high school. Calli has made it clear to [her] caseworker that her focus is on getting a job to support herself and [the] child(ren). Calli was referred to the Norman Housing program so that the process of locating stable housing for her and the child(ren) when they return home.”

¶ 10 On March 14, 2022, the trial court entered its temporary custody order finding that probable cause existed for filing the petition involving K.W. because the parents had an open case related to Ka.W., and there had been unsatisfactory progress in that case. The court found that there was an immediate and urgent necessity to remove K.W. from Calli’s home, and that leaving K.W. in that home was contrary to the health, welfare, and safety of the minor as outlined in the March 14,

2022, shelter care report. DCFS was granted temporary custody of K.W. The court ordered supervised visitation.

¶ 11 DCFS filed its status report with the court on March 25, 2022. The permanency goal was to return K.W. home to Calli within 12 months. DCFS cited a March 16, 2022, progress report from the parenting education provider. The provider indicated that since December 2021, Calli had been consistent in attending and being prepared for her weekly parenting sessions. She missed two sessions when she was in the hospital after K.W. was born. Calli completed a virtual parenting session on March 3, 2022, from the hospital. As of late March 2022, Calli had 18 parenting sessions to complete. The reporter stated:

“I don’t have concerns about Calli’s nurturing for her children because she does well with spending time with K[a.W.] and now the baby [K.W.] and she loves her children. I have concerns about her housing situation, being able to support her children[,] and understanding healthy relationships. I am still rating Calli unsatisfactory with progress for parenting.”

DCFS recommended a permanency goal of returning K.W. home to Calli within 12 months and stated that Calli had been attempting to correct the conditions that brought the children into care.

¶ 12 A. Adjudicatory Hearing

¶ 13 The trial court held the adjudicatory hearing on July 11, 2022. The State called two witnesses who were involved with this case. Calli testified on her own behalf.

¶ 14 Corrina Hosto, a foster care case manager, was the case manager for both Ka.W. and K.W. As of the date of the hearing, Ka.W. had been in foster care for more than one year. K.W. was brought into care in March 2022 because of the ongoing case with Ka.W. Hosto testified that there were recent concerns with Calli and her ongoing anger issues. Calli was expressing her anger via text messages and social media. Calli’s parenting education provider had recently changed and the classes had resumed, but DCFS had not been able to get Calli to reengage in those classes. Hosto

testified that Calli had been successfully discharged from her domestic violence and anger management classes. Both the previous caseworker and Hosto had attempted to have Calli report for random drug testing, but Calli had not reported for any tests. Hosto testified that Calli had only visited her children a couple of times when the children were being watched by Calli's mother. Scheduling additional visits was discretionary with DCFS, but the agency had not done so because Calli continued to spend time with the children's father, Marlon, and because "she seems to get into these—these situations that cause our concern for the children's safety to be with both parents at the same time." Hosto stated that she believed that Calli had completed assessments for mental health and substance abuse, and that no services were recommended.<sup>1</sup> Additionally, Calli had successfully completed the domestic violence and anger management program and had been discharged.

¶ 15 On cross-examination, Calli's attorney asked for additional information about the social media posts at issue. In these posts, Calli was making somewhat threatening comments to someone named "Tiffany" about "getting control" of her man, and stating that she would physically harm anyone who "[doesn't] know what they're talking about."

¶ 16 Calli's attorney asked Hosto about the required random drug tests and about whether Calli had any history of substance abuse. Hosto testified that there was no known concern about substance abuse with Calli. Calli had informed Hosto that she was not receiving the phone calls telling her to present for the random drug tests because her phone only operated on Wi-Fi. Hosto testified that she doubted that Calli never had Wi-Fi access.

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<sup>1</sup>We note that the record on appeal does not contain any documentation of the alleged assessments for mental health and/or substance abuse.

¶ 17 Hosto also testified to her concern about Calli’s continued relationship with Marlon. Hosto testified that Calli told her that there had been a situation where someone fired a gun near her, and that Marlon was with her when the shooting occurred. Hosto testified that DCFS has “concerns that [Marlon] and Calli are still putting themselves into situations or getting themselves involved with individuals that could cause safety concerns for these children being in their care.” Hosto explained that Marlon had not completed his services and that DCFS thought he might use drugs and that Calli “continues to have that ongoing relationship with this individual, and he’s not doing any of his services for this agency.” Hosto based her concern that Marlon was using drugs from social media posts. Hosto also testified that Marlon was not authorized to have visitation with the children because he had not been engaged in services. Yet, Marlon was present at one visit with the children when Calli had visitation supervised by her mother. Hosto admitted that this “unauthorized visitation” occurred before she was assigned to this case, and that her supervisor could have approved Marlon’s presence at the visit.

