

2026 IL App (1st) 251802

No. 1-25-1802

First Division  
September 30, 2026

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST DISTRICT

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|---------------------------------------|---|-------------------|
| <i>In re</i> J.M. and E.M., Minors    | ) | Appeal from the   |
|                                       | ) | Circuit Court of  |
| (The People of the State of Illinois, | ) | Cook County.      |
|                                       | ) |                   |
| Petitioner-Appellee,                  | ) | Nos. 25 JA 192    |
|                                       | ) | 25 JA 193         |
| v.                                    | ) |                   |
|                                       | ) |                   |
| L.M.,                                 | ) | Honorable         |
|                                       | ) | Pamela Saindon,   |
| Respondent-Appellant).                | ) | Judge, Presiding. |

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JUSTICE COBBS delivered the judgment of the court, with opinion.  
Justices Fitzgerald Smith and Howse concurred in the judgment and opinion.

**OPINION**

¶ 1 Respondent, L.M., is the biological mother of J.M., born July 2011, and E.M., born June 2018, both of whom are enrolled members of the Native Village of Kluti-Kaah. On August 12, 2025, following an adjudicatory hearing, the circuit court found both minors abused and neglected under section 2-3(1)(b) and 2-3(2)(ii) of the Juvenile Court Act of 1987 (Act) (705 ILCS 405/2-3(1)(b), (2)(ii) (West 2024)). On August 14, 2025, at the dispositional hearing, the court adjudged both minors wards of the court, placing J.M. under the guardianship of the Department of Children

and Family Services (DCFS) and returning E.M. to her biological father under an order of protective service.

¶ 2 Although the evidence and the circuit court’s rulings concerned both minors, respondent develops no argument challenging the findings regarding J.M. Indeed, in the “ICWA Background and Standard of Review” section of her opening brief, respondent agrees with the circuit court’s decision to place J.M. in residential care but asks this court to “correct the [circuit] court by making clear that J.M.’s situation should be analyzed as a voluntary placement under 25 U.S.C. § 1913(b).” We acknowledge respondent’s agreement regarding J.M. Accordingly, any challenges to the circuit court’s adjudication and disposition rulings that relate to J.M. are waived. See *Gallagher v. Lenart*, 226 Ill. 2d 208, 229 (2007) (waiver is consensual, arising out of the intentional relinquishment of a known right). However, we decline respondent’s entreaty to “correct the [circuit] court.”

¶ 3 Respondent raises two principal contentions here on appeal, both of which pertain to E.M. only. First, she argues that the circuit court erred in adjudicating E.M. abused and neglected and entering its dispositional order because the State failed to satisfy the Indian Child Welfare Act of 1978’s (ICWA) (25 U.S.C. § 1901 *et seq.* (2024)) clear and convincing evidence requirement. Second, respondent contends that the circuit court’s finding that DCFS made active efforts to prevent the breakup of the Indian family <sup>1</sup>was against the manifest weight of the evidence.

¶ 4

## I. BACKGROUND

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<sup>1</sup> Throughout this disposition, we use the term “Indian family” consistent with respondent’s characterization of her heritage and claims under ICWA.

¶ 5 The following factual summary is derived from the pleadings, adjudicatory and dispositional hearings, and exhibits contained in the record.<sup>2</sup>

¶ 6 A. Prehearing Proceedings

¶ 7 On March 14, 2025, the State filed petitions for adjudication of wardship and motions for temporary custody concerning both E.M. and J.M. The petitions alleged that the minors were neglected and abused pursuant to the Act (705 ILCS 405/2-3(1)(b), (2)(ii) (West 2024)). The petition concerning J.M. additionally alleged neglect due to a lack of necessary care. See *id.* § 2-3(1)(a). The State alleged the following facts in support of its petition and motion regarding the minors:

“Mother has prior history with child protective services in Kentucky and Ohio. In December of 2024 an intact case was opened due to this minor’s sibling’s untreated mental health issues and domestic violence issues in the home. Mother is non-compliant with services including completing a drug and alcohol assessment. This minor’s sibling is currently psychiatrically hospitalized due to self-harming behaviors. This minor’s sibling has been diagnosed with major depressive disorder and attention deficit hyperactivity disorder. This minor’s sibling has a history of psychiatric hospitalizations and suicide attempts. This minor’s sibling reports that she does not feel safe at home due to mother’s excessive drinking. Per family, mother has untreated mental health issues, a history of abusing alcohol and of exhibiting violent behaviors. This minor’s sibling reports being present in a hotel room when mother was prostituting herself. This minor was also present

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<sup>2</sup>Kory S. (Kory) is the putative father of J.M. A default order was entered against Kory on July 16, 2025. Alex H. (Alex), who was identified during the proceedings as E.M.’s biological father, has custody of E.M. under an order of protective service. Neither father is a party to this appeal.

during this incident. Putative father's whereabouts are unknown, and paternity has not been established."

¶ 8 On the same day, the State filed motions for temporary custody of the minors. In an affidavit accompanying the motions, the State averred that (1) J.M. and E.M. may be "Indian child[ren]" as defined in ICWA, (2) the last known address of the children and mother is Chicago, Illinois, (3) neither the residence nor domicile of the children is on an Indian reservation, (4) "on information and belief, the tribal affiliation and band of the [children] and of the parents and/or the Indian Custodian is: Kluti-Kaah," and (5) "[t]here is probable cause that the minor[s] [are] neglected, abused and/or dependent pursuant to 705 ILCS 405/2-3 or 2-4 as detailed in the Petition for Adjudication of Wardship and the Motion for Temporary Custody." The State additionally averred that the children are at risk of imminent physical damage or harm if not removed from the parent or Indian custodian due to the following: (a) active efforts could not be made to avoid removal of the child on an emergency basis from the parent or Indian custodian or (b) active efforts, which have been offered to the parent or Indian custodian, have thus far been unsuccessful in avoiding the need to remove the child from the parents or Indian custodian.

¶ 9 The circuit court appointed the Cook County Public Guardian as attorney and guardian *ad litem* (GAL) for the minors and the Cook County Public Defender to represent respondent. During the temporary custody hearing, a representative from the Native Village of Kluti-Kaah (Tribe) appeared, and the court found that ICWA applied because E.M. and J.M. were members of the Tribe pursuant to ICWA. The court further found there was probable cause that E.M. and J.M. were abused and neglected, that immediate and urgent necessity required their removal, and that emergency removal was necessary to prevent imminent physical damage or harm. The court placed the minors in the temporary custody of DCFS. The court held several subsequent hearings

as required by ICWA and found that the emergency removal of J.M. and E.M. was necessary to prevent physical damage or harm.

¶ 10 E.M. was placed with respondent's friend, Jessica Hale. Initially, J.M. remained hospitalized but was later placed at Allendale residential treatment facility. The court entered several orders finding that DCFS had made active efforts to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family. Respondent filed a motion to transfer the proceedings to the Tribe but later withdrew. The Tribe subsequently chose not to intervene.

¶ 11 B. Adjudicatory Hearing

¶ 12 The circuit court conducted the adjudicatory hearing on August 11 and 12, 2025. Respondent did not appear on the first day, but her attorney represented that she had notice and did not request a continuance.

