2023 IL App (3d) 220062-U

Order filed March 2, 2023

IN THE

APPELLATE COURT OF ILLINOIS

THIRD DISTRICT

2023

In re Ava.W.,	)	Appeal from the Circuit Court
	)	of the 13th Judicial Circuit,
a Minor	)	Bureau County, Illinois,
	)	
(The People of the State of Illinois,	)	
	)	Appeal No. 3-22-0062
Petitioner-Appellee,	)	Circuit No. 21-JA-8
	)	
v.	)	
	)	
Greg W.,	)	
	)	Honorable James A. Andreoni,
Respondent-Appellant).	)	Judge, Presiding.

JUSTICE PETERSON delivered the judgment of the court.
Presiding Justice Holdridge and Justice Davenport concurred in the judgment.

ORDER

¶ 1 *Held*: In an appeal in a juvenile neglect case, the appellate court found that: (1) the respondent father's claim of error regarding the temporary custody hearing of his minor child was moot on appeal; (2) the trial court did not err in finding that the minor child was a neglected minor; and (3) the trial court did not err in finding that the respondent father was a dispositionally unfit parent. The appellate court affirmed the trial court's judgment.

¶ 2 The State filed a juvenile petition alleging that the minor child, Ava.W., was a neglected minor and seeking to make the child a ward of the court. After hearings were held, the trial court found that the child was a neglected minor and that the child's parents—Amanda G. and respondent, Greg W.—were dispositionally unfit parents. The trial court made the child a ward of the court and named the Department of Children and Family Services (DCFS) the child's guardian. Respondent appeals, arguing that the trial court erred in finding that: (1) temporary custody of the child was warranted; (2) the child was a neglected minor; and (3) respondent was a dispositionally unfit parent. We affirm the trial court's judgment.

¶ 3 I. BACKGROUND

¶ 4 Amanda G. was the biological mother of the minor children, X.W. (born in May 2008), A.C. (born in January 2010), Ava.W. (born in August 2011), Al.W. (born in July 2012), Ave.W. (born in May 2014), E.W. (born in February 2018), and T.W. (born in October 2019). Respondent, Greg W., was the biological or legal father of the five youngest children. In April 2019, the family came to the attention of DCFS after it was reported that X.W. (not one of respondent's children), who was 10 years old at the time, had sexually molested or sexually abused (referred to generally hereinafter as sexual abuse) his 6-year-old half-sister, Al.W. The sexual abuse took place in the family's home in Princeton, Illinois, where Amanda, respondent, and all seven children were living at the time. There was no indication that Amanda and respondent were aware that the sexual abuse was occurring.

¶ 5 After conducting an investigation, DCFS found the sexual abuse report to be indicated. DCFS did not remove the children from the home, however, DCFS implemented intact services in October 2019 to help the family properly address the situation. A formal DCFS safety plan was not established but certain safety recommendations were put into place to make sure that

there was no further sexual abuse. Specifically, DCFS recommended that Amanda and respondent maintain alarms on the children's bedroom doors, keep direct line-of-sight supervision of X.W., and not allow X.W. to have any unsupervised contact with the other children. In addition, as part of intact services, X.W. started counseling and Al.W. was supposed to start counseling as well, but apparently never did (prior to the neglect adjudication in this case).

¶ 6 Amanda and respondent put the safety recommendations into place and there were no other incidents reported for several months. In June 2020, Amanda and respondent split up and respondent moved out of the Princeton home. All seven of the children, however, remained in the home with Amanda. At the time that respondent moved out, all of the above-listed safety recommendations were still being followed in the home.

¶ 7 In December 2020, a report was made to DCFS that Amanda had struck Ava.W. in the leg with a broken curtain rod. As a result, there was a bleeding welt that was about a half an inch in length on the back of Ava.W.'s leg. DCFS investigated the report and found it to be indicated.

¶ 8 On February 11, 2021, a report of inadequate supervision was made to DCFS by X.W.'s school. The school told DCFS that after X.W. had missed a day of school and was asked where he had been, X.W. stated that he was at home watching some of his siblings for Amanda. X.W. stated further that he watched his siblings at times so that Amanda could sleep and so that she could go out with her friends on weekends. DCFS spoke to Amanda about the matter and she denied the allegations. In addition, some of the other children gave conflicting statements to DCFS about whether they were ever left in X.W.'s care. Respondent was apparently contacted about the investigation and indicated that he had not had any concerns regarding Amanda's

supervision of the children. Despite the denial and inconsistencies, DCFS found the report to be indicated.

¶ 9 About two weeks later, on February 25, 2021, another report was made to DCFS regarding the children. The allegations in that report were medical neglect and inadequate supervision by Amanda. The medical neglect allegation arose after A.C. (not one of respondent's children) had gotten sick on the morning of February 25, 2021, on his way to school and had to be taken to the hospital by ambulance due to a high blood sugar level. A.C. was 10 or 11 years old at the time and was a known diabetic. A.C. had a blood sugar monitor and an insulin pump but was not using either device because the devices were not working properly. Instead, A.C. was manually giving himself insulin injections, and Amanda was supposedly monitoring his blood sugar level. When Amanda was asked about the matter, she told the DCFS investigator that the high blood sugar incident was accidental, that A.C. had gone to bed early the night before and had forgotten to take his insulin, and that she was not aware that he had done so or that his blood sugar level was high that morning until she was contacted by the school. After conducting an investigation of the medical neglect allegation, DCFS determined it to be unfounded. The physician who was involved in the treatment of A.C. did not believe that the matter rose to the level of medical neglect.

