2026 IL App (1st) 252470-U

No. 1-25-2470

Order filed August 21, 2026

FIFTH DIVISION

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

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

In re G.H. III, a Minor	)	Appeal from the
	)	Circuit Court of Cook County,
(The People of the State of Illinois,	)	Child Protection Division.
	)	
Petitioner-Appellee,	)	
	)	
v.	)	No. 2025 JA 00046
	)	
Thelma B.,	)	Honorable
	)	Levander Smith Jr.,
Respondent-Appellant).	)	Judge, presiding.

PRESIDING JUSTICE MITCHELL delivered the judgment of the court.
Justice Mikva concurred in the judgment.
Justice Wilson specially concurred.

ORDER

¶ 1 *Held*: The circuit court's dispositional finding is affirmed where the State presented evidence that the respondent-mother struggles to read her child's nonverbal cues, and the risk to the child's health remains because he is still nonverbal.

¶ 2 In this child protection case, respondent Thelma B. appeals a circuit court order finding her unable to parent her minor child, G.H., and making him a ward of the court under the Juvenile Court Act of 1987 (705 ILCS 405/1-1 *et seq*. (West 2024)). The issue presented is whether the finding was against the manifest weight of the evidence where the risk to the child's health was

reduced as of the hearing date because the child no longer required infant formula and was eating table foods. For the following reasons, we affirm.

¶ 3 I. BACKGROUND

¶ 4 The parties stipulated to the following basic facts. G.H. was born on February 26, 2024, and is the minor child of Gregory H. Jr. and respondent Thelma B. The father, Gregory H. Jr., is serving a term of imprisonment, and G.H. has been in the care of the respondent-mother.

¶ 5 Before G.H.'s first birthday, he was admitted to the hospital three times (August 30, October 7, and December 31, 2024) for "growth faltering" due to chronic malnutrition. G.H. gained weight each time he was admitted and properly fed at the hospital.

¶ 6 After G.H.'s third discharge from the hospital, respondent was provided a nutrition regimen, weight goals, and a scale to measure G.H.'s weight. Respondent did not bring G.H. to a follow-up appointment at the hospital that was scheduled shortly after his third discharge.

¶ 7 Respondent had been working with the Illinois Department of Children and Family Services, and the department assigned caseworker Tiona Watkins. Watkins observed respondent improperly prepare G.H.'s feeding bottle by not using enough infant formula and not warming the bottle to the correct temperature. G.H. drank the entire bottle after Watkins properly prepared it.

¶ 8 Watkins noticed that respondent was unable to identify G.H.'s actions and how she should respond, and Watkins specifically observed respondent fail to recognize G.H.'s hunger cues. For example, Watkins observed that after G.H. pushed the bottle out of his mouth and turned his head, respondent was unable to identify them as signals that G.H. did not want more food. At a follow-up medical appointment, doctors noted that G.H. had lost weight and remained at high risk for malnourishment.

¶ 9 On January 22, 2025, the State filed a petition for adjudication of wardship alleging that G.H. was medically neglected, and the circuit court entered a temporary custody order placing G.H. under the guardianship of the Illinois Department of Children and Family Services. The department placed G.H. in foster care with G.H.'s godmother, who lives in the same building as respondent.

¶ 10 On November 12, 2025, the circuit court held an adjudicatory hearing where it found G.H. was neglected under the Juvenile Court Act. The parties immediately proceeded to a dispositional hearing to determine if G.H. should be made a ward of the court.

¶ 11 The circuit court heard testimony from department of children and family services caseworker Cordelia Harris. Harris explained that G.H. had regained weight in foster care and was now eating "table foods."

¶ 12 She testified that the agency recommended that G.H. be made a ward of the court. Harris acknowledged respondent had demonstrated improved parenting skills after she completed parenting classes and had begun individualized parenting coaching. Harris relayed that the parenting coach reported that respondent had done well during the sessions. Specifically, the coach observed respondent playing well with G.H., holding him, and ensuring he eats snacks.