¶ 18 On cross-examination by the guardian *ad litem*, Hosto testified that she had asked Calli to submit to a random drug test on a weekly basis for approximately four to seven weeks. Calli did not present for any of these drug tests.

¶ 19 The State also called Chamica Demus, the previous parenting instructor who worked with Calli in this case. Demus testified that she first met Calli on August 4, 2021. When Calli attended her parenting classes, she engaged with the instructor, had completed her assignments, and was learning about nurturing and the developmental stages with children. However, her attendance was not consistent. Calli’s absences prevented her from completing the program in the standard eight to nine months. The last appointment Demus had with Calli was on May 25, 2022, and at that point, Calli was approximately halfway through the program. Demus testified that she had no

concerns with Calli's ability to nurture her children, but that she was concerned that Calli did not have a history of healthy relationships. Demus explained that her concerns involved "situations with family \*\*\* not getting along with them, understanding how to control anger, understanding relationships, what that means \*\*\* in regards to being a parent \*\*\*." As Demus stated, it would be difficult to teach her children about relationships if she did not have her own healthy relationships. Demus testified that she believed Calli was doing better with relationships based on conversations they had during the parenting classes. However, if Calli continued to place herself in a historically negative relationship, then Calli would not be demonstrating a complete understanding of what is needed for good parenting.

¶ 20 On cross-examination by Calli's attorney, Demus testified that she felt that Calli was internalizing the relationship tools she provided Calli during these parenting classes. Demus stated that at times Calli had difficulty finding transportation to her parenting classes. Although buses were available, Calli would not use that form of transportation.

¶ 21 Calli also testified at the adjudicatory hearing. She explained that her attendance problems with the parenting classes were based on transportation issues and on the death of her grandfather. She explained that her parents had worked out their work schedules so that one or the other would be able to transport her to these classes.

¶ 22 Calli confirmed that there had been a shooting incident. She testified that she and Marlon had been fishing at a lake and "some guy" came up to them with a gun. Calli testified that Marlon pushed her in front of him and they ran to a local business. She testified that Marlon "saved my life" by protecting her from the shots that were fired.

¶ 23 Calli also confirmed that Marlon had been "violent" with her on a few occasions, but that there had been no recent violence since the domestic violence incident at the beginning of this

case. Calli testified that she and Marlon remained friends but were no longer in a romantic relationship. She stated that she and Marlon were trying to “keep it cool” for coparenting.

¶ 24 Calli testified about the missed random drug tests. She stated that there was a video of her with friends on social media where alcohol was involved. She believed that this video was the reason that DCFS wanted her to start random drug testing. Calli testified that transportation and not having Wi-Fi available outside of her home were the reasons that she was unaware of these scheduled tests. She testified that she was not in her home very often because she was seeking employment and housing.

¶ 25 The State argued that Calli had been in services for over one year and had not completed her parenting program. The State asked the trial court to find that K.W. was a neglected minor because Calli had not completed services. Calli’s attorney argued that the State should only be focused on the time frame of K.W.’s case—March 2022 to the present day—and should not be allowed to ask the court to consider the duration of Ka.W.’s case because Ka.W.’s case was not before the court. Further, some of her missed parenting classes since K.W.’s case was opened were caused by K.W.’s birth and hospitalization. Calli’s attorney also argued that there was no evidence that Calli was currently in a romantic relationship with Marlon, and that attempting to work with him to coparent was appropriate. The guardian *ad litem* argued that if Calli had not exercised her discretion to have unsupervised and/or overnight visitation with her older child, Ka.W., then it would not be appropriate or safe for K.W. to be placed in Calli’s care. From that, the guardian *ad litem* surmised that Calli had not sufficiently progressed to have the unsupervised and overnight visits with Ka.W, and concluded that the State had adequately established anticipatory neglect.