¶ 10 The inadequate supervision allegation arose on the same day as the medical neglect allegation. When Amanda got the call from the school about A.C., she was at home with X.W. and the two youngest children, E.W. and T.W. Amanda tried to find someone to watch the children while she went to the hospital but was unsuccessful, so she took the children with her. When Amanda arrived, however, the hospital refused to allow her to bring the children inside. Therefore, Amanda left E.W. and T.W. alone in the car with X.W. for 20-25 minutes while she

checked on A.C. After conducting its investigation into the matter, DCFS found the report of inadequate supervision to be indicated. In addition, while the DCFS investigator was at Amanda's home inquiring about the current allegations, he learned that all of the children's bedrooms were upstairs in the home, including X.W.'s bedroom, and that Amanda's bedroom was downstairs.

¶ 11 The following month, on about March 19, 2021, one or more of the DCFS and intact services workers contacted Amanda and respondent and expressed concerns about the children remaining in Amanda's care. To avoid having DCFS take protective custody of the children, Amanda and respondent agreed with DCFS to have respondent's five children temporarily reside with respondent and/or respondent's father in Indiana. Amanda also agreed with DCFS that the other two children (not respondent's children) would temporarily reside with Amanda's sister, who lived in Indiana as well. On approximately March 23, 2021, however, Amanda retrieved the children from the two Indiana homes, took the children back into her custody, and would not tell DCFS where the children were located. When Amanda did so, respondent supposedly contacted the police to find out if he had any legal recourse. The following day, respondent reported to DCFS that Amanda had taken the children. One or two days later, DCFS took protective custody of all seven of Amanda's children (respondent's five children and Amanda's two other children).

¶ 12 Shortly thereafter, the State filed juvenile petitions in the trial court (a separate petition was filed as to each of respondent's children) seeking to have respondent's children found to be neglected minors and made wards of the court. In summary, the petitions alleged that the children's environment was injurious to their welfare because: (1) Amanda had failed to properly manage and monitor A.C.'s diabetes as indicated by the February 2021 high blood sugar incident; (2) Amanda had failed to properly protect the children from X.W., as indicated by (i)

the February 2021[1] incident at X.W.'s school where X.W. had stated that he had been watching his siblings, (ii) the February 2021 incident at the hospital where E.W. and T.W. were left alone in the car with X.W., (iii) Amanda's failure to properly maintain alarms in the home, and (iv) Amanda's failure to maintain direct line-of-sight supervision of X.W.; (3) in March 2021, Amanda had made arrangements with DCFS to place respondent's five children with respondent (or respondent's father) and the remaining two children with Amanda's sister but then removed the children from those locations and refused to disclose to DCFS or the intact services workers where the children were located (the March 2021 incident); (4) respondent had failed to protect his children from being taken by Amanda during the March 2021 incident; and (5) Amanda had been uncooperative, resistant, and noncompliant with intact services in various respects.

¶ 13 The day after the neglect petitions were filed, a temporary custody hearing was held in the trial court. Respondent and Amanda were both present in court for the hearing. Although they were both represented by attorneys, Amanda's attorney could not be present in court for the hearing that day. At the conclusion of the hearing, the trial court found that probable cause existed to believe that respondent's children were neglected, that an immediate and urgent necessity existed to support the removal of the children from the home, and that reasonable efforts had been made but had not eliminated the immediate and urgent necessity to remove the children from the home. The trial court, therefore, granted DCFS temporary custody of respondent's five children.

¶ 14 In May 2021, the State filed amended juvenile neglect petitions. In the amended petitions, the State modified, expanded upon, and added to the prior allegations, especially those that

[1] The petitions incorrectly listed the date of X.W.'s school incident as taking place in February 2020.

pertained to respondent. In addition to the previous allegations that had been made, the amended petitions alleged that: (1) in December 2020, Amanda had struck Ava.W. with a curtain rod; (2) respondent was aware of all of the ongoing matters in Amanda's home but had failed to protect the children in general, had not sought custody of the children, had taken no action to protect the children, and had failed to protect the children from being taken by Amanda from his father's home during the March 2021 incident; and (3) respondent had been uncooperative, resistant, and noncompliant with DCFS and intact services in various respects.

¶ 15 Over three days in July, October, and November 2021, an adjudicatory hearing was held in the trial court on the amended neglect petitions. Respondent and Amanda were present in court for the hearing and were represented by their respective attorneys. During the hearing, the State called several witnesses to testify, including the DCFS investigator who had investigated the most recent DCFS report regarding the children (the medical neglect and inadequate supervision report), some of the intact services workers who had worked with the family, and a teacher and teacher's aide from X.W.'s school (in rebuttal). The State offered into evidence the four DCFS reports that had been received during the relevant time period and had been found to be indicated: the April 2019 sexual abuse report; the December 2020 report about Amanda hitting Ava.W. with the curtain rod; the first February 2021 inadequate supervision report (the incident where X.W. had missed school); and the second February 2021 inadequate supervision report (the hospital incident with X.W., E.W., and T.W.), which also included the February 2021 medical neglect allegation (the high blood sugar incident) that was determined to be unfounded.[2] In short, the evidence presented by the State established many of the facts as set forth above. The State's evidence also arguably showed that there were points during the relevant time period

[2] The four indicated reports have not been made part of the record on appeal.

when the alarms in Amanda's home were not consistently working for various reasons and that the intact services workers had very minimal contact with respondent while the workers were involved in the case.

¶ 16 After the State rested, Amanda presented her evidence. Amanda called respondent's father to testify that since approximately 2015, respondent's children (and possibly the other two children at times) spent every weekend, holiday, and school break (when possible) at respondent's father's home in Indiana.