¶ 13 The following summarizes the testimony of the witnesses who appeared at the adjudicatory hearing.

¶ 14 Jessica Hale

¶ 15 Hale testified that she had known respondent for approximately seven years and had cared for the minors on several occasions. In 2022, respondent told Hale that the minors would live with relatives in Alaska because another state's department of children and family services had become involved with the family.

¶ 16 In August 2023, respondent told Hale that she had an outstanding Mississippi warrant arising from a driving under the influence offense and was having difficulty finding employment. Respondent asked Hale to care for the minors while she attempted to regain stability. Hale allowed

respondent to live in a vacant property she owned in Kentucky while the minors lived with Hale in Illinois.

¶ 17 The minors remained with Hale for approximately five months. Respondent's contact with them was sporadic, and she did not provide a definite plan for their return. Respondent told Hale that she was living with a man upon whom she had called the police for domestic violence, but she declined to disclose her location. While living with Hale, J.M. disclosed that respondent drank, yelled at her, and had expelled her from the home in Ohio. Hale obtained a mental-health assessment for J.M. after observing self-harming behavior and a severe emotional reaction following a telephone call with respondent.

¶ 18 The minors returned to respondent's care near the end of December 2023. Hale did not see them again until DCFS contacted her in March 2025 and asked whether she could serve as their caregiver.

¶ 19 Officer Adrian Enriquez

¶ 20 Cicero police officer Adrian Enriquez testified that he responded to a domestic call at respondent's Cicero residence on January 4, 2025. Respondent reported that she had argued with her boyfriend and that he had gestured toward her with a knife while J.M. watched. When the officers could not locate the knife, J.M. became distraught, overturned a table, covered her ears, and repeatedly insisted that the knife had been present. Respondent argued with the officers, did not attempt to console J.M., and declined an offer to obtain a medical evaluation for J.M.

¶ 21 Officer Enriquez described the residence as resembling a "hoarder's home." Trash was piled in the kitchen, items were stacked in the corners, the floors were sticky, and the residence smelled strongly of trash and body odor.

¶ 22 Officer Gustavo Gonzalez

¶ 23 Cicero police officer Gustavo Gonzalez testified that he responded to a domestic disturbance at the Cicero residence on December 8, 2024. Respondent reported that her boyfriend had pushed her to the floor after forcing his way into their room to retrieve some paperwork from a drawer. A cell phone recording, however, depicted respondent as the aggressor while the boyfriend remained calm. Both minors were present.

¶ 24 While the officer was at the residence, J.M. experienced an “anxiety attack.” Gonzalez attempted to calm her, but respondent did not assist him or otherwise respond to J.M.’s distress. Gonzalez described the residence as extremely dirty and foul smelling, with old food, dirty dishes, and insects. He contacted DCFS because of the condition of the home and respondent’s lack of response to J.M.’s apparent distress.

¶ 25 Briana Lane

¶ 26 Briana Lane testified that she was employed by Hephzibah Children’s Association as an intact family caseworker and was assigned to respondent and the minors in December 2024. She explained that intact services are voluntary supports recommended by DCFS to address the circumstances that brought a family to the agency’s attention while allowing the family to remain together. Her agency accepted the case because of concerns involving medical neglect. She assessed the entire family as needing services.

¶ 27 Lane recommended that respondent complete a mental-health assessment, participate in individual therapy, and enroll in a parenting program. Respondent did not begin those services because she was not initially matched with providers and the agency prioritized the family’s housing instability and the environmental condition of the home. Lane worked with the family from December 2024 until DCFS took protective custody in March 2025.

¶ 28 Lane visited the family weekly, primarily at the Cicero residence. Respondent and the minors lived in the basement unit. Lane testified that it was her belief that respondent's cousin and her cousin's friend also lived in the residence. She observed the conditions of the home as very poor with food and trash throughout and advised respondent that it was environmentally inappropriate for the minors. Respondent told Lane that the mess was not hers and that she did not believe she was responsible for cleaning it. Respondent reported that she did not feel safe in the home, that there were frequent arguments with the other occupants, and that there was an incident in which someone pulled a knife on her.

¶ 29 Lane attempted to locate safer housing for respondent and arranged an appointment and transportation with Beds Plus. According to Lane, respondent did not want J.M. to come to the appointment but to instead stay home with their belongings so that they would not be put out on the street. Lane also helped with storage expenses and provided Ventra cards, school uniforms, holiday gift cards, and other material support.

¶ 30 Lane also monitored the minors' educational needs. She was concerned about E.M.'s attendance because E.M. was sometimes home during school hours. Respondent claimed that E.M. was ill, although Lane did not observe signs of illness. Lane did not observe physical abuse or neglect of E.M. at the shelter, but E.M. was guarded and would not speak with Lane outside respondent's presence. On the two occasions when Lane briefly spoke with her alone, E.M. was largely nonverbal and answered by nodding or shaking her head.

¶ 31 Lane remained concerned about the minors' safety because respondent admitted that she could not consistently supervise J.M. or determine whether J.M. might harm herself. Lane also testified that respondent sometimes slept while the minors were home and had not consistently followed through with housing and service recommendations.

¶ 32 In March 2025, Lane attended a meeting at the shelter at which DCFS attempted to establish a voluntary safety plan. Respondent opposed the plan and the prospect of protective custody, stating that she did not want the minors placed with a White family. When told that protective custody would be taken if she declined the plan, respondent attempted to run away with E.M. DCFS thereafter took protective custody, and the intact case was closed.

¶ 33 On cross-examination, Lane reiterated that respondent had agreed with J.M.'s hospitalization and need for psychiatric placement. She also acknowledged that respondent removed E.M. from the unsafe Cicero residence, moved with her to a shelter, and worked with a case manager there. Lane did not observe signs of abuse or neglect to E.M. at the shelter, although E.M. did not affirmatively report that she felt safe.

¶ 34 Lane clarified that, after respondent and E.M. entered the shelter, the agency continued weekly monitoring and provided respondent with assistance in searching for employment. Lane explained that many permanent-housing opportunities depended on respondent's income. She also stated that the employment assistance provided by Hephzibah Children's Association consisted primarily of the Ventra bus card and that no additional housing referrals were made after respondent entered the shelter because the agency intended to work with the shelter's case manager on longer-term housing options.

¶ 35 In response to questions from the court, Lane clarified that the agency initially focused on correcting the family's housing and environmental problems before requiring respondent to begin therapy and parenting services. The intact case and referrals were expected to continue, but those plans ended after the additional investigation resulted in protective custody and respondent stated that she no longer wished to participate in intact services.

¶ 36 Carol Washington

¶ 37 Carol Washington testified that she was a DCFS child protection specialist and was assigned as the mandated response investigator on February 11, 2025. She investigated an allegation of sexual exploitation involving both minors. The report stated that the minors were present in a hotel room while respondent engaged in sexual activity with an unidentified man in exchange for money.