¶ 26 The trial court concluded that the State had established anticipatory neglect by a preponderance of the evidence on the basis that Calli received unsatisfactory ratings on her services



due to her attendance issues. The court addressed Calli to tell her that she was “really close,” and that she needed to make the parenting classes and the random drug tests a priority. The court also stated that Calli’s sporadic visits with her children was a concern. The trial court entered its written order on July 11, 2022, finding that the minor was neglected as she was in an environment that is injurious to her welfare (705 ILCS 405/2-3(1)(b) (West 2020)).

¶ 27 B. Dispositional Reports and Hearing

¶ 28 On July 28, 2022, DCFS filed its dispositional report with the court. DCFS indicated that it had determined that Calli needed to complete a substance abuse and mental health assessment, but that the assessment had not yet been completed. She had been scheduled for 13 random drug tests since April 2022, but she had not completed any of the scheduled tests. Calli had a housing advocate but was “dropped” from that service because she was not engaging with the advocate. DCFS reported that Calli was authorized to have two weekly supervised visits for two hours with K.W., but she had been inconsistent with visitation. DCFS asked the trial court to keep K.W. in foster care to allow Calli to complete the services.

¶ 29 On September 7, 2022, DCFS filed its amended dispositional report with the court. DCFS reported that Calli was currently pregnant, and that Marlon was the father. Calli had completed a six-month domestic violence program on May 23, 2022, and she was rated with a good prognosis if she utilized the techniques learned in the program. However, DCFS reported that on June 30, 2022, there was a domestic violence incident between Calli and Marlon at her mother’s home. The Decatur police responded to the scene, and the officer reported that Calli had a bruise on the left side of her face near her left eye, scratches on the right side of her face, a large bruise on the left side of her throat, several scratches on the front of her throat, and several small scratches on her upper chest and the back of her neck. Due to this domestic violence incident, DCFS indicated that

Calli needed to resume services for domestic violence and anger management. DCFS also reported that Calli had been recently discharged from the parenting education program for lack of consistent attendance.

¶ 30 The dispositional hearing was held on September 15, 2022. The State called one witness—Corrina Hosto, the current foster care case manager assigned to K.W.’s case. Calli also testified at the dispositional hearing.

¶ 31 Hosto testified that Calli had been successfully discharged from domestic violence and anger management classes, had been unsuccessfully discharged from parenting services for not consistently attending classes, and had completed no mandated random drug tests. Despite Calli’s successful completion of domestic violence and anger management classes, Hosto was going to refer her for a new assessment because of the June 2022 domestic violence incident with Marlon. Hosto testified that Calli had asked if she could move her random drug tests to a different testing facility. Hosto informed Calli that she could have her testing at the requested facility, but she would have to pay for each test, and was required to immediately report to this facility for testing upon notification. Hosto testified that the previous case manager scheduled Calli for one or two random drug tests in March 2022, and that since Hosto assumed K.W.’s case in April 2022, Hosto had asked Calli to submit for a random drug test every week.

¶ 32 Hosto testified about the status of Calli’s other case involving her son, Ka.W. She stated that DCFS changed the permanency goal pending the court’s determination on termination of parental rights because Calli had not successfully completed services.

¶ 33 Hosto testified that DCFS had offered services to assist Calli in the completion of services. Transportation was an issue, and although bus transportation was available, Calli refused to use bus transportation. She had a housing advocate but had been unsuccessfully discharged from that

program due to Calli's failure to maintain communication and not attending scheduled meetings. Based on Calli's lack of progress, Hosto testified that DCFS had recommended that K.W. be made a ward of the State.

¶ 34 On cross-examination by Calli's attorney, Hosto was questioned about the June 2022 domestic violence situation. She acknowledged that Calli told the police that she could not remember who had started the fight.

¶ 35 Also during cross-examination, Hosto confirmed that DCFS had no information that Calli had substance abuse issues. She explained that DCFS recommends "any and all" services "to relieve of any problems that could potentially be leading to the cause of the \*\*\* anger problems or the domestic violence that keeps occurring." Hosto explained that if Calli complied with the required random drug testing, and if those results were consistently negative, DCFS would not have maintained that service requirement.

¶ 36 Hosto also testified that Calli could restart her parenting classes by sending a letter to the provider explaining how she planned to exhibit improved compliance. Calli was discharged from the parenting program in late August 2022. Hosto testified that she received a call the day before the hearing from an alternate service provider but stated that she did not know whether the parenting program would meet DCFS requirements.