¶ 17 In addition to that testimony, Amanda testified on her own behalf at the adjudicatory hearing. Amanda stated in her testimony that she did not strike Ava.W. with a curtain rod during the December 2020 incident, that she "whoop[ed]" Ava.W. on the butt with her hand for leaving garbage everywhere in the house and lying about it, that there was no mark on Ava.W.'s body from that spanking, and that the mark on Ava.W.'s leg was from a rooster. During her testimony, Amanda described in extensive detail, A.C.'s diabetes and her and A.C.'s efforts to monitor and manage that condition, which included checking A.C.'s blood sugar level several times a day. Amanda denied that she had ever failed to monitor or manage A.C.'s diabetes and indicated that she and A.C. had checked A.C.'s blood sugar level the night before the high blood sugar incident and had administered A.C. a corrective doses of insulin that evening. The following morning, according to Amanda, she asked A.C. before he went to school if he had checked his blood sugar level and A.C. told Amanda that he had. Amanda also denied that X.W. had ever stayed home from school to watch his siblings, that X.W. had ever watched the children so that Amanda could sleep, or that X.W. had ever watched the children so that Amanda could go out with her friends on weekends. Amanda admitted, however, that she had allowed X.W. to watch the two youngest children on a few occasions while the children were napping so that Amanda could go to the

store to get some food for the family. Amanda stated that she did so because she was unaware at that time that X.W. was not allowed to watch his siblings. According to Amanda, she was not aware of that information until February 2021 when she had a meeting with an intact services worker and one of the DCFS investigators and they discussed the supervision of X.W. in relation to the other children. At that time, the investigator told Amanda that she did not know for sure the type of supervision that was appropriate for X.W. because there was no safety plan in place, that Amanda should ask X.W.'s counselor, and that Amanda should not allow X.W. to watch any of the children until Amanda talked to the counselor about that matter. Amanda spoke to X.W.'s counselor shortly thereafter, and the counselor recommended that X.W. not be put in a caregiver role. As for the location of the bedrooms in the Princeton home, Amanda stated that one of the DCFS investigators had told her about three weeks before protective custody was taken that she needed to change the location of her bedroom. Amanda had responded to the investigator that she was not comfortable putting one of the children in the downstairs bedroom because the downstairs bedroom had a door in it to the outside. As a solution to that problem, Amanda had X.W. move to Amanda's sister's home in Indiana.

¶ 18 Amanda offered into evidence three documentary exhibits: a certified background check of respondent's father that DCFS or the intact services workers had requested, some information from X.W.'s school, and certain screen shots and other information pertaining to A.C.'s blood sugar level at or near the time of the February 2021 high blood sugar incident.

¶ 19 After presenting the above-described testimony and exhibits, Amanda rested her case. The State then presented its rebuttal witnesses. Respondent, the guardian *ad litem*, and one of the other children's fathers, whose attorney was also in court for the hearing, did not present any additional evidence.

¶ 20 Following closing arguments, the trial court announced its ruling. The trial court found that the children's environment was injurious to their welfare and that the children were neglected minors. In so doing, the trial court went through each of the underlying grounds for an injurious environment that were listed in the petition and made specific oral findings. As to the high blood sugar incident and the allegation that Amanda had failed to properly manage and monitor A.C.'s diabetes, the trial court found that the State had proven that allegation. The trial court commented that due to A.C.'s age, the managing and monitoring of A.C.'s diabetes was a duty that Amanda could not delegate to A.C. The trial court did not agree with the characterization of the high blood sugar incident as a one-time mistake and stated that if Amanda had been double-checking what A.C. had told her, the incident would not have occurred.

¶ 21 With regard to the incidents at X.W.'s school and the hospital and the allegation that Amanda had failed to protect the children from X.W., the trial court's findings were mixed. The trial court found that the State had proven that Amanda had allowed X.W. to watch the younger children at times, that Amanda had failed to ensure that the alarms in the home were working in a proper manner, and that Amanda had failed to maintain line-of-sight supervision of X.W. when she placed all of the children's bedrooms upstairs in the home and her bedroom downstairs. The trial court also found, however, that the State had failed to prove that X.W. had missed school to watch his siblings or that X.W. had been watching his siblings so that Amanda could go out on weekends. The trial court found further that based upon the difficulty of the situation, Amanda had not committed neglect when she had left X.W. alone in the car with E.W. and T.W. at the hospital while she checked on A.C.

¶ 22 As for the March 2021 incident where Amanda took the children from the homes of respondent's father and her sister, the trial court indicated that it did not think it could find

neglect on that basis since there was no order requiring Amanda to bring the children to respondent's father's or her sister's homes. The trial court noted, however, that the absence of such an order did not allow Amanda to refuse to disclose the whereabouts of the children to DCFS during that time period, and that Amanda's conduct in that regard could be considered as to the neglect allegation.

¶ 23 With regard to the December 2020 incident of the spanking of Ava.W., the trial court was not convinced that Amanda had hit Ava.W. with a curtain rod. The trial court did find, however, that Amanda had used excessive corporal punishment and noted that such a finding could be considered neglectful since Ava.W. had a red mark from the spanking that had been seen at a later time.

¶ 24 As for the allegation that Amanda had failed to cooperate with intact services, the trial court found that the State had proven some of the underlying facts pertaining to that allegation—that Amanda had failed to obtain counseling for Al.W., that Amanda had failed to properly monitor A.C.'s diabetes, and that Amanda had failed to properly supervise X.W. in relation to the other children.

¶ 25 With regard to the allegations that were directed toward respondent, the trial court's findings were again mixed. The trial court found that the State had proven the allegation that respondent had failed to protect his children from X.W.[3] In reaching that conclusion, the trial court noted that the fact that respondent moved out of the home did not allow respondent to

[3] It appears from the record that the trial court also found that respondent had failed to protect his children from being taken by Amanda. We will not consider that finding, however, in evaluating whether the neglect determination was warranted because, as the State correctly notes, the trial court found that Amanda's removal of the children from the Indiana homes could not serve as a basis for neglect (as to Amanda) since there was no order in place requiring Amanda to take the children to, or keep the children at, the Indiana homes. The trial court's finding with respect to respondent seems to be a misstatement.

escape responsibility for his children. The trial court also found that the State had failed to prove that respondent had been uncooperative with DCFS and/or intact services and did not believe that it was neglectful for respondent to fail to seek custody of his children. A written adjudicatory order was later entered that contained all of the trial court's oral findings.