¶ 38 Washington interviewed J.M. at Hartgrove Behavioral Health Hospital (Hartgrove) on February 11, 2025. J.M. described the October 2024 hotel stay during which she and E.M. were in one bed while respondent and an unknown man occupied another. Respondent told J.M. that the man would give her money because the family needed it. J.M. did not see sexual activity but heard it while facing away under the covers. After interviewing J.M., Washington completed her role as the mandated worker and transferred the investigation to the primary investigator, Latanya Russell.

¶ 39 On cross-examination, Washington acknowledged that J.M. did not know the location of the hotel, did not witness the sexual acts, was not involved in them, and was not approached by the man.

¶ 40 Latanya Russell

¶ 41 Russell testified that she was a DCFS child protection advanced specialist and became the primary investigator on February 11, 2025. In addition to the sexual exploitation allegation, the investigation assessed the risk of physical injury and whether the environment was injurious to the minors' welfare, as well as allegations of medical neglect concerning J.M. Respondent denied the allegations. Additionally, she stated that the minors' fathers were not involved. She reported that the family moved to Illinois in October or November 2024 to obtain housing and employment resources and that J.M. had recently attempted suicide by ingesting medication. Respondent stated

that J.M. had not remained out of the hospital long enough to begin the recommended follow-up services.

¶ 42 Russell confirmed that the family had prior DCFS involvement and that an intact family case remained open through Hephzibah Children's Association, with Lane serving as the assigned caseworker. Russell maintained contact with the intact services team and learned that the family had child protection histories in other states. Because respondent disclosed prior child protection involvement, Russell requested records from the Kentucky Cabinet for Health and Family Services. Russell explained that respondent was initially hostile and defensive and that she sought the records, in part, to understand respondent's prior experiences with child protection agencies. She also obtained Cicero police records, requested an out-of-state lead report, sought a toxicology screen for respondent, and requested an emergency clinical staffing for J.M. She considered those materials during the investigation.

¶ 43 Russell interviewed J.M. privately at Hartgrove on March 8, 2025. J.M. repeated that she had heard respondent engage in sexual activity for money in a hotel and stated that she had witnessed an unknown man strike respondent in Kentucky, leaving bruises on respondent's face, arms, and shoulders.

¶ 44 Russell also attempted to interview E.M. at the shelter. The shelter case manager was present, and respondent remained outside the door. E.M. was guarded and answered only questions concerning her age and grade.

¶ 45 Russell also spoke with respondent by telephone on March 8, 2025, regarding respondent's departure from the shelter. Respondent explained that she had become overwhelmed by J.M.'s self-harming behavior. On March 12, 2025, Russell met respondent at the shelter to establish a safety plan while DCFS completed its investigation. Respondent stated that she would not agree

to the proposed plan because she lacked family in Illinois and was a member of the Tribe. After respondent refused the safety plan, the agency made a critical decision to take protective custody of both minors. Russell testified that the decision was based on the totality of the investigation, including the family's in-state and out-of-state history, rather than respondent's refusal alone. DCFS notified the Tribe of the protective custody.

¶ 46

Sarah White

¶ 47 Sarah White testified that she had been employed by the Tribe as an ICWA advocate since July 2022 and had grown up in the Copper River Basin in Alaska, where the Tribe is located. She completed child welfare and qualified-expert training and maintained the required refresher courses. White explained that she worked with child protection agencies, advised the Tribe concerning child welfare cases, and helped tribal members obtain resources intended to permit parents to succeed. The circuit court qualified her, without objection, as an expert concerning whether continued parental custody was likely to cause serious physical or emotional damage and the prevailing social and cultural standards of the Tribe.

¶ 48 White testified that she first became involved with respondent in August 2022, when respondent requested assistance sending the minors to their grandparents because she lacked stable housing and was leaving a harmful relationship. White provided respondent with information concerning counseling, employment, and mental-health services for J.M.

¶ 49 Respondent contacted White on several occasions seeking assistance for J.M.'s suicidal ideation and self-harming behavior. In 2024 and again in January 2025, respondent asked White to help locate inpatient psychiatric treatment for J.M. White researched available providers and supplied respondent with telephone numbers, although her ability to assist was limited because she

was in Alaska and was unfamiliar with the services available where respondent was living. White described respondent as extremely concerned about the seriousness of J.M.'s mental health needs.

¶ 50 White learned of the Illinois proceedings through DCFS as well as from respondent. She participated in calls and staffings and reviewed hospital records, caseworker assessments, and Illinois investigative files. After reviewing the most current documentation, White believed E.M. could transition back to living with respondent if she were able to secure stable housing.

¶ 51 White testified, however, that when protective custody was taken in March 2025, leaving the minors with respondent was likely to result in serious physical or emotional damage. White believed respondent needed stable housing and continued services before the minors could safely return to her. She stated that, at the time of removal, the minors would have been at imminent risk of physical damage or harm if they stayed.

¶ 52 On cross-examination, White described the Tribe's cultural practices. She explained that the Tribe was primarily nomadic and traditionally moved according to seasonal resources, relied upon extended family and community child rearing, and did not historically emphasize private bedrooms or nuclear-family living arrangements. She further discussed the history of Native children being removed from their families and placed in boarding schools and the importance of culturally responsive services. White testified that those historical experiences were relevant when providing child welfare services to Native families.

¶ 53 According to White, services lacking cultural sensitivity could be less effective because recovery often required Native individuals to reconnect with their community, language, traditional practices, and identity. White explained that traditional Tribal approaches to mental health concerns were community based and focused on supporting a struggling parent while preserving the family rather than immediately removing the children.

¶ 54 White nevertheless distinguished those cultural practices from unsafe housing and domestic violence. She testified that a child without a stable and safe residence could suffer physical injury or lasting emotional trauma. She stated that, if respondent obtained stable housing and continued her services, the minors would not be in imminent physical or emotional harm.

¶ 55 White acknowledged that she had never personally interviewed E.M. Her opinions were based on her review of the records, participation in staffings, communications with respondent and DCFS, and knowledge of the Tribe's cultural standards. White was aware of the sexual exploitation allegation and that E.M. had been present in the hotel room at the time. She also acknowledged that part of her role was to identify and involve the minors' fathers. White had asked respondent about the fathers on several occasions, but respondent consistently stated that she did not know the identity of E.M.'s father and that J.M.'s father had chosen not to be involved.

¶ 56 On redirect examination, White testified that the Tribe elected not to officially intervene because it could not provide respondent and the minors with the necessary services from Alaska.

¶ 57 White reiterated that she did not believe there would be an imminent risk of physical or emotional harm if respondent continued with her services and secured stable housing. She explained that respondent's housing was an important component of any decision to return the minors and that the residence would need to be identified and verified as safe.

¶ 58 On recross-examination, White explained that stable housing would ameliorate the risks of physical and emotional harm to E.M. The physical risks associated with homelessness included illness, injury, and abuse by third parties, while the emotional risk arose from the trauma of repeatedly lacking a safe and stable home.

¶ 59 Nontestimonial Evidence

¶ 60 Over respondent's objection, the following nontestimonial evidence was also admitted.