¶ 37 Hosto testified that she had recently learned that Calli had returned to the domestic violence and anger management provider to be reassessed for services. Hosto explained that while she was unaware of what the assessment recommendations may have been, DCFS could not accept that assessment because the service provider had not been provided with documentation of the recent domestic violence event.

¶ 38 Calli testified at the dispositional hearing. She stated that she was now living with her sister,<sup>2</sup> and that before K.W. was born, DCFS had approved her sister and her sister's home as appropriate for Calli and Ka.W. Calli also testified that the case agency had provided her with a "to-do" list and because one of the items involved her being assessed again for domestic violence and anger management, she returned to the provider she had previously utilized and was re-assessed. Calli testified that the domestic violence and anger management provider told her that she did not need additional services because she did not "show any signs" that she required assistance. She testified that Marlon was the aggressor in the June 2022 incident. Calli also stated that she had attempted to have a random drug test the day before the dispositional hearing. However, she was unaware that she could not have the drug test without showing proof of identification, and because of the lateness in the day, she was unable to return to the testing site with her identification before the site closed. Calli also indicated that she was in a holding pattern regarding housing. She had met with the housing advocate who helped her to apply for housing at several locations and in different programs. Transportation issues precluded her from meeting with the housing advocate, but Calli testified that she did not believe there was more to do. She said that she was now simply waiting for a return call approving one of her housing requests.

¶ 39 On cross-examination by the State, Calli confirmed that she had not asked DCFS to screen her sister's home to ascertain if the space was appropriate for children. In response, Calli indicated that DCFS had already done that assessment when she lived there before K.W. was born. The State asked Calli why she refuses to use bus transportation. In response, Calli said that she did not know how to ride the bus.

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<sup>2</sup>Nothing in the record on appeal indicates the identity of this sister. The record indicates that Calli's sister was the foster parent for both Ka.W. and K.W. Whether this is a different sister or whether Calli was residing with the foster placement sister and Calli's two children on the date of the dispositional hearing is unclear.

¶ 40 The trial court then asked Calli several questions. The court asked Calli why she was against completing the parenting courses at the original provider. In response, Calli explained that she had a dispute with the first caseworker assigned to her case, and thus she no longer trusted “em,” and so she wanted to use a different agency. The court then asked Calli why she was with Marlon in June 2022 when the police were called about the domestic violence incident. Calli explained that they were having a discussion and he was angry that he could not see the children. Calli told the court that she told him he needed to do the classes required by DCFS, but he would not listen. She informed the court that she had not seen Marlon since the June 2022 incident.

¶ 41 At the conclusion of the hearing and after arguments of counsel, the court addressed Calli and the attorneys. The court stated that Calli had started services but had not completed them. The court stated that it was concerned about the June 2022 domestic violence incident. The court also indicated its concern that Calli had excuses for noncompliance but had not completed any random drug test. The court informed Calli that she simply could not use her failure to understand the bus system as an excuse to not complete services. The court found that K.W. was a neglected minor, made K.W. a ward of the court, and placed guardianship with DCFS.

¶ 42 In conclusion, the trial court addressed Calli directly:

“All right. You’ve got work to do. Okay? You need to continue to cooperate with DCFS, comply with the terms of your Service Plans, make sure you go to what they’re telling you to go to, just so you’re not wasting your time going to something that might not count. Okay?”

\*\*\*

And correct the conditions that require your child to be in care, or you’re risking termination of your parental rights. \*\*\*”

¶ 43 The trial court entered the written dispositional order on September 15, 2022, finding that, for reasons other than financial circumstances alone, Calli was unfit and unable to care for, protect,

train, educate, supervise, or discipline the minor and placement with her is contrary to the health, safety, and best interest of the minor because of domestic violence and substance abuse. The court found that it was in the minor's best interest to grant the State's petition. The court adjudicated the minor as neglected, made the minor a ward of the court, ordered Calli to cooperate with DCFS or risk loss of custody and possible termination of her parental rights, and placed guardianship of the minor with DCFS.

¶ 44

## II. ANALYSIS

¶ 45 Here, Calli appeals the adjudicatory order finding that K.W. was a neglected minor in that she was in an environment that is injurious to her welfare (705 ILCS 405/2-3(1)(b) (West 2020). She also appeals the dispositional order finding that K.W. was a neglected minor, making K.W. a ward of the court, and placing guardianship of K.W. with DCFS. 705 ILCS 405/2-22 (West 2020).