¶ 13 However, Harris testified that the department wanted to gradually increase respondent's responsibility over G.H. At the time, respondent had only been permitted supervised visits with G.H., and the department did not want to authorize unsupervised visits until the parenting coach recommended it. The parenting coach requested two more weeks of appointments because their sessions had been delayed due to difficulty finding a coach, and some of the sessions were unproductive because G.H. was napping during the appointments.

¶ 14 On cross-examination, Harris agreed that respondent also has a six and three-year-old child, and there is no indication that respondent neglects or abuses them. She acknowledged that respondent has attended all of G.H.'s medical appointments and has been fully engaged with the department's parental services.

¶ 15 After the close of evidence, the parties proceeded to closing argument. The State requested that the circuit court make G.H. a ward of the court and remove him from the custody of his parents. The guardian *ad litem* also requested that G.H. be made a ward of the court and that the mother and father be adjudged unable parents. Respondent's attorney agreed that G.H. should be made a ward of the court, but she requested that G.H. be returned to respondent's care under an order of protection.

¶ 16 The circuit court found that it was in G.H.'s best interest to make him a ward of the court and ordered that G.H. be placed under the custody of the department of children and family services. The circuit court found that respondent is currently an unable parent because she struggles to read G.H.'s nonverbal signals, and the disconnect continues to put G.H.'s health in jeopardy as he is still nonverbal. The circuit court identified a plan to return G.H. to respondent's care, which included more coaching sessions and practice caring for G.H. in her home. This timely appeal followed. Ill. S. Ct. R. 301 (eff. Feb. 1, 1994).

¶ 17 II. ANALYSIS

¶ 18 Respondent argues the circuit court's finding that she is an unable parent was against the manifest weight of the evidence where respondent demonstrated improved parenting abilities and there is no longer a significant risk of malnourishment because G.H. is eating table foods. The State argues there was sufficient evidence of parental inability because the risk of malnourishment

persists given respondent's broader struggles to read G.H.'s nonverbal signals. "We will reverse a circuit court's finding of unfitness only if the finding is against the manifest weight of the evidence." *In re A.W.*, 231 Ill. 2d 92, 104 (2008). "A finding is against the manifest weight of the evidence only if the opposite conclusion is clearly evident or if the finding itself is unreasonable, arbitrary, or not based on the evidence presented." *Best v. Best*, 223 Ill. 2d 342, 350 (2006).

¶ 19 The Juvenile Court Act of 1987 (705 ILCS 405/1-1 *et seq.* (West 2024)) sets forth the procedures to determine whether a child should be removed from the parents' custody and made a ward of the court. *In re Z.L.*, 2021 IL 126931, ¶ 58. First, the State may initiate proceedings by filing a petition with the circuit court alleging that the minor is abused or neglected. *In re Jason B.*, 2020 IL App (1st) 200356, ¶ 39; 705 ILCS 405/2-13. The circuit court then holds a temporary custody hearing to make "a threshold determination." *Jason B.*, 2020 IL App (1st) 200356, ¶ 40. If the circuit court finds probable cause for abuse or neglect, the circuit court may temporarily alter custody or guardianship over the child. *Id*.; 705 ILCS 405/2-10(2).

¶ 20 Next, the circuit court holds an adjudicatory hearing to determine whether the evidence shows "the minor is abused, neglected or dependent." (Internal quotation marks omitted.) *Z.L.*, 2021 IL 126931, ¶ 59; 705 ILCS 405/2-18(1). "The State has the burden to prove allegations of abuse or neglect by a preponderance of the evidence." *Z.L.*, 2021 IL 126931, ¶ 61.

¶ 21 If the child is abused or neglected, the circuit court conducts a dispositional hearing. *Id.* ¶ 60. There, a circuit court "must first determine whether the minor is to be made a ward of the court" and then "must determine the proper disposition." (Internal quotation marks omitted.) *In re D.S.*, 2018 IL App (3d) 170319, ¶¶ 13, 17; 705 ILCS 405/2-22(1). The circuit court may commit the minor to the custody of the department of children and family services only if the

preponderance of the evidence shows "(1) the minor's parents are unfit or unable *** to care for, protect, train or discipline the minor or are unwilling to do so and (2) the health, safety, and best interest of the minor will be jeopardized if the minor remains in the custody of his or her parents." (Internal quotation marks omitted.) *In re H.B.-H.*, 2025 IL App (1st) 242275, ¶ 82. The State carries the burden to show that a parent is unfit or unable. *In re J.T.*, 2024 IL App (1st) 232041, ¶ 74.