¶ 26 In January 2022, a dispositional hearing was held. Amanda and respondent were both present in court for the hearing and were represented by their respective attorneys. At the outset of the hearing, the trial court indicated that it had received and reviewed the DCFS dispositional report (a DCFS integrated assessment was attached to the dispositional report) and family service plan that had been filed in the case earlier that month. The trial court also noted that it had received that day, but had not yet reviewed, certain documents from the Family Advocacy Center, including therapeutic progress notes for each child.[4]

¶ 27 The dispositional report contained information regarding the reason that the children were taken into DCFS care, the recommendations for services, and the progress that the family had made on those services. As to Amanda, the report indicated that she had participated in an integrated assessment in April 2021, which resulted in the following services being recommended for her: parenting education, psychosexual education, family/co-parenting therapy (also referred to in the report as couple's counseling), and individual therapy. Although Amanda was initially reluctant to perform services when the case was first opened, she had agreed to the services in June 2021 and had remained cooperative with DCFS since that time. Amanda had completed a parenting education course (together with respondent), psychosexual education, and some individual counseling. Amanda had also been participating in family/co-parenting therapy

[4] The information from the Family Advocacy Center that the trial court received has not been made part of the record on appeal.

with respondent, which had become an ongoing service. It was recommended that the family/co-parenting therapy continue even after the children were returned home.

¶ 28 With regard to respondent, the dispositional report indicated that respondent had participated in the integrated assessment in April 2021, which resulted in two services being recommended for respondent: parenting education and family/co-parenting therapy (also referred to in the dispositional report as couple's counseling). Respondent had cooperated with DCFS, had completed a parenting education course (together with Amanda), and had participated in family/co-parenting therapy with Amanda. As noted above, the family/co-parenting therapy had become an ongoing service and was expected to continue even after the children were returned home.

¶ 29 As for the children, the dispositional report indicated, although somewhat implicitly, that all seven of the children (respondent's five children and Amanda's two other children) were doing relatively well. The children that were of school age were attending school, and X.W., Ava.W., and Al.W. were participating in separate counseling. The dispositional report noted, however, that Al.W. had struggled at times in her counseling, as she had to work through some of her beliefs about being the cause of the overall family strife and being responsible for holding up reunification with her family. The report noted further that Al.W. continued to work consistently on feelings of shame and guilt related to the sexual abuse but was making progress on understanding that the abuse was a crime committed against her and that she was no more responsible for that crime than if an outsider had physically assaulted or stolen from her.

¶ 30 At the conclusion of the report, the caseworker recommended that DCFS be granted custody and guardianship of all seven children, that the permanency goal for the children be to

return home, and that Amanda and respondent engage and cooperate with all recommended services.

¶ 31 The most recent DCFS service plan that was presented (there was more than one service plan that was presented at the dispositional hearing) provided a brief history of DCFS's involvement with the family; the services that had been recommended for Amanda, respondent, and the children; and the progress the family had made on those services. Much of the information contained in the service plan was duplicative of the information that had already been provided in the dispositional report. The integrated assessment that was attached to the dispositional report provided similar information as well.

¶ 32 The only witness to testify at the hearing was the current caseworker, Rae Ann Coughlin, who had been involved with Amanda's children since March 2021.[5] During her testimony, Coughlin described the children's current placements and progress; the counseling that the children had obtained; the services that had been recommended for Amanda, respondent, and the children; the progress the family had made on those services; and the visitation between Amanda, respondent, and the children. Coughlin's testimony as to those matters was generally consistent with the information that was provided in the dispositional report, the integrated assessment, and the service plan.

¶ 33 With regard to counseling, Coughlin stated that X.W., Al.W., and Ava.W. were all receiving counseling, that Amanda and respondent were starting to engage in family counseling with Al.W. and Ava.W., and that the counseling was going well. Coughlin believed, however, that the children were not currently at a point where they could be reunited with Amanda and

[5] Amanda and respondent both testified on the same court date as the dispositional hearing, but it appears from the record that their testimony pertained to an emergency petition for relief that Amanda had filed seeking to have the trial court order DCFS not to vaccinate the children.

respondent because the children were still processing in therapy what it meant to feel safe. In addition, according to Coughlin, Ava.W. and Al.W.'s therapist was recommending that the family (Ava.W., Al.W., Amanda, and respondent) have at least one additional family counseling session prior to any unsupervised visitation taking place. The therapist also wanted to do some more psychosexual education with respondent to provide respondent with specific education on children that had been victims of sexual abuse and the trauma that went along with it.

¶ 34 Coughlin testified further that Amanda and respondent had gotten back together in January 2022 and were participating in couple's counseling. Amanda and respondent both wanted to reunite with the children as one family in the Princeton home. The last time Coughlin had made a home visit to the Princeton home was in November or December 2021, and the home was appropriate at that time.

¶ 35 There were no particular issues or concerns that Coughlin foresaw with regard to reunifying X.W. and the rest of the children. The goal was for all of Amanda's children to return to the Princeton home with Amanda. Coughlin anticipated that respondent and Amanda would still have to maintain the alarms and other precautions in the home after the children were returned. According to Coughlin, DCFS would help Amanda provide the alarms for the home.