¶ 46 An adjudicatory order is not a final and appealable order. *In re M.J.*, 314 Ill. App. 3d 649, 655 (2000). Instead, in juvenile cases, the dispositional order is the final order from which a party can appeal. *Id.* Accordingly, “[a]ppealing a dispositional order is the proper vehicle for challenging a finding of abuse or neglect.” *In re Leona W.*, 228 Ill. 2d 439, 456 (2008). To properly perfect an appeal, an appellant must file a notice of appeal within 30 days after the entry of a final order. Ill. S. Ct. R. 303(a) (eff. May 30, 2008). The dispositional order was entered on September 15, 2022. Calli filed her notice of appeal on October 13, 2022. Accordingly, we have jurisdiction to hear this appeal.

¶ 47 On appeal from a dispositional order, the reviewing court will not reweigh the evidence or reassess the credibility of the witnesses. *In re April C.*, 326 Ill. App. 3d 245, 257 (2001). We will not reverse the trial court's decision unless the findings of fact are against the manifest weight of the evidence. *In re J.W.*, 386 Ill. App. 3d 847, 856 (2008); *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.” *In re Arthur H.*, 212 Ill. 2d at 464.

¶ 48 A trial court uses the following two-step process to determine if a minor should become a ward of the court. *In re A.P.*, 2012 IL 113875, ¶ 18 (citing *In re Jay H.*, 395 Ill. App. 3d 1063, 1068 (2009)). The first step is the adjudicatory hearing. *Id.* At this hearing, “ ‘the court shall first consider only the question whether the minor is abused, neglected or dependent.’ ” *Id.* ¶ 19 (quoting 705 ILCS 405/2-18(1) (West 2010)). After the adjudicatory hearing, if the trial court concluded that the minor was abused, neglected, or dependent, the court moves to step two, which is the dispositional hearing. *Id.* ¶ 21 (citing 705 ILCS 405/2-21(2) (West 2010)). “At the dispositional hearing, the trial court determines 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.” *Id.*

¶ 49 Section 2-3 of the Juvenile Court Act of 1987 (Juvenile Court Act) provides definitions relevant to this case. A neglected minor is defined as “any minor under 18 years of age or a minor 18 years of age or older for whom the court has made a finding of probable cause to believe that the minor is abused, neglected, or dependent \*\*\* [and] whose environment is injurious to his or her welfare.” 705 ILCS 405/2-3(1)(b) (West 2020). Neglect is defined as “the failure to exercise the care that circumstances justly demand and encompasses both willful and unintentional disregard of parental duty.” *In re Kamesha J.*, 364 Ill. App. 3d 785, 792-93 (2006). The term “neglect” does not have a narrow definition and must take its content from the specific circumstances of each case. *In re Arthur H.*, 212 Ill. 2d at 463 (quoting *In re N.B.*, 191 Ill. 2d 338, 346 (2000)). “ ‘[T]he term “injurious environment” has been recognized by our courts as an amorphous concept that cannot be defined with particularity.’ ” *In re A.P.*, 2012 IL 113875, ¶ 22 (quoting *In re N.B.*, 191 Ill. 2d at 346). In a general sense, the term “injurious environment” is

interpreted to mean that a parent, who has a duty to ensure a “safe and nurturing shelter” for his or her children, has breached that duty. *Id.*

¶ 50 As the State pursued K.W.’s case on a theory of “anticipatory neglect,” we briefly examine this theory. In the case of *In re Arthur H.*, our supreme court explained the terminology as follows:

“Under the anticipatory neglect theory, the State seeks 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. [Citation.] The theory of anticipatory neglect flows from the concept of an ‘injurious environment’ which is set forth in the [Juvenile Court] Act. [Citation.]” *In re Arthur H.*, 212 Ill. 2d at 468 (citing *In re L.W.*, 291 Ill. App. 3d 619, 623 (1997)).

¶ 51 If the trial court determines that a minor is abused or neglected at the adjudicatory hearing, the case proceeds to a dispositional hearing where the court must determine if the minor should be made a ward of the court and if custody and guardianship should be placed with DCFS. Section 2-27 of the Juvenile Court Act states that a minor may be adjudged a ward of the court and custody removed from the parents if the 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 health, safety, and 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 2020). The State must prove that a minor is abused and/or neglected by the preponderance of the evidence. See *In re Arthur H.*, 212 Ill. 2d at 463-64; *In re April C.*, 326 Ill. App. 3d at 257 (citing *In re Lakita B.*, 297 Ill. App. 3d 985, 992 (1998)). The preponderance of the evidence standard requires the State to show that the allegations are more probably true than not. *In re Arthur H.*, 212 Ill. 2d at 464.