¶ 22 Here, G.H. was admitted to the hospital for malnutrition three times, and G.H. regained weight each time he was admitted to the hospital and properly fed. The repeated instances of malnourishment alone suggest broad parental difficulties beyond a narrow confusion with how to use infant formula, and the caseworker personally observed respondent struggle to understand G.H.'s nonverbal signals and react accordingly. Under manifest-weight-of-the-evidence review, we defer to the circuit court's inferences based on the evidence. *Best*, 223 Ill. 2d at 350-51. The circuit court rationally inferred that respondent's inability to read G.H.'s nonverbal cues continues to pose a risk to G.H.'s health given he is still nonverbal, even if G.H. now eats table food and the narrow risk related to infant formula is abated.

¶ 23 To be sure, respondent has two older children, and there is no evidence they have been neglected, which suggests respondent can properly care for a child who no longer relies on infant formula. However, while sibling treatment is relevant at a dispositional hearing, it is "incredibly less important" than the evidence related to "the specific minor in question." *In re Jordyn L.*, 2016 IL App (1st) 150956, ¶ 35. Likewise, while respondent has demonstrated a commitment to improving as a parent, successful engagement with parenting classes and child services is not dispositive evidence of parental fitness. See *In re S.P.*, 2023 IL App (1st) 230004-U, ¶ 34. The

circuit court gave careful consideration to this evidence at the end of the hearing but ultimately gave greater weight to the risk posed by respondent's struggles to read nonverbal cues. We defer to a circuit court's assignment of weight to conflicting evidence. *Best*, 223 Ill. 2d at 350-51.

¶ 24 Respondent's arguments to the contrary are unavailing. She maintains that the evidence of unable parenting was improperly backward-looking, and the State failed to present evidence of a present inability, citing *In re K.E.S.*, 2018 IL App (2d) 170907, ¶ 67 ("[T]he events that brought a child into the State's care cannot be the primary focus of the dispositional hearing months later."). However, *In re K.E.S.* is distinguishable because the circuit court heard testimony that the condition which led to the State's temporary custody over the child—the mother's mental health issues—had receded and could be controlled with medication. *Id.* ¶¶ 65-66. Here, the parental inability stemmed from respondent's struggles to read G.H.'s nonverbal cues. While the risk related to infant formula had diminished, there was limited, if any, evidence that respondent's ability to read nonverbal signals had improved.

¶ 25 Respondent also relies on *In re Daniel G.*, 2021 IL App (1st) 210640. There, after the circuit court adjudged the child a neglected minor, the department of children and family services conducted an investigation into the father's fitness. *Id.* ¶¶ 1, 16. The appellate court reversed the circuit court's finding that the father was unfit where the caseworker reported only positive parental attributes, and she admitted that her concern over the father's fitness was speculative. *Id.* ¶¶ 63-66, 75. Here, the evidence of respondent's struggles to connect with G.H. was uncontroverted, and the circuit court made a rational inference that the risk to G.H is ongoing.

¶ 26 III. CONCLUSION

¶ 27 For these reasons, the judgment of the circuit court is affirmed.

¶ 28 Affirmed.

¶ 29 JUSTICE THADDEUS L. WILSON, specially concurring:

¶ 30 I concur in the judgment affirming the dispositional order. I write separately to expand upon the proper role of "best interests" at disposition and to explain why, on this record, the circuit court's present-tense finding that Appellant was "unable" under section 2-27(1) of the Juvenile Court Act was not against the manifest weight of the evidence. See 705 ILCS 405/2-27(1).

¶ 31 Background and Procedural Posture

¶ 32 At adjudication, the parties proceeded by stipulation and documentary exhibits. The court found G.H. abused and neglected after repeated failure-to-thrive hospitalizations, weight gain during inpatient feeding, and intervening weight loss at home, coupled with professional assessments linking those outcomes to Appellant's feeding practices and difficulty reading his nonverbal cues. The record reflects multiple admissions in 2024, documented improvement during structured feeding, and observations by the intact worker of misprepared bottles and missed hunger or satiety signals—all of which the court credited at adjudication.