¶ 61 The State offered certified records from Hamilton County Job and Family Services (HCJFS) in Ohio concerning the family's prior child-protection involvement. Respondent objected that the records did not fall within section 2-18(4)(a) of the Act (705 ILCS 405/2-18(4)(a) (West 2024)) because HCJFS was not licensed by Illinois. The circuit court overruled the objection and admitted the certified records, reasoning that the entity performed child-welfare functions on behalf of children and that excluding relevant out-of-state records would be inconsistent with the Act.

¶ 62 According to the Ohio records, in April 2021, following respondent's tonsil surgery and while she slept, then two-year-old E.M. ingested respondent's prescription medication. E.M. was admitted to a pediatric intensive-care unit with an elevated heart rate and blood pressure and required medication for agitation. The records further showed that respondent was extremely upset at the hospital and expressed that she was "discriminated against." Ohio authorities substantiated an allegation of neglect and implemented a safety plan. Respondent initially resisted services and random drug testing but later cooperated, and the minors were returned to her care in August 2021.

¶ 63 In December 2022, Ohio authorities opened another investigation after then 11-year-old J.M. reported that respondent became intoxicated, pinned her down, and expelled her from the home without shoes, socks, or a coat. Ohio police observed respondent as significantly intoxicated. Both minors later reported to an HCJFS caseworker that they did not feel safe when respondent drank. Respondent also reported to an HCJFS caseworker that a former boyfriend had grabbed her by the throat and struck her while the minors were present and acknowledged that she had begun binge drinking and needed treatment. The investigation closed after the minors went to stay with their grandparents and respondent reported that she would enter treatment.

¶ 64 The State also introduced certified records from Hartgrove and Loyola University Medical Center concerning J.M.'s psychiatric treatment, as well as photographs of J.M.'s self-inflicted injuries. The records reflected that J.M. was hospitalized in January 2025 after attempting suicide by ingesting medication. J.M. reported that she did not feel safe in the home because the adults with whom the family lived were verbally and physically abusive toward respondent and one of them threatened respondent with a knife. Respondent acknowledged that the incident had triggered J.M.'s suicide attempt.

¶ 65 C. Adjudicatory Hearing Ruling

¶ 66 On August 12, 2025, the circuit court found by clear and convincing evidence that both minors were neglected due to an injurious environment under section 2-3(1)(b) of the Act and abused due to a substantial risk of physical injury under section 2-3(2)(ii) of the Act. See *id.* § 2-3(1)(b), (2)(ii). The court found the witnesses credible and determined that respondent had failed to provide the minors with a safe and stable environment, which would likely lead to imminent physical damage or harm to them.

¶ 67 The court relied on the family's recurring housing instability, the environmental condition of the Cicero residence, the minors' exposure to domestic violence, respondent's failure to respond appropriately to J.M.'s mental health crises, and respondent's inability to provide consistent supervision.

¶ 68 Turning specifically to requirements under ICWA, the court relied on White's qualified-expert testimony in conjunction with the testimony of the lay witnesses. Based on White's opinion and the evidence concerning the family's living conditions, recurrent housing instability, domestic violence, and respondent's handling of J.M.'s mental health crises, the court found that custody of the minors by respondent would likely result in serious emotional or physical damage.

¶ 69 The court agreed with respondent that J.M.'s description of the hotel incident had not been corroborated by E.M. or other evidence. It expressly declined to consider that allegation in finding the minors abused and neglected. The court nevertheless found the remaining evidence sufficient to establish that the minors' abuse and neglect resulted from respondent's conduct. It further found by clear and convincing evidence that continued custody by respondent or another custodian was likely to result in imminent physical damage or harm to the minors. Also, during the hearing, the court declared that Alex was a noncustodial parent of E.M. At the conclusion of the adjudicatory hearing, the matter proceeded immediately to a dispositional hearing.

¶ 70 D. Dispositional Hearing

¶ 71 At the dispositional hearing, the court took judicial notice of five exhibits offered by the State and the findings entered during the adjudicatory hearing. Without objection, the court admitted the integrated assessment; the May 7, May 23, and July 16, 2025, status reports regarding respondent and the minors; and respondent's July 31, 2025, therapy report. The court also took judicial notice of its orders entered on April 11, May 7, May 30, June 17, and July 17, 2025, which contained findings regarding DCFS's efforts to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family.

¶ 72 The following summarizes the testimony of the witnesses who appeared at the dispositional hearing.

¶ 73 Sarah White

¶ 74 White's testimony at the dispositional hearing was similar to that offered at the adjudicatory hearing. We recount here only those aspects of White's testimony at the dispositional hearing that differed from her testimony at the adjudicatory hearing and are relevant to the court's disposition ruling.

¶ 75 White was again qualified, without objection, as an expert witness under ICWA. She testified that, after the minors were taken into protective custody, she continued receiving updates, attended court proceedings and some treatment staffings, and reviewed the family's reports. She also provided DCFS with information and resources concerning the family's Native heritage.

¶ 76 White reviewed respondent's therapy report and acknowledged that respondent was actively participating in individual therapy and parenting services. Respondent, however, had left the domestic violence shelter, and White did not know where she was living. White explained that respondent's residence would need to be identified and verified as safe and that respondent would need to continue participating in services before E.M. could safely return to her. Based on respondent's circumstances at the time of disposition, White opined that returning E.M. to respondent without verifiably safe housing and continued engagement in services would likely result in serious physical or emotional damage to the child.

¶ 77 White further testified that E.M. remained with fictive kin and was participating in individual therapy. White explained that her initial goal had been reunification between E.M. and respondent, but that goal expanded to include reunification with Alex after DCFS identified him as E.M.'s father. If E.M. could not return to respondent, the Tribe preferred that she be placed with Alex. White supported a gradual transition because E.M. had expressed reservations and was only beginning to develop a relationship with Alex. White acknowledged that she had not personally spoken with Alex and that her recommendation was based on the information contained in the reports she reviewed. White acknowledged that respondent faced barriers to accessing services, including transportation difficulties, changes in residence, and distrust of the child welfare system. White agreed that DCFS had attempted to address those barriers and described the agency's efforts as imperfect but a good attempt to assist the family. She also explained that frequent contact with

parents and siblings was culturally important for Native children and recommended two or three in-person visits each week, when clinically and practically possible, in addition to telephone or video contact.

¶ 78

Simone Thompson

¶ 79 Simone Thompson testified that she had served as the family's DCFS caseworker since March 2025. Regarding E.M., Thompson testified that E.M. remained with her original fictive-kin caregivers, with whom Thompson continued to communicate and considered to provide E.M. safe and appropriate environment. E.M. participated in weekly individual therapy and had begun discussing some of the environments in which she had previously lived. Thompson testified that E.M. did not have any diagnosed mental-health condition at that time.

¶ 80 Thompson described respondent's integrated assessment, which recommended that respondent participate in individual therapy, a domestic violence program, the Nurturing Parenting Program, a psychiatric assessment and treatment, a substance-abuse assessment, and housing services. Respondent began individual therapy in April 2025. She also completed a domestic violence assessment and chose to obtain services through Mutual Ground rather than the agency's original referral from Anew. Thompson was unsure at the time whether Mutual Ground would satisfy the DCFS recommendation. After respondent left Mutual Ground, her domestic violence services remained incomplete. However, Thompson stated that Anew was still available to her if she was willing. With respect to the Nurturing Parenting Program, respondent was currently engaged and participating consistently.