¶ 36 With regard to visitation, Coughlin testified that Amanda and respondent currently had supervised visits with all seven children (respondent's five children and Amanda's two other children) at the same time for four hours a week in the same home environment in Princeton. Overall, there were no problems with visitation. Amanda and respondent were both very attentive, provided for the children, brought toys and snacks, and engaged with the children during visits. There was also no tension or problems between X.W. and Al.W. during the visits. According to Coughlin, the next step in the visitation progression would be for Amanda and

respondent's visits to be moved from supervised to unsupervised. DCFS would not start unsupervised visitation, however, until it received a recommendation from the therapist that it was appropriate to do so, which had not yet happened. Coughlin was hoping that the visits would be moved to unsupervised within the next 30 days. Unsupervised visitation usually lasted between 30 and 45 days. After unsupervised visitation had been going on for a period of time, the next step would be for Amanda and respondent to have unsupervised overnight visits with the children for about 30 days.

¶ 37 Although Coughlin believed that Amanda and respondent would be close to having unsupervised visitation soon, she did not believe that the family was currently ready to reunify. The main issue, in Coughlin's opinion, was that there were still services that needed to be completed in the form of counseling for three of the children (X.W., Ava.W., and Al.W.), joint counseling between two of the children (Ava.W. and Al.W.) and the parents (Amanda and respondent), and psychosexual education for respondent, since respondent was now going to be living in the primary residence with Amanda and the children. Coughlin noted, however, that as long as respondent was being cooperative, the recently added requirement of psychosexual education for respondent would not prevent Amanda and respondent from having unsupervised visitation or overnight unsupervised visitation. Nor would that requirement prevent DCFS from returning the children home.

¶ 38 As to respondent individually, Coughlin testified that up to the present date, respondent's required services were to cooperate with the integrated assessment, obtain parenting education, and participate in family/co-parenting therapy. Respondent was cooperative and had completed an integrated assessment and a parenting course. The other initial requirement, that respondent

obtain family/co-parenting therapy, had become an ongoing service that would continue even after the children were returned home.

¶ 39 More recently, however, a requirement had been added that respondent obtain psychosexual education as indicated above. That requirement was added because DCFS had recently learned that Amanda and respondent had gotten back together and were planning on living together in one home with the children. DCFS now believed, therefore, that respondent would benefit from, and that the case would necessitate, respondent undergoing psychosexual education (Amanda had already completed that education). The purpose of psychosexual education was to provide respondent, as a parent, with the tools to understand what behaviors to look for in children that had been victims of sexual abuse and was also specific to situations where the perpetrator of sexual abuse remained in the home. The therapy would help respondent understand why children acted out sexually, the signs to look for in children that had been sexually abused, and how to "navigate [the] relationship" when the sexual abuse involved siblings that were placed in the same home. According to Coughlin, the benefit of psychosexual education was not just for the recipient of the education but for all of the children in the home. Although Coughlin could not provide an exact time frame for how long it would take respondent to complete psychosexual education in this case, she noted that Amanda had completed the education in three or four months. As noted above, however, as long as respondent remained cooperative, the recently added psychosexual education requirement would not prevent Amanda and respondent from progressing through the different levels of visitation and would not prevent DCFS from returning the children home.

¶ 40 At the conclusion of the hearing, the trial court found that wardship was in the best interest of the children and that Amanda and respondent were unfit parents. The trial court,

therefore, made the children wards of the court and named DCFS the children's guardian. The permanency goal was set for the children to be returned home within five months. In announcing its decision, the trial court did not state the bases for its parental unfitness finding (other than stating that it was going to adopt the State's recommendations). The written dispositional order that was entered shortly thereafter, however, listed each of the proven allegations from the amended neglect petitions as the bases for the trial court's parental unfitness determination. Respondent appealed.

¶ 41 II. ANALYSIS

¶ 42 A. The Trial Court's Temporary Custody Findings

¶ 43 As his first point of contention on appeal, respondent argues that the trial court erred in many of the findings that it made at the temporary custody hearing. Specifically, respondent asserts that the trial court's finding of probable cause, immediate and urgent necessity, and reasonable efforts were all against the manifest weight of the evidence. As the State correctly points out, however, the findings made at a temporary custody hearing are moot on appeal if there has been a subsequent adjudication of wardship supported by adequate evidence. *In re J.W.*, 386 Ill. App. 3d 847, 852 (2008). As shall be discussed in greater detail later in this order, we find that there was adequate evidence to support the adjudication of neglect and the disposition that was entered in this case. We, therefore, conclude that respondent's claim of error as to the temporary custody hearing is moot and will not address that claim any further in this appeal. See *id.* In reaching that conclusion, we note that respondent has not disputed the State's mootness argument, nor does respondent contend that an exception to the mootness doctrine applies in this case. Indeed, respondent did not even address the State's mootness argument in his reply brief on appeal.

¶ 44 B. The Trial Court's Finding of Neglect

¶ 45 As his second point of contention on appeal, respondent argues that the trial court erred when it found that respondent's five minor children were neglected, by way of an injurious environment, due to the acts or omissions of respondent. Respondent asserts that the trial court's finding in that regard was erroneous because the record in this case does not show that respondent had failed to protect his children in any way, which was the primary allegation against respondent in the neglect proceeding.[6, 7] On the contrary, respondent maintains, the evidence presented at the adjudicatory hearing established that: (1) as soon as respondent and Amanda learned of the April 2019 sexual abuse, which was a one-time incident, they came up with, and implemented, a plan to prevent any further sexual abuse from occurring that included putting alarms on the bedroom doors and making sure that X.W. did not have any unsupervised contact with the other children; (2) Amanda and respondent followed those safety precautions while respondent lived in the Princeton home; and (3) the allegations of inadequate supervision did not arise until eight months after respondent had moved out of the Princeton home and were not found out by respondent until shortly before the neglect petitions were filed. Thus,

[6] Respondent also asserts in his brief on appeal that he was not responsible for managing or monitoring A.C.'s diabetes when the blood sugar incident happened in March 2021 because he was no longer living in the Princeton home and because A.C. was not his child. While we think that respondent's assertion in that regard is somewhat misplaced as indicated by our later discussion of the neglect issue, we find no need to specifically address that assertion further since the amended petitions did not allege or suggest that respondent was responsible for managing or monitoring A.C.'s diabetes, the trial court made no such finding, and the State does not argue in its response brief on appeal that respondent had any responsibility to manage or monitor A.C.'s diabetes.