¶ 33 At disposition, the DCFS caseworker testified that G.H. had transitioned to table foods and whole milk, was gaining weight, and that Appellant had completed parenting classes, begun individualized parent coaching (after provider delays), and engaged in weekly therapy. She attended G.H.'s medical appointments, the home passed a CERAP safety assessment, and no safety concerns were noted for the two siblings in her care. Supervised visits were occurring regularly, with unsupervised time to begin upon the parenting coach's recommendation after additional sessions. The court adjudged G.H. a ward, found Appellant "unable" at that time, and placed him

under DCFS guardianship with a transition plan aimed at increasing responsibility and unsupervised contact as coaching and observations progressed.

¶ 34 This posture matters because section 2-27(1) asks whether the parent is presently able at the time of disposition; it is not a retrospective scorecard. On appeal, Appellant challenges only the dispositional "unable" finding, arguing that the feeding-related risk had abated once G.H. moved to table foods, that she was safely parenting two siblings, and that the court impermissibly relied on generalized "best interests."

¶ 35 The Statutory Framework and *In re M.M.*

¶ 36 The Juvenile Court Act prescribes a sequential structure at disposition: first, wardship; second, a determination whether each parent is unfit, unable, or unwilling under section 2-27(1); and only then may the court select placement and guardianship guided by the child's health, safety, and best interests. *In re M.M.*, 2016 IL 119932. This sequencing protects the constitutional prerogatives of fit or able parents and prevents "best interests" from displacing the threshold ability finding. Once the threshold is met, however, the court must consider best interests factors in crafting the dispositional order. *In re M.M.*, 2016 IL 119932, ¶¶ 20–22, 24. Appellant's core challenge is not necessarily that the court failed to utter the words in sequence, but that the substance of the 'currently unable' finding was infected by best interests reasoning.

¶ 37 However, the record shows adherence to that sequence here, and the evidence independently supported the 'currently unable' finding at the time of disposition. Consistent with *M.M.*, the circuit court first adjudicated abuse and neglect; at disposition it made G.H. a ward; it then expressly found Appellant "currently" unable; and only thereafter did it weigh health, safety, and best interests considerations in choosing DCFS guardianship with a structured path toward

reunification. *M.M.*, 2016 IL 119932, ¶¶ 18–22 (statutory structure and conjunctive requirements); see also *In re A.W.*, 231 Ill. 2d 241, 254 (2008) (Act sets procedures for removal/wardship); *In re Madison H.*, 215 Ill. 2d 364, 374 (2005) (section 2-27 addresses placement, not termination).

¶ 38 Present-Tense Ability and Manifest-Weight Review

¶ 39 Section 2-27(1) directs a present-tense inquiry: whether, at the time of disposition, the parent is presently able to care for the child. See 705 ILCS 405/2-27(1). The question is not whether the parent has made meaningful progress—Appellant plainly has—but whether the child's health, safety, and welfare would be jeopardized if he were returned now. On manifest-weight review, our role is limited: we do not reweigh competing indicators; we ask whether the opposite conclusion is clearly evident. See, e.g., *In re K.E.S.*, 2018 IL App (2d) 170907, ¶¶ 1, 53–56 (reversing unfitness finding as to mother because evidence failed to show she was currently unable where services stabilized her condition and home was safe; affirming as to father). The manifest-weight standard, while deferential, is not toothless.

¶ 40 Three evidentiary anchors support the circuit court's present-tense "unable" finding:

1. Documented Risk Tied to Nonverbal Cues: The stipulated adjudicatory history—three failure-to-thrive hospitalizations, weight gain with structured feeding, and the intact worker's observations of mis-prepared bottles and missed hunger/satiety cues—permitted a reasonable inference of a persistent cue-recognition deficit with safety implications for a still-nonverbal toddler. Cf. *In re Arthur H.*, 212 Ill. 2d 441, 463–64 (2004) (adjudication must be individualized to the minor's circumstances and risk).