¶ 81 Regarding a psychiatric assessment, respondent told Thompson that she had a psychiatrist. However, Thompson was waiting to hear back on whether respondent received a psychiatric

evaluation. As it pertained to psychiatric treatment, Thompson learned that respondent had started taking medication and “had a diagnosis” for the first time.

¶ 82 Respondent also completed a substance abuse assessment and tested negative through Mutual Ground, but DCFS found the assessor had no credentials and therefore referred respondent for another assessment. That assessment had to be rescheduled because of the court hearing.

¶ 83 Thompson testified that housing remained a significant concern. After respondent left Illinois for Florida, Thompson attempted to set up services for respondent in Florida. However, respondent again reached out to Thompson, stating that she wanted to return to Illinois. DCFS subsequently paid for the flight, and respondent reentered Mutual Ground’s shelter.

¶ 84 On July 25, 2025, Thompson learned from respondent’s case manager that respondent left the shelter on July 15, 2025, reporting that other residents triggered her post-traumatic stress disorder. Respondent subsequently told Thompson only that she was in Aurora, Illinois, and would not disclose an address at which the agency could conduct a safety assessment. Respondent stated that she intended to move to Elgin to be closer to new employment. DCFS had assigned a housing advocate, helped respondent apply for housing assistance and vouchers, and continued to offer assistance based on respondent’s income and desired location.

¶ 85 Respondent participated in weekly, three-hour supervised visits with both minors facilitated by DCFS. Thompson described respondent and the children as bonded and identified no significant safety concerns during the visits. Thompson was made aware, however, that the children spent “a lot of time on their tablets and phone devices” and that respondent “at the time was not that engaged and interacting with the children.” Both children wanted the visits to continue. Respondent and J.M. also communicated by telephone.

¶ 86 Thompson first spoke with Alex in late March or early April 2025, after respondent gave him Thompson's contact information. Alex immediately expressed concern for E.M. and requested that she be placed with him. Alex subsequently participated in an integrated assessment and was referred for parenting education and trauma-focused individual therapy. The agency assessed his Indiana residence and found it safe and appropriate.

¶ 87 Alex participated in approximately four in-person visits with E.M. Although E.M. was initially reserved, she gradually became more comfortable with him and enjoyed their visits. During a July visit, E.M. expressed a willingness to leave with Alex. She also met his wife and other children. Thompson observed an appropriate bond and described Alex as patient and proactive.

¶ 88 Alex had arranged for E.M. to attend school, receive after-school care and therapy, participate in extracurricular activities, and obtain medical insurance. He prepared a bedroom for her and agreed to maintain her relationships with respondent, J.M., her fictive-kin caregivers, and the Tribe. Alex further expressed to Thompson his excitement and willingness to travel to Illinois so that E.M. could engage in Tribal events.

¶ 89 Thompson recommended that both minors be adjudged wards of the court. With regard to E.M., she recommended that she be returned to Alex under an order of protective service because he was willing and able to care for her, was engaged in services, and had a bond with E.M. She stated that DCFS would visit the home on a monthly basis to ensure the safety and well-being of E.M.

¶ 90 Thompson further testified that, before the integrated assessment was completed, she reviewed the case history and initiated referrals because of the urgency of the family's needs. She advocated for J.M. during educational and treatment staffings, remained in contact with the Tribe,

invited White to staffings, sought relative and tribal placements, coordinated with respondent's shelter case manager and housing advocate, and attempted to locate culturally appropriate resources. Although possible relatives in Alaska and Kentucky were considered, none could meet the children's needs or provide an appropriate placement.

¶ 91 On cross-examination, Thompson testified that respondent resided at Mutual Ground from April to mid-July 2025 and authorized DCFS to obtain information about her services. Respondent participated in domestic violence counseling, individual sessions, and a substance abuse assessment, and her toxicology screening was negative for drugs and alcohol. Thompson communicated with respondent's Mutual Ground case manager by telephone and e-mail approximately four times, discussed whether E.M. could reside there, and coordinated housing assistance, although Thompson did not personally inspect the shelter. Mutual Ground referred respondent to possible housing opportunities, while DCFS assigned her a housing advocate who helped her apply for vouchers and locate affordable housing. Respondent also applied to a transitional housing program but could not pursue that opportunity. Regarding culturally appropriate services, Thompson acknowledged that DCFS had not referred respondent to providers specifically serving Alaska Native families. Although respondent's therapy and parenting providers received the integrated assessment and were informed that the matter involved ICWA, Thompson did not discuss in detail how respondent's culture would affect those services. Thompson sought guidance from a DCFS employee familiar with ICWA, but the resources provided focused on helping the foster caregivers maintain the minors' cultural connections rather than identifying culturally appropriate therapy or parenting services for respondent.

¶ 92

Alex

¶ 93 Alex testified in support of his return home motion that he and respondent had been in a relationship from 2017 until early 2018. Respondent informed him in approximately 2019 that she had given birth to his child. Alex sought paternity testing and attempted to obtain contact with E.M. two or three times each year, but his communications with respondent frequently became hostile and ended without visitation. He briefly paid child support and previously attempted to obtain custody after learning of an incident in which E.M. reportedly ingested medication.

¶ 94 In March 2025, respondent contacted Alex, told him about the Illinois proceedings, and asked him to take custody of E.M. Respondent supplied Thompson's telephone number, and Alex contacted her immediately. He testified that he wanted E.M. placed with him and was willing to comply with all services and conditions required by the agency.

¶ 95 Alex agreed to continue E.M.'s therapy and to support her Native heritage. He also agreed to preserve her relationships with respondent, J.M., and her fictive-kin caregivers through visits, telephone calls, and virtual contact. Although he was only beginning to get to know E.M., he understood that she might experience anxiety about moving into his home and was willing to coordinate with her caregivers, permit continued contact with them, and follow a gradual transition plan if necessary.

¶ 96 E. Dispositional Hearing Ruling

¶ 97 Regarding E.M., the circuit court found by clear and convincing evidence, including White's qualified-expert testimony, that E.M. was not likely to suffer physical damage or harm if returned to a parent. The court found Alex fit, willing, and able to care for, protect, train, and discipline E.M. The circuit court found respondent unable to do so and determined that she needed to continue services addressing the injurious environment, unsafe living conditions, domestic violence, and her response to J.M.'s serious mental-health needs.

¶ 98 The court found that DCFS had made active efforts consistent with ICWA and had made reasonable efforts to provide services and rehabilitative programs designed to prevent the breakup of the Indian family and effectuate E.M.’s return to a parent pursuant to the Code of Federal Regulations regarding ICWA. See 25 C.F.R. § 23.2 (2025) (defining “active efforts” under ICWA).

¶ 99 In support of that finding, the court cited DCFS’s assistance with respondent’s return from Florida, shelter and housing services, early service referrals, advocacy for J.M., continuing communication with the Tribe, searches for relative and tribal placements, and efforts to identify culturally appropriate resources. The court found those efforts successful as to E.M. and determined that her placement with Alex complied with ICWA’s placement requirements and that the placement of E.M. was in the least restrictive setting possible.