[7] Although respondent claims further on appeal that the trial court erred in finding at the adjudicatory hearing that respondent had failed to cooperate with DCFS and intact services, the trial court made no such finding in the oral pronouncement of its ruling and, in fact, found that those particular allegations had not been proven by the State. To the extent that the trial court's written order provided something contrary to the trial court's oral pronouncement, the trial court's oral pronouncement prevails. See *In re Taylor B.*, 359 Ill. App. 3d 647, 651 (2005) (indicating that trial court's oral pronouncement prevails when a conflict exists between the trial court's oral pronouncement and its written order).

respondent contends that to the extent that the trial court found that the neglect was due to the acts or omissions of respondent in failing to protect his children, that finding was against the manifest weight of the evidence. Respondent asks, therefore, that we reverse the trial court's finding of neglect, that we grant custody and guardianship of respondent's five children to respondent, and that we dismiss the neglect cases as to respondent's children.

¶ 46 The State argues that the trial court's finding of neglect was proper and should be upheld. In support of that argument, the State asserts first that respondent's contentions on appeal, even if correct, would not alter the finding of neglect because respondent has not disputed that Amanda neglected his children. Rather, respondent's only contention on this issue is that he was not the person who had neglected the children. Thus, because the neglect by Amanda provides a sufficient basis upon which this court may uphold the trial court's neglect determination, the State asserts that there is no need for this court to address respondent's contentions on appeal. Second, and in the alternative, the State asserts that if this court, nevertheless, chooses to address respondent's contentions, it should conclude that the trial court's finding that respondent had failed to protect his children was not against the manifest weight of the evidence, since the evidence presented at the adjudicatory hearing showed that respondent was well aware of the dangers in Amanda's home (the prior sexual abuse by X.W.) but yet took no action after he moved out to ensure that his children were protected or to confirm that the protective measures that had been put in place in the home were still being followed. For either of the two reasons set forth, the State asks that we affirm the trial court's finding of neglect.

¶ 47 A trial court's finding of neglect in a juvenile proceeding will not be reversed on appeal unless it is against the manifest weight of the evidence. *In re A.P.*, 2012 IL 113875, ¶ 17. A finding is against the manifest weight of the evidence only if it is clearly apparent from the

record that the trial court should have reached the opposite conclusion or if the finding itself is unreasonable, arbitrary, or not based upon the evidence presented. See *In re D.F.*, 201 Ill. 2d 476, 498 (2002).

¶ 48 A wardship proceeding constitutes a significant intrusion into the sanctity of the family and should not be undertaken lightly. *A.P.*, 2012 IL 113875, ¶ 18. The primary consideration in such a proceeding is the best interests of the minor involved, and the focus is on whether that particular minor is neglected, not on whether the minor's parents are neglectful. *Id.* ¶¶ 18-20. At the trial level, the burden is on the State to prove the allegations of neglect by a preponderance of the evidence. *Id.* ¶ 17. If the State fails in that burden, the neglect petition must be dismissed. *Id.*

¶ 49 There is no fixed meaning for the term "neglect," but it has been generally defined as the failure to exercise the level of care that is required under the circumstances, and it encompasses both the willful and the unintentional disregard of parental duty. *Id.* ¶ 22. Pursuant to the Juvenile Court Act of 1987 (Act), neglect may be found where a minor's environment is injurious to his or her welfare. 705 ILCS 405/2-3(1)(b) (West 2020); *A.P.*, 2012 IL 113875, ¶ 22. In general, the term "injurious environment" has been defined as the breach of a parent's duty to ensure a safe and nurturing shelter for his or her children. *A.P.*, 2012 IL 113875, ¶ 22. Like the term "neglect," however, the term "injurious environment" does not have a fixed meaning and must be determined from the unique facts of each particular case. See *id.*

¶ 50 "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." *In re Arthur H.*, 212 Ill. 2d 441, 468 (2004). Evidence of abuse or neglect of one minor is admissible on the issue of the abuse or

neglect of any other minor for whom the parent is responsible. 705 ILCS 405/2-18(3) (West 2020). Such evidence, however, does not constitute conclusive proof of neglect of the minor in question. *Arthur H.*, 212 Ill. 2d at 468. Rather, in determining whether a particular minor is neglected, a trial court should consider not only the circumstances surrounding the prior neglect of that minor's sibling or siblings but also the care and condition of the minor in question. *Id.* When faced with evidence of prior neglect by a parent or parents, a trial court need not wait to take action until after each particular minor suffers an injury. *Id.* at 477.

¶ 51 In the present case, after reviewing the evidence presented at the adjudicatory hearing and the specific findings that were made by the trial court as to the underlying factual allegations, we conclude that the trial court's neglect determination was well supported by the evidence. The evidence presented at the adjudicatory hearing showed, and respondent has not disputed, that X.W. had previously sexually abused Al.W. in the home; that certain safety precautions were put into place, as required by or with the agreement of DCFS, to ensure that further sexual abuse did not occur; that the safety precautions included maintaining alarms on the children's bedroom doors, not allowing X.W. to have any unsupervised contact with the other children, and maintaining direct line-of-sight supervision of X.W.; and that Amanda had, at times, failed to adhere to those precautions by not keeping the alarms in consistent working condition, by allowing X.W. to watch his siblings, and by placing all of the children's bedrooms in the home upstairs and her bedroom downstairs. The evidence also showed, again without dispute from respondent, that Amanda had failed to manage and monitor the diabetes of A.C., who was a half-sibling of respondent's children and lived in the same home with respondent's children; that Amanda had used excessive corporal punishment on Ava.W. on one particular incident; and that Amanda had failed to obtain counseling for Al.W., the victim of the sexual abuse. Without even

addressing respondent's assertions on appeal, the evidence as to Amanda's neglect of the children was sufficient to support, and to justify upholding, the trial court's finding that respondent's children were neglected minors. See *A.P.*, 2012 IL 113875, ¶ 17.