2. Incomplete Transition in Responsibility: Despite commendable service engagement, the reunification team had not yet progressed beyond supervised visits; provider delays and naptime limited meaningful observation, and the parenting coach sought two additional weeks before recommending unsupervised time. The agency proposed a short, structured runway and close monitoring if G.H. were returned. See *K.E.S.*, 2018 IL App (2d) 170907, ¶¶ 53–56 (emphasizing present-tense ability and the evidentiary basis for short, structured transition steps).

3. Child-Specific, Present-Tense Rationale: The court expressly grounded its finding in the nexus between Appellant's difficulty reading G.H.'s nonverbal signals and his current developmental stage. It set a reunification plan of further coaching, home-based practice, and progressive visitation toward return home. That analysis mirrors *M.M.*'s instruction to make the threshold section 2-27(1) determination before using best interests factors to shape the dispositional order. *M.M.*, 2016 IL 119932, ¶¶ 20–22, 24.

¶ 41 Given these findings, the conclusion that Appellant was "currently" unable was not unreasonable, arbitrary, or unsupported. The court credited genuine improvement yet reasonably assigned greater weight to the child-specific risk that precipitated three hospitalizations and had not been dispelled by observed, coach-verified performance in settings approximating full-time care. Under manifest-weight review, the opposite conclusion is not clearly evident. See *K.E.S.*, 2018 IL App (2d) 170907, ¶¶ 53–56.

¶ 42 Addressing Appellant's "Best Interests" Challenge

¶ 43 Appellant contends the court improperly elevated a free-floating "best interests" preference over the statutorily required present-tense ability determination. The record does not bear that out. The court's colloquy reflects the sequential analysis demanded by *M.M.*: it first found Appellant "unable" under section 2-27(1) based on the ongoing risk posed by her difficulty reading G.H.'s nonverbal cues while he remained nonverbal; only then did it consider best interests factors to structure a transition that advanced reunification without compromising immediate health and safety. See 705 ILCS 405/2-22(1), 2-23(1) (dispositional options guided by health, safety, and best interests); *In re D.T.*, 212 Ill. 2d 347, 366–67 (2004) (best interests determinations proceed under a preponderance standard).

¶ 44 Nor did the court abdicate to provider recommendations. Rather, acknowledging both progress and the practical constraints on observation (delays, napping), the court set finite and concrete steps—complete additional coaching sessions, obtain the coach's recommendation for unsupervised day visits, observe those visits, and progress to overnights—paired with a near-term permanency goal of return home. That approach reflected judicial judgment about present-tense ability and risk, informed (as the statute requires after the threshold finding) by best interests considerations of physical safety, stability, continuity of relationships, and reunification. *M.M.*, 2016 IL 119932, ¶¶ 20–22, 24; *A.W.*, 231 Ill. 2d at 254.

¶ 45 Appellant's Progress—Meaningful and Not Ignored

¶ 46 Appellant's progress matters and was expressly recognized: completion of parenting classes; active engagement in individualized coaching; participation in medical appointments and training for emergency asthma medication; appropriate sleeping arrangements; and the absence of safety concerns for siblings in her care. The caseworker observed Appellant feed G.H.

appropriately during visits and testified that the agency did not have a current or future fear of weight loss, while recommending close monitoring and a short, structured runway to unsupervised time. These points cut in Appellant's favor and were correctly weighed—but they did not compel the conclusion that she was presently able to meet this child's needs without the incremental safeguards the court ordered. See *K.E.S.*, 2018 IL App (2d) 170907, ¶¶ 53–56 (relying on present condition and risk when evaluating dispositional unfitness/ability).

¶ 47 Conclusion

¶ 48 To be sure, under section 2-27(1), the State bears the burden of demonstrating that a parent is currently unable; the parent need not affirmatively compel a finding of ability. However, here, the circuit court did not improperly invert the burden of proof. The circuit court followed the statute's sequence and *M.M.*'s guidance: it adjudicated neglect and abuse; made G.H. a ward; determined Appellant was "currently" unable based on a child-specific, present-tense risk; and then used best interests factors to select the least disruptive, safety-protective dispositional order with a defined reunification path. On this record, affirmance is warranted. I therefore concur and join in the judgment.