

APPELLATE COURT OF ILLINOIS, FIRST DISTRICT, FIRST DIVISION

In re Tamesha T., Jacob T., Emmanuel T., Jeremiah T., Angel S., and
Malachi T., Minors

2014 IL App (1st) 132986 · No. 1-13-2986 · Decided July 28, 2014

SUMMARY

The Illinois Appellate Court affirmed orders adjudicating six minors neglected and abused and placing them under the guardianship of the Illinois Department of Children and Family Services. The court held that the circuit court did not abuse its discretion by questioning witnesses during the adjudication hearing and concluded that the evidence supported the neglect and abuse findings.

CASE DETAILS

COURT	Appellate Court of Illinois, First District, First Division
WRITING FOR THE COURT	Justice Cunningham; Justice Hoffman; Justice Delort
JURISDICTION	Illinois
DECIDED	July 28, 2014
DOCKET	1-13-2986
DISPOSITION	affirmed
PROCEDURAL POSTURE	The minors' mother appealed from circuit-court adjudication and disposition orders finding the children neglected and abused, adjudging them wards of the court, and placing them under the guardianship of the Illinois Department of Children and Family Services.
STANDARD OF REVIEW	The propriety of the trial court's questioning of witnesses is reviewed for abuse of discretion. Findings of abuse and neglect are reviewed under the manifest-weight-of-the-evidence standard; the findings will not be disturbed unless the opposite conclusion is clearly evident.
PRECEDENTIAL VALUE	Unpublished Illinois appellate opinion
PARTIES	Dana S. v. The People of the State of Illinois, Tamesha T., Jacob T., Emmanuel T., Jeremiah T., Angel S., and Malachi T., Minors

TOPICS

guardianship procedure

evidence

appellate procedure

standard of review

family law

PRACTICE AREAS

juvenile law

child welfare

family law

evidence

appellate procedure

QUESTIONS PRESENTED

1. Whether the circuit court abused its discretion and prejudiced Dana by questioning witnesses during the adjudication hearing.
2. Whether the evidence supported findings that the minors were neglected due to lack of necessary care and an injurious environment.
3. Whether the evidence supported findings that the minors were abused because Dana created a substantial risk of physical injury.
4. Whether Malachi could be found neglected under an anticipatory-neglect theory based on the circumstances involving his siblings and Dana's conduct while pregnant.

HOLDINGS

1. The circuit court did not abuse its discretion by asking clarifying and information-seeking questions of witnesses already testifying; the questioning did not make the court an advocate for the State or prejudice Dana.
2. The circuit court's finding that Tamesha, Jacob, Emmanuel, Jeremiah, and Angel were neglected because they were not receiving necessary care was not against the manifest weight of the evidence.
3. The circuit court properly found that all six children, including Malachi under an anticipatory-neglect theory, were neglected because their environment was injurious to their welfare.
4. The circuit court properly found that all six children were abused because Dana created a substantial risk of physical injury by other than accidental means.

KEY QUOTATIONS

“A trial judge may question witnesses to elicit truth, clarify ambiguities in the witnesses' testimony, or shed light on material issues.” (¶ 26)

“the breach of a parent's duty to ensure a 'safe and nurturing shelter' for his or her children.” (¶ 40)

FACTUAL BACKGROUND

DCFS became involved after reports that the children were inadequately clothed, absent from school, exposed to unsafe conditions, and playing naked on a third-floor window ledge while Dana was elsewhere in the apartment. Investigators found unsafe and unsanitary conditions, including knives on the floor, dirty rooms, inadequate supervision, and recurring failure to maintain the home despite homemaker and parenting services. Dana had pleaded guilty to child endangerment, failed to make consistent progress in services, and was described in a psychological evaluation as having significant cognitive deficits affecting her ability to make parenting decisions. The evidence also showed domestic-violence concerns and that Dana attempted suicide by ingesting prenatal vitamins while pregnant with Malachi.

PROCEDURAL HISTORY

The State filed adjudication petitions alleging that five children were neglected and abused and later filed a petition concerning the sixth child, Malachi. After an adjudication hearing, the circuit court found all six children neglected due to an injurious environment and abused due to a substantial risk of physical injury, found the five older children neglected for lack of necessary care, and adjudged all six wards of the court under DCFS guardianship. Dana timely appealed, challenging the circuit court's questioning of witnesses and the sufficiency of the evidence; the appellate court affirmed.

DISPOSITION

affirmed

CASES CITED

- In re Maher, 314 Ill. App. 3d 1088, 1097 (2000)
- People v. Faria, 402 Ill. App. 3d 475, 477, 479 (2010)
- Obernauf v. Haberstich, 145 Ill. App. 3d 768, 771 (1986)
- In re R.S., 117 Ill. App. 3d 698, 702, 704-05 (1983)
- People v. Taylor, 357 Ill. App. 3d 642, 648 (2005)
- People v. Rega, 271 Ill. App. 3d 17, 23 (1995)
- People v. Lurie, 276 Ill. 630, 641 (1917)
- In re Estate of Wilson, 238 Ill. 2d 519, 555-56 (2010)
- In re Patricia S., 222 Ill. App. 3d 585, 592 (1991)
- In re Juan M., 2012 IL App (1st) 113096, ¶ 49
- In re Christopher S., 364 Ill. App. 3d 76, 86, 88 (2006)
- In re Arthur H., 212 Ill. 2d 441, 463, 467-68, 477 (2004)
- In re N.B., 191 Ill. 2d 338, 346 (2000)
- In re M.K., 271 Ill. App. 3d 820, 826 (1995)
- In re J.C., 396 Ill. App. 3d 1050, 1057-59 (2009)
- In re R.S., 382 Ill. App. 3d 453 (2008)
- In re John Paul J., 343 Ill. App. 3d 865 (2003)
- In re Kenneth D., 364 Ill. App. 3d 797 (2006)
- In re R.G., 2012 IL App (1st) 120193, ¶ 46