¶ 100 The court adjudged E.M. a ward of the court but terminated temporary custody and vacated the temporary custodian’s appointment. It returned E.M. to Alex’s care and custody under an order of protective service.

¶ 101 This appeal followed.

¶ 102 II. ANALYSIS

¶ 103 As a preliminary matter, we note substantial deficiencies in respondent’s opening brief. Illinois Supreme Court Rule 341 (eff. Oct. 1, 2020) governs the form and content of appellate briefs. *Voris v. Voris*, 2011 IL App (1st) 103814, ¶ 8. The rule requires the appellant’s brief to set forth “the contentions of the appellant and the reasons therefor, with citation of the authorities and the pages of the record relied on.” Ill. S. Ct. R. 341(h)(7) (eff. Oct. 1, 2020). The purpose of appellate rules of procedure is to require those litigants appearing before the reviewing court to present clear and orderly arguments, so that the court can properly ascertain and dispose of the

issues presented. *Hall v. Naper Gold Hospitality LLC*, 2012 IL App (2d) 111151, ¶ 7. A reviewing court is not required to act as an advocate for a party, search the record for support, or assume the burden of developing the party's arguments. *Scatchell v. Board of Fire & Police Commissioners for Village of Melrose Park*, 2022 IL App (1st) 201361, ¶ 104. Arguments that do not comply with the applicable rules may be forfeited. *U.S. Bank v. Lindsey*, 397 Ill. App. 3d 437, 459 (2009).

¶ 104 Respondent's opening brief fails to substantially comply with Rule 341(h)(7). Although respondent challenges several findings concerning E.M., she does not separately address the circuit court's adjudicatory and dispositional findings under the Act. Instead, she combines those findings into a single challenge analyzed exclusively under ICWA's provisions governing "foster care placements." Further, portions of her argument lack citations of relevant authority. Collectively, these deficiencies obscure the precise factual and legal bases for the majority of respondent's claims.

¶ 105 This court is vested with discretion to strike a brief and dismiss an appeal for failure to comply with applicable rules of appellate procedure. *Ammar v. Schiller, DuCanto & Fleck, LLP*, 2017 IL App (1st) 162931, ¶ 11. Such a decision is appropriate, however, only where the violations of Rule 341 preclude or substantially interfere with our review. *Id.* Although respondent's brief is deficient, we are able to discern the general nature of her arguments and elect, therefore, to decide this case on the merits.

¶ 106 A. ICWA and the Act

¶ 107 In the section of respondent's opening brief captioned "ICWA background and standard of review," respondent describes at length ICWA, its purpose and intent, and the burden of proof that must be made by the State "seeking to remove [an] Indian child." As a part of that discussion, respondent suggests that procedures under Illinois's Juvenile Court Act are subordinate to ICWA's

standards “for the removal of Indian children from their families and the placement of such children in foster or adoptive homes.” In light of respondent’s discussion and in the interest of clarity, particularly as it relates to the disposition regarding E.M., we briefly describe the procedures in child protection proceedings under both ICWA and the Act.

¶ 108 ICWA has been a federal legislative staple of child protection proceedings involving children of Native American descent since 1978. ICWA’s statutory scheme was enacted to address the problem of “Indian children” being separated from their families and tribes and being placed in non-Indian homes through State foster care placement and adoption proceedings. *In re Cal. E.*, 2023 IL App (4th) 220930, ¶ 127. “At the heart of the ICWA are its provisions concerning jurisdiction over Indian child custody proceedings.” *In re Adoption of S.S.*, 167 Ill. 2d 250, 257 (1995). It defines the burdens of proof and the caliber of evidence that must be presented in child custody proceedings affecting Indian children. See 25 U.S.C. § 1912(e).

¶ 109 ICWA defines a “child custody proceeding” as one involving foster care placement, termination of parental rights, preadoptive placement, or adoptive placement. *Id.* § 1903(1). Relevant here, section 1903 of ICWA defines “foster care placement” as:

“any action removing an Indian child from its parent or Indian custodian for temporary placement in a foster home or institution or the home of a guardian or conservator where the parent or Indian custodian cannot have the child returned upon demand, but where parental rights have not been terminated.” *Id.* § 1903(1)(i).

A circuit court may not order an Indian child’s placement in foster care until it first determines that clear and convincing evidence, including testimony from an ICWA qualified-expert witness, demonstrates “that the continued custody of the child \*\*\* is likely to result in serious emotional or physical damage to the child.” *Id.* § 1912(e). Significantly, ICWA does not apply to “[a]n award

of custody of the Indian child to one of the parents including, but not limited to, an award in a divorce proceeding.” 25 C.F.R. § 23.103(a)(3) (2025).

¶ 110 The Act (705 ILCS 405/1-1 *et seq.* (West 2024)) governs the rights of parties in child protection proceedings in Illinois. The Act requires a bifurcated process; the adjudicatory hearing is conducted separately from the dispositional hearing. *In re Timothy T.*, 343 Ill. App. 3d 1260, 1265 (2003). At the adjudicatory hearing, the circuit court “shall first consider only” whether the minor is abused, neglected, or dependent. 705 ILCS 405/2-18(1) (West 2024). If the court does not make such a finding, it must dismiss the petition and discharge the minor. *Id.* Only after an adjudication may the court conduct a dispositional hearing to decide whether the minor should be made a ward of the court and, if so, what disposition serves the minor’s health, safety, and best interests. *In re Z.L.*, 2021 IL 126931, ¶¶ 59-60.

¶ 111 In the case now before us, the circuit court followed the procedural framework of the Act. At adjudication, the court determined whether E.M. was neglected or abused under section 2-3(1)(b) and 2-3(2)(ii) of the Act. 705 ILCS 405/2-3(1)(b), (2)(ii) (West 2024). Then, consistent with the Act, the court conducted a dispositional hearing. In addition to complying with the dictates of the Act, the court, having recognized that the minors are of Indian descent, and apparently out of an abundance of caution, additionally applied ICWA’s heightened requirements, including the clear and convincing evidence standard and qualified-expert witness requirement governing a foster care placement. See 25 U.S.C. § 1912(e).

¶ 112 To be clear, E.M. was placed with her biological father as opposed to a “foster care placement,” as defined by ICWA. Thus, even though E.M. is of Indian descent, as she was not the subject of a foster care placement, compliance with ICWA’s heightened standards, although satisfied, was not required. Moreover, ICWA does not require states to abandon additional

procedural protections or direct that adjudication and disposition occur in a single hearing. *In re Interest of D.S.P.*, 480 N.W.2d 234, 238 (Wis. 1992).<sup>3</sup> Accordingly, we will analyze respondent’s claims for compliance with the Act.

¶ 113 Before proceeding with our analysis, we note that, in her reply brief, respondent contends that E.M.’s removal from her “Indian family” constituted a “foster care placement” because her father, Alex, qualifies as a “guardian” within the meaning of section 1903(1)(i). Respondent did not present or develop this theory in her opening brief. An argument raised for the first time in a reply brief is forfeited, and this court need not address it. *In re Charles W.*, 2014 IL App (1st) 131281, ¶ 54. Forfeiture aside, the argument is without merit. As E.M. was placed with her father; no foster care placement occurred, and again, ICWA does not apply.