¶ 52 In addition to that evidence, however, and despite respondent's assertion on appeal to the contrary, the trial court was also presented in this case with evidence that respondent had no concerns over Amanda's supervision of the children and that respondent had taken no action after he moved out of the home in June 2020 to ensure that his children were safe or to confirm that the safety precautions that were put into place were still being followed in the home. The evidence of respondent's omissions in that regard also supported the trial court's neglect determination. See *id.* As the trial court noted, the fact that respondent had moved out of the home did not allow respondent to escape responsibility for his children. Therefore, based upon all of the evidence presented at the adjudicatory hearing, we conclude that the trial court's finding of neglect was not against the manifest weight of the evidence. See *D.F.*, 201 Ill. 2d at 498.

¶ 53 In reaching that conclusion, we find respondent's main assertion on appeal as to this issue—that he was not responsible for the neglect of the children—to be largely misplaced. As our supreme court noted in *In re Arthur H.*, at an adjudicatory hearing in a neglect proceeding, the only question to be resolved by the trial court is whether a child is neglected, not whether every parent is neglectful.[8] *Arthur H.*, 212 Ill. 2d at 467. Thus, as the State correctly points out,

[8] The supreme court reached that conclusion in *Arthur H.* even though section 2-21 of the Act (705 ILCS 405/2-21(1) (West 2000)) required the trial court to specify, to the extent possible, the acts and/or omissions of each parent that formed the basis of the trial court's neglect finding. See *Arthur H.*, 212 Ill. 2d at 466-67.

respondent's main assertion in this appeal does not undermine the trial court's finding that respondent's children were neglected minors. See *id.*

¶ 54 Nor are we persuaded by the appellate court's decision in *In re S.S.*, 313 Ill. App. 3d 121, 127 (2000), the case relied upon to some extent by respondent here, that a different result should be reached in this appeal. The appellate court's decision in *S.S.* occurred well before the supreme court's ruling in *Arthur H.* and appears to be premised, in part, upon the appellate court's mistaken belief in that case that at an adjudicatory hearing in a neglect proceeding, the trial court had to determine whether each parent was neglectful, a belief that has since been dispelled by the supreme court's ruling in *Arthur H.* Compare *Arthur H.*, 212 Ill. 2d at 467 (ruling that the determination to be made at an adjudicatory hearing in a child neglect case is whether the child is neglected, not whether the parents are neglectful), with *S.S.*, 313 Ill. App. 3d at 127-29 (indicating, although somewhat implicitly, that at an adjudicatory hearing in a neglect proceeding, the trial court must make a neglect determination as to each of the child's parents).

¶ 55 C. The Trial Court's Parental Unfitness Finding

¶ 56 As his third and final point of contention on appeal, respondent argues that the trial court erred in finding at the dispositional hearing that respondent was an unfit parent.[9] More specifically, respondent asserts that the parental unfitness finding was against the manifest weight of the evidence because: (1) the trial court did not take judicial notice of the prior proceedings as would have been necessary for the trial court to base its parental unfitness finding upon the facts that had given rise to the prior neglect determination; (2) when the entire dispositional record is considered, it showed that respondent was actively engaged in his services

[9] Although respondent claims in his brief on appeal that he is challenging both the parental unfitness finding and the best interest determination, it appears that respondent's assertions are more appropriately categorized as challenging only the parental unfitness finding.

with DCFS and nearing completion of those services (other than the psychosexual education, which had only just recently been added by the caseworker at the dispositional hearing); and (3) the evidence showed that DCFS had already previously determined that respondent was a suitable person with whom to place the children, and the only thing that had occurred after DCFS had made that determination was that Amanda had taken the children from respondent (the March 2021 incident). For all the reasons stated, therefore, respondent asks that we reverse the trial court's ruling, that we order that custody and guardianship of the children be given to respondent, and that we dismiss the cases as to respondent's children.

¶ 57 The State argues that the trial court's parental unfitness finding was proper and should be upheld. In support of that argument, the State asserts first that respondent has forfeited his claim as to judicial notice because respondent failed to object during the dispositional hearing and failed to raise the issue in a posttrial motion. Second, the State asserts that regardless of whether respondent's judicial notice claim has been forfeited, the trial court's parental unfitness finding should still be upheld because that finding was well supported by the evidence presented at the dispositional hearing. The State contends, therefore, that the trial court's parental unfitness finding was not against the manifest weight of the evidence and asks that we affirm the trial court's dispositional ruling.

¶ 58 In reply, respondent takes issue with the State's forfeiture argument. Respondent asserts that because the trial court did not indicate that it was taking judicial notice of the prior proceedings and the State did not ask the trial court to do so, there was no reason for respondent to object to the manner in which the trial court proceeded at the dispositional hearing. In addition, respondent maintains, he was not required to file a posttrial motion and raise the judicial notice issue to preserve that issue for appellate review. Alternatively, respondent

suggests, without additional argument, that if he was required to file such a posttrial motion, his attorney's failure to do so constituted ineffective assistance. Respondent again asserts, therefore, that the trial court's finding of parental unfitness was improper and that respondent's children should have been returned home.