¶ 52 Calli argues that the trial court erred in finding by the preponderance of the evidence that K.W. was neglected in that she was living in an environment that was injurious to her. In support,



she contends that the State presented no evidence to show that she failed to exercise care. Calli asks this court to consider that she had successfully completed her domestic violence and anger management program, that she was engaged in parenting classes, and that her parenting instructor praised her ability to nurture K.W. Calli's arguments are focused on her personal actions as opposed to the potential impact upon her daughter. We find that the supreme court's analysis in *In re Arthur H.* is instructive on the appropriate focus required at the adjudication hearing. "[T]he Act instructs the circuit court during the adjudicatory hearing to determine whether the child is neglected, and not whether the parents are neglectful, [and] furthers the purpose and policy of the Juvenile Court Act, which is to ensure the best interests and safety of the child. [Citation.]" *In re Arthur H.*, 212 Ill. 2d at 467; see also *In re R.G.*, 2012 IL App (1st) 120193, ¶ 35 (citing *In re J.C.*, 2011 IL App (1st) 111374, ¶ 20).

¶ 53 Here, the State alleged that K.W. was neglected in that she was a minor under the age of 18 and would be subject to an environment injurious to her health, safety, and welfare. The foundation for this allegation involved Calli's other child, Ka.W., born before K.W. DCFS had opened a case involving Ka.W. because of domestic violence issues. The Ka.W. case remained open because of Calli's inconsistent engagement in services. To support these allegations at the adjudicatory hearing, the State presented the trial court with the testimony of Corrina Hosta, the foster care manager assigned to K.W.'s case, and Chamica Demus, the parenting instructor who worked with Calli. Hosto testified that DCFS opened the case on K.W. because Calli's older child Ka.W. was the subject of a pending DCFS case. Hosto testified that Calli had domestic violence and anger management issues. She testified that Calli had completed her domestic violence and anger management classes, had not yet completed her parenting classes, had not reported for random drug tests, and had only exercised her visitation rights a couple of times. Hosto also

testified that she had concerns because Calli kept putting herself in dangerous situations. Hosto cited to a recent shooting incident involving Calli and Marlon. Demus testified that she found Calli to be a nurturing parent, but she had concerns about Calli's attendance with classes. Calli also testified at the adjudicatory hearing. She testified that her attendance issues with parenting classes and random drug tests involved transportation. She confirmed that there had been a history of violence involving Marlon. She also confirmed that she was present with Marlon when a gunman shot at them. However, she credited Marlon for keeping her safe during that incident.

¶ 54 At the conclusion of the adjudicatory hearing, the court stated that it found that the evidence supported its finding that K.W. was a neglected minor. "The trial court has the best opportunity to observe the demeanor and conduct of the parties and witnesses and, therefore, is in the best position to determine the credibility and weight of the witnesses' testimony." *In re E.S.*, 324 Ill. App. 3d 661, 667 (2001) (citing *In re A.P.*, 179 Ill. 2d 184, 204 (1997)).

¶ 55 The Juvenile Court Act contains specific requirements for the court's findings. Section 2-21(1) of the Juvenile Court Act states:

"If the court finds that the minor is abused, neglected, or dependent, the court shall then determine and put in writing the factual basis supporting that determination, and specify, to the extent possible, the acts or omissions or both of each parent, guardian, or legal custodian that form the basis of the court's findings. That finding shall appear in the order of the court." 705 ILCS 405/2-21(1) (West 2020).

¶ 56 Here, the trial court entered the adjudicatory order indicating its conclusion that K.W. was in an environment injurious to her welfare. The form order contained a section for the trial court to include its factual findings that formed the basis of its conclusion. The trial court's factual findings are: "other child in care—unsuccessful ratings; inconsistent in engagement in services."

¶ 57 As the appellate court stated in *In re J.W.*:

"[S]ection 2-21(1) of the Act required the court to specify, to the extent possible, the [parents'] acts or omissions that formed the basis of its determination. The presence of the

phrase ‘to the extent possible’ means that the legislature was aware that in some abuse or neglect cases, a court might not be able to specify the parents’ act or omissions that form the basis of the court’s findings. Yet, in those circumstances, the child at issue is no less abused or neglected.” *In re J.W.*, 386 Ill. App. 3d 847, 855 (2008).