¶ 114 As stated above, respondent essentially combines her challenges to the circuit court’s adjudicatory and dispositional findings into a single argument. The two stages, however, involve distinct inquiries and must be reviewed separately. See *Z.L.*, 2021 IL 126931, ¶ 58. We attempt to parse the arguments as appropriate for each stage, beginning with respondent’s claims of error at the adjudicatory stage of the proceedings.

¶ 115 B. Adjudicatory Proceeding—Neglect or Abuse

¶ 116 Respondent contends that the State failed to “prove risk of harm to E.M. by clear and convincing evidence.” The GAL and the State respond that the evidence established a pattern of unsafe conditions affecting both minors and supported the court’s findings under the heightened standard that the circuit court applied.

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<sup>3</sup>While cases decided by foreign jurisdictions are not binding on this court, when there is no Illinois case law directly related to the issue, they can be used as persuasive authority and are entitled to respect. *Carey v. Hartz*, 2024 IL App (1st) 231323, ¶ 33.

¶ 117 Ordinarily, the State must prove abuse or neglect by a preponderance of the evidence, meaning that the allegations are more probably true than not. *In re Davon H.*, 2015 IL App (1st) 150926, ¶ 47; see 705 ILCS 405/2-18(1) (West 2024) (at the adjudicatory hearing, the standard of proof in the nature of civil proceedings is applicable). Here, however, the circuit court expressly applied the clear and convincing evidence standard in light of ICWA's requirements and found E.M. neglected due to an injurious environment and abused due to a substantial risk of physical injury.

¶ 118 When a circuit court makes a finding by a preponderance of the evidence, we will reverse that finding only if it is against the manifest weight of the evidence. *Best v. Best*, 223 Ill. 2d 342, 348-49 (2006); *In re M.W.*, 386 Ill. App. 3d 186, 196 (2008) (a circuit court's finding of abuse and neglect is reviewed adopting a manifest weight of the evidence standard). The clear and convincing standard requires proof greater than a preponderance, but not quite beyond a reasonable doubt, the level required in criminal cases. *Bazydlo v. Volant*, 164 Ill. 2d 207, 213 (1995). Generally, when proof at the circuit court is by clear and convincing evidence, the standard of review in the appellate court is whether the court's decision is against the manifest weight of the evidence. *Burgess v. Abex Corp.*, 311 Ill. App. 3d 900, 903 (2000).

¶ 119 "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 441, 464 (2004)) or if the finding is unreasonable, arbitrary, or not based on evidence presented (*People v. Pitts*, 2024 IL App (1st) 232336, ¶ 29). Under the manifest weight standard, the reviewing court gives deference to the circuit court as the finder of fact because the circuit court is in the best position to observe the conduct and the demeanor of the parties and the witnesses and has a degree of familiarity with evidence that a reviewing court cannot possibly obtain. *In re A.W.*, 231 Ill. 2d 92, 102 (2008). Sitting as a court of

review, we will not substitute our judgment for that of the circuit court regarding the credibility of the witnesses, the weight to be given the evidence, or the inferences to be drawn. *Id.*

¶ 120 Here, although the circuit court applied the clear and convincing burden of proof at the adjudicatory hearing, there was no requirement to do so. Even assuming that ICWA applies, it makes no provision for an adjudicatory hearing and thus does not mandate a burden of proof. The Act, however, does so provide. Pursuant to the Act, at the adjudicatory hearing, the standard of proof in the nature of civil proceedings is applicable. 705 ILCS 405/2-18(1) (West 2024); see *Best*, 223 Ill. 2d at 349 (an adjudicatory hearing is civil in nature such that a finding of abuse need only be supported by a preponderance of the evidence); *In re Aniyah B.*, 2016 IL App (1st) 153662, ¶ 41 (“It is the State’s burden to prove by a preponderance of the evidence that the minor was neglected.”). As both burdens of proof apply the same standard of review, notwithstanding the circuit court’s imposition of the higher burden, we review the circuit court’s finding at the adjudicatory hearing under the manifest weight of the evidence standard.

¶ 121 “ ‘Cases involving abuse, neglect and wardship are *sui generis*; each case must be decided on its own distinct set of facts and circumstances.’ ” *Davon H.*, 2015 IL App (1st) 150926, ¶ 48 (quoting *M.W.*, 386 Ill. App. 3d at 197). “The Act sets forth multiple definitions for a neglected minor and an abused minor.” (Internal quotation marks omitted.) *Id.* ¶ 49. At issue here are the court’s findings that E.M. was neglected under section 2-3(1)(b) of the Act and abused under section 2-3(2)(ii) of the Act.

¶ 122 1. Neglect Based on an Injurious Environment

¶ 123 Respondent argues that the State’s petition and trial evidence were insufficient to support the court’s findings. She points out that the State’s evidence principally concerned J.M., while the

limited evidence specific to E.M. showed no injuries, disclosures, or observed signs of maltreatment.

¶ 124 Section 2-3(1)(b) defines a neglected minor as one “whose environment is injurious to the minor’s welfare.” 705 ILCS 405/2-3(1)(b) (West 2024). Generally, neglect is the failure to provide the care required by the circumstances. *Davon H.*, 2015 IL App (1st) 150926, ¶ 51. Neglect encompasses both willful and unintentional disregard of parental duties. Its meaning is not fixed but depends upon the particular facts and surrounding circumstances of each case. *Id.* Although “injurious environment” is an amorphous concept that lacks a precise definition, courts have construed it to encompass a parent’s failure to provide her children with a safe and nurturing home. *In re M.D.*, 2021 IL App (1st) 210595, ¶ 24.

¶ 125 The evidence supports the circuit court’s findings that E.M. was neglected as her environment was injurious to her welfare and that respondent was the perpetrator of that neglect. Respondent repeatedly failed to exercise the care that the circumstances demanded and to provide E.M. with a safe and nurturing home. When E.M. was two years old, she ingested respondent’s prescription medication while respondent slept and required treatment in a pediatric intensive care unit. The evidence further showed that E.M. was exposed to respondent’s alcohol abuse and repeated incidents of domestic violence, including incidents in December 2024 and January 2025 that occurred in the minors’ presence. While residing in Cicero, both the police and Lane observed and described the residence as extremely dirty, foul-smelling, insect-infested, and strewn with garbage. Lane also identified concerns regarding inconsistent supervision, respondent sleeping while the children were at home, and E.M.’s school attendance. Considered together, these circumstances established more than poverty or temporary housing instability. They demonstrated

a continuing failure to protect E.M. from unsafe conditions and provide the supervision and stability necessary for her welfare.