¶ 59 Under the Act, once a minor has been adjudicated neglected, the trial court must hold a dispositional hearing. 705 ILCS 405/2-21(2) (West 2020); *In re A.S.*, 2014 IL App (3d) 130163, ¶ 22. At the dispositional hearing, the trial court determines whether to make the minor a ward of the court and, if so, the appropriate disposition for the minor. 705 ILCS 405/2-22(1) (West 2020). There are several different types of dispositions that are authorized under the statute for a minor who has been made a ward of the court. See *id.* §§ 2-23(1)(a), 2-27(1). The overriding concern in determining the appropriate disposition is the minor's best interest. See *In re E.L.*, 353 Ill. App. 3d 894, 897 (2004). A trial court's dispositional order will not be reversed on appeal unless its factual findings were against the manifest weight of the evidence or it committed an abuse of discretion by selecting an inappropriate dispositional order. *A.S.*, 2014 IL App (3d) 130163, ¶ 21. As noted previously, a trial court's finding is against the manifest weight of the evidence only if it is clearly apparent from the record that the trial court should have reached the opposite conclusion or if the finding itself is unreasonable, arbitrary, or not based upon the evidence presented. See *D.F.*, 201 Ill. 2d at 498.

¶ 60 Under section 2-27 of the Act, a minor who has been adjudged a ward of the court may be placed with someone other than his or her parents if the trial court determines that the parents are either "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." 705 ILCS 405/2-27(1) (West 2020). The standard of proof for a trial court's section 2-27 finding of parental unfitness that does not result in a complete termination of all parental rights is by a preponderance of the evidence. *In re April C.*, 326 Ill. App. 3d 245, 257 (2001). In making that determination, all relevant and helpful evidence may be considered. 705 ILCS 405/2-22(1) (West 2020).

¶ 61 In the present case, after reviewing the record, we conclude that the trial court did not err in finding that respondent was a dispositionally unfit parent. We reach that conclusion for several reasons. First, the record in this case showed that respondent lived in the home in April 2019 when his daughter, Al.W., was sexually abused by Amanda's son, X.W. (not respondent's child), and that respondent was later made fully aware of that sexual abuse. Despite having knowledge of the sexual abuse, however, respondent moved out of the home in June 2020, left Al.W. in the home where X.W. would also be staying, and made no effort to ensure that the safety precautions that had been put into place were still being followed in the home. Second, the evidence presented at the dispositional hearing established that there was additional family counseling that still needed to be completed with respondent, Amanda, Ava.W., and Al.W. Indeed, as of the date of the dispositional hearing, the family counseling had only just started. Third, respondent and Amanda had not yet progressed through the various stages of visitation with the children (supervised, unsupervised, and unsupervised overnight) that would help ensure a less traumatic transition of the children back into the home. Fourth and finally, it is clear from the record before us that respondent's daughter, Al.W., was struggling with some real issues in counseling as a result of the sexual abuse and that respondent, who was now going to be living in the primary home with Amanda and the children, would need specialized training (psychosexual education) to learn how to appropriately address those issues. Although the psychosexual education had

only recently been added as one of the services that respondent was required to complete, the need for that service arose only recently as well, since DCFS had only recently learned that Amanda and respondent had gotten back together and were planning on reuniting as one family with all of the children (respondent's children and Amanda's two other children) in the Princeton home. Thus, based upon the record before us, we find that the trial court's determination that respondent was a dispositionally unfit parent was not against the manifest weight of the evidence. See *D.F.*, 201 Ill. 2d at 498.

¶ 62 In arriving at that conclusion, we have considered and rejected respondent's claim about the trial court possibly taking judicial notice of the prior proceedings. As indicated by the above discussion, the trial court's finding of parental unfitness was well supported by the evidence presented at the dispositional hearing, much of which pertained to the current status of respondent, Amanda, and the children. While the trial court may not have specified some of that information in its dispositional order, we may affirm the trial court's ruling on any basis supported by the record. See *Estate of Sperry*, 2017 IL App (3d) 150703, ¶ 19, n. 4 (indicating that the appellate court is not bound by the trial court's reasoning and may affirm on any basis supported by the record, regardless of whether the trial court based its decision on that basis). In addition, information as to the prior history of the case, about which respondent now complains, was also contained in the dispositional report, the integrated assessment, and the service plan, albeit in a much more abbreviated fashion than was presented at the adjudicatory hearing, as well as in the testimony of caseworker Coughlin. Without dispute, all of that evidence was properly before the trial court at the dispositional hearing. Furthermore, as the State correctly notes, respondent forfeited his judicial notice claim when he failed to object in the trial court. See *In re M.W.*, 232 Ill. 2d 408, 430 (2009) (indicating, albeit in a juvenile delinquency case, that the

principle of forfeiture applies in proceedings under the Act). While it is not clear from the record when or if the trial court took judicial notice of the prior proceedings, at the very least, respondent could have objected when the trial court made its findings known in the written dispositional order if respondent believed that those findings were the result of the trial court improperly taking judicial notice of the prior proceedings. Respondent failed to do so here.[10] Finally, as for respondent's claim that DCFS had already determined that he was a suitable placement for the children, we find that claim to be contrary to the record presented. Although there was some confusion on that issue in the original neglect petitions, it was later established in the record that the children were placed with respondent's father, and not with respondent.

¶ 63 III. CONCLUSION

¶ 64 For the foregoing reasons, we affirm the judgment of the circuit court of Bureau County.

¶ 65 Affirmed.

[10] We take no position on whether respondent was also required to file a postadjudication motion in this case to preserve his judicial notice issue for appellate review. Compare *M.W.*, 232 Ill. 2d at 430 (noting, albeit in a juvenile delinquency case, that in proceedings under the Act, the minor was not required to raise an issue in a postadjudication motion to preserve that issue for appellate review), with *In re Chance H.*, 2019 IL App (1st) 180053, ¶ 45 (stating that even in a child custody case, a party must object at trial and raise the issue in a posttrial motion to preserve that issue for appellate review).