As we noted earlier in this order, the focus at the adjudicatory phase is on the child’s welfare, and thus the concern is whether the child is neglected and not whether the parent is neglectful. *In re Arthur H.*, 212 Ill. 2d at 467.

¶ 58 “Neglect” has been defined as “the failure to exercise the care that circumstances justly demand and encompasses both willful and unintentional disregard of parental duty.” *In re Kamesha J.*, 364 Ill. App. 3d at 792-93. “Anticipatory neglect” focuses on protecting a child who has a probability of being subjected to neglect if he or she may reside in the future with the parent who has been found to have neglected another child. *In re Arthur H.*, 212 Ill. 2d at 468. An “injurious environment” has been interpreted as including “the breach of a parent’s duty to ensure a safe and nurturing shelter for his or her children.” *In re D.W.*, 386 Ill. App. 3d 124, 135 (2008).

¶ 59 The trial court found that the evidence was sufficient to find that Calli would anticipatorily subject K.W. to an environment injurious to her health given Calli’s recent history with DCFS involvement involving her older child, Ka.W. If the trial court notes that one child has been living in an injurious environment, the court can proceed to confirm the removal of another child from the home without waiting to see if that child will eventually become a victim. *Id.* at 138. Evidence that one child in a household has been neglected, and the parent in that household is responsible for the care and treatment of another child who will live there, supports a finding that another minor in the home is neglected due to an injurious environment. See *In re Z.L.*, 2021 IL 126931, ¶¶ 6, 20.

¶ 60 We conclude that the trial court’s written order was consistent with the legislative intent that the court attempt to specify what parental acts or omissions formed the basis of the court’s

finding that K.W. was neglected. See *In re J.W.*, 386 Ill. App. 3d at 855; 705 ILCS 405/2-21(1). We find that the trial court's finding that K.W. was a neglected minor child living in an environment injurious to her welfare was not contrary to the manifest weight of the evidence. *In re J.W.*, 386 Ill. App. 3d at 856. The removal of Ka.W. (who was in the same, unimproved environment as K.A. is in now) and Calli's lack of complete engagement with services and visitation represented a breach of her duty to ensure that K.W. had a "safe and nurturing shelter." *In re A.P.*, 2012 IL 113875, ¶ 22. While it was notable that Calli could display "nurturing" behaviors toward her children, we find that the trial court's conclusion that K.W. was a neglected minor was appropriate because providing a "safe environment" for K.W. is critically important to the issue of neglect. *Id.*

¶ 61 Calli also appeals from the trial court's dispositional order awarding DCFS guardianship and custody of K.W. We conclude that the dispositional order must also be affirmed. The trial court has wide latitude in considering any evidence that is relevant and helpful to the court's determination of a proper disposition. *In re April C.*, 326 Ill. App. 3d at 261. We find that the State established by a preponderance of the evidence that K.W. was neglected. *Id.* at 257; *In re R.S.*, 382 Ill. App. 3d 453, 459 (2008). Corrina Hosto testified at the dispositional hearing to Calli's compliance with the DCFS required services. She had been unsuccessfully discharged from parenting services due to her inconsistency in attendance, completed no random drug tests, and had been discharged from the housing advocacy program. Moreover, police were called in June 2022 regarding a domestic violence incident involving Calli and Marlon. The responding police officer noted numerous bruises and scratches on or about Calli's face, throat, neck, and chest. Hosto testified that because of the June 2022 domestic violence incident, Calli would need to be reassessed for domestic violence and anger management services. Despite Calli's claims to the

contrary, we find no error in the trial court's dispositional findings and judgment, conclude that the findings were not contrary to the manifest weight of the evidence, and affirm the court's order making K.W. a ward of the court and granting custody and guardianship to DCFS. See *In re Arthur H.*, 212 Ill. 2d at 464; *In re J.W.*, 386 Ill. App. 3d at 856; *In re Christopher S.*, 364 Ill. App. 3d 76, 89 (2006).

¶ 62

### III. CONCLUSION

¶ 63 For the foregoing reasons, we affirm the judgments of the Macon County circuit court.

¶ 64 Affirmed.