¶ 126 We acknowledge that a substantial amount of the evidence concerned J.M. However, the evidence concerning J.M. also supported the finding as to E.M. Proof of the abuse or neglect of one minor is admissible on the issue of whether another minor for whom the respondent is responsible was abused or neglected. *Z.L.*, 2021 IL 126931, ¶ 87. Section 2-18(3) of the Act provides: “In any hearing under this Act, proof of the abuse, neglect or dependency of one minor shall be admissible evidence on the issue of the abuse, neglect or dependency of any other minor for whom the respondent is responsible.” 705 ILCS 405/2-18(3) (West 2024). Thus, respondent’s conduct toward J.M., including exposing her to domestic violence and failing to respond adequately to her psychiatric crises, was relevant to whether E.M. was exposed to the same injurious environment. See *id.* Further, Lane’s and Russell’s testimony that they did not personally observe respondent abuse E.M. does not compel a contrary conclusion. Nor does the absence of visible injuries or an express disclosure by E.M., particularly where the witnesses described her as guarded. The Act does not require the court to wait until a child suffers actual injury before finding neglect. *In re M.K.*, 271 Ill. App. 3d 820, 827 (1995). The circuit court’s neglect finding was therefore not against the manifest weight of the evidence.

¶ 127 2. Abuse Based on a Substantial Risk of Physical Injury

¶ 128 Respondent additionally argues that the State failed to show a causal relationship between the conditions in respondent's home and the particularized risk of physical or emotional harm to E.M. In that regard, she notes that both Lane and Russell spoke to E.M. and that neither reported signs of her being abused or neglected. Respondent argues additionally that much of the

information about E.M. was contained in the “improperly admitted” Ohio records but was nonetheless considered by the court in making its ruling.

¶ 129 In order to proceed to the dispositional stage of a wardship determination, the State need only prove either abuse or neglect. *Davon H.*, 2015 IL App (1st) 150926, ¶ 55. Because we have determined that the circuit court’s finding of neglect was not against the manifest weight of the evidence, we need not separately address respondent’s challenge to the circuit court’s abuse finding.

¶ 130 3. Ohio Records

¶ 131 Respondent separately argues that the circuit court erred in admitting the Ohio records. She acknowledges that section 2-18(4)(a) of the Act permits the admission of an agency’s records as a form of Illinois’s business records exception to the hearsay rule. However, she argues that, because HCJFS was not licensed by Illinois, it did not qualify as an “agency” as defined in section 1-3(3) of the Act. She additionally complains that the records were stale and not subject to cross-examination.

¶ 132 Respondent’s reliance on section 1-3(3) of the Act is misplaced. Section 1-3(3) defines agency as “a public or private child care facility legally authorized or licensed by this State for placement or institutional care or for both placement and institutional care.” 705 ILCS 405/1-3(3) (West 2024). Notably, section 1-3 provides that the “[t]erms used in this Act, *unless the context otherwise requires*, have the following meanings ascribed to them.” (Emphasis added.) *Id.* § 1-3.

¶ 133 Section 2-18(4)(a) provides that “[a]ny writing, record, photograph or x-ray of any hospital or public or private agency” relating to a minor in an abuse, neglect, or dependency proceeding shall be admissible as evidence of the condition, occurrence, or event documented if the record was made in the regular course of business and it was the regular course of that business to make

such a record. *Id.* § 2-18(4)(a). Taken in context, we construe the words “of any hospital or public or private agency” in section 2-18(4)(a) to be without geographical limitations. Nothing in section 2-18(4)(a) requires that the records be sourced from an agency in the state of Illinois. Any contrary reading would defeat the purpose of the Act.

¶ 134 Here, HCJFS was a public entity providing child protection services, and its certified records and corresponding publication packets established that the records were maintained in the regular course of that work. Accordingly, the records were admissible under section 2-18(4)(a).

¶ 135 Further, that the Ohio records were “stale” was not a question of their admissibility but instead went to what weight they would be given. As a reviewing court, we will not reweigh that evidence. See *A.W.*, 231 Ill. 2d at 102. The records, having been properly admitted, were appropriate for consideration by the court in determining whether the minors were the subjects of abuse and neglect.

¶ 136 4. White’s Testimony

¶ 137 Finally, respondent argues that White’s testimony did not support “foster care placement” for E.M. Although this argument is seemingly more relevant to the court’s disposition, because it is without merit, we summarily dispose of it here. As E.M. was not placed in foster care, whether White’s testimony could support such a disposition under ICWA is irrelevant.

¶ 138 C. Disposition

¶ 139 As her second contention on appeal, respondent argues that the circuit court’s finding that DCFS made “active efforts to prevent the breakup of the Indian family was against the manifest weight of the evidence.” The GAL responds that the active efforts provision of ICWA does not apply because the court returned E.M. to her father. Alternatively, the GAL contends that White’s testimony and the remaining evidence satisfied the Act and ICWA’s requirements.

¶ 140 As we earlier noted, respondent makes no demarcation between the adjudicatory and dispositional stages of the proceedings. We deem respondent’s “active efforts” argument to go more to disposition, and therefore we address it here.

¶ 141 As with the adjudicatory hearing, the court applied the ICWA requirements for purposes of satisfying ICWA’s “active efforts” requirement for foster care placement. When the hearing began, E.M. remained in a fictive-kin placement, and continuation of that placement remained a possible disposition. ICWA defines a “[c]hild-custody proceeding” to include an action that “may culminate” in a foster care placement. 25 C.F.R. § 23.2 (2025). Accordingly, the circuit court made the finding required by section 1912(e) of ICWA (25 U.S.C. § 1912(e)) and its implementing regulation (25 C.F.R. § 23.121 (2025)).

¶ 142 We find no fault in the court’s careful consideration of the efforts made in anticipation of the ultimate disposition for E.M. Nevertheless, because E.M. was ultimately placed with her parent, ICWA does not apply, and therefore neither does its “active efforts” requirement. We hasten to add, however, that the requirement was met.

¶ 143 We review the court’s decision at the dispositional stage under the manifest weight of the evidence standard. Having recited in substantial detail the facts that supported the court’s finding that E.M. was neglected, we are not inclined to repeat them here. The updated evidence presented at disposition clearly and convincingly established that respondent’s continued custody of E.M. was likely to result in serious physical or emotional damage to E.M. Although respondent consistently participated in individual therapy and parenting education, her domestic violence services remained incomplete, her reported psychiatric treatment had not been verified, and a second substance abuse assessment remained pending. Respondent had also left the domestic violence shelter and declined to provide an address at which DCFS could assess her living

conditions. Neither White nor Thompson could therefore determine where E.M. would reside or whether respondent could provide her with a safe home. Hence, continued court oversight was necessary to protect E.M., facilitate services, and ensure a safe transition to her father's care.

¶ 144 We are additionally mindful that Alex testified that it was respondent who contacted him and asked that he take custody of E.M. She does not now dispute that fact. After some investigation, Thompson agreed that placement of E.M. with her father would be appropriate. The circuit court agreed.

¶ 145 Based on this record, the court's decision to remove E.M. from her mother's custody and to place her in the custody of her father was not against the manifest weight of the evidence.

¶ 146 III. CONCLUSION

¶ 147 For the reasons stated, we affirm the judgment of the circuit court.

¶ 148 Affirmed.

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***In re J.M., 2026 IL App (1st) 251802***

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**Decision Under Review:** Appeal from the Circuit Court of Cook County, Nos. 25-JA-192, 25-JA-193; the Hon. Pamela Saindon, Judge, presiding.

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for  
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