

No. 1-11-3423

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

In the Interest of:)	
)	
MYKALE B.D.,)	
)	
Minor-Respondent-Appellee,)	
)	
(PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
)	Circuit Court of
Petitioner-Appellee,)	Cook County.
)	
v.)	
)	No. 11 JA 0071
SHARON D.,)	
)	Honorable
Respondent-Appellant).)	Helaine Berger,
)	Judge Presiding.

JUSTICE SALONE delivered the judgment of the court.
Presiding Justice Steele and Justice Murphy concurred in the judgment.

ORDER

HELD: The trial court's finding of neglect was against the manifest weight of the evidence and is reversed and vacated; the trial court's denial of respondent's counter-petition for adjudication of dependency is reversed and remanded with directions.

¶ 1 Following an adjudicatory hearing, the circuit court found that minor, Mykale B.D., was a neglected minor due to lack of care by his adoptive mother, respondent Sharon D. After a dispositional hearing, the circuit court found that respondent was unable to care for, protect, train

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or discipline Mykale. The court also denied respondent's counter-petition for adjudication due to dependency. On appeal, respondent contends that the circuit court's finding of neglect was against the manifest weight of the evidence and that the court erred in denying her counter-petition for an adjudication of dependency. For the following reasons, we reverse and vacate the finding of neglect; reverse the denial of respondent's counter-petition and remand with directions.

¶ 2 BACKGROUND

¶ 3 Mykale, born April 22, 1995, was born polysubstance exposed and suffered withdrawal symptoms. When he was one-month old, his mother asked a first cousin, respondent, to care for Mykale. Respondent adopted Mykale on October 31, 2001, when he was six years old. There is no named father for Mykale.

¶ 4 Mykale displayed behavior problems at home and at school as he grew up. He was psychiatrically hospitalized at least five times and was involved in outpatient therapy, but he did not respond well to treatment.

¶ 5 In early December 2010, 15-year Mykale had an altercation with respondent and her partner. He could not calm down and consequently he was hospitalized at Hartgrove Hospital, a mental health facility. On or about December 21, 2010, respondent refused to allow Mykale to return home when he was medically ready for discharge from the hospital.

¶ 6 On February 10, 2011, the State filed a Petition for Adjudication of Wardship for Mykale alleging that he was neglected due to lack of necessary care and due to an injurious environment due to respondent's refusal to allow Mykale to return home and refusal to make a care plan for Mykale pursuant to sections 405/2-3(1)(a) and 405/2-3(1)(b) of the Juvenile Court Act (Act) (705

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ILCS 405/2-3(1)(a), (b) (West 2010)). At the temporary custody hearing, the trial judge found probable cause to believe that Mykale was neglected within the meaning of the statute. The trial court further found that urgent and immediate necessity existed to remove Mykale from his home and place him temporarily in the custody of a Department of Children and Family Services (DCFS) Guardianship Administrator.

¶ 7 The adjudication hearing commenced on August 4, 2011, and ended on October 26, 2011.

¶ 8 On August 4, 2011, the trial court granted respondent leave to file a Counter-Petition for Adjudication of Wardship to adjudicate Mykale a dependent minor pursuant to section 405/2-4(c) (705 ILCS 405/2-4(c) (West 2010)) and/or a minor requiring authoritative intervention pursuant to section 405/3-3 of the Act (705 ILCS 405/3-3 (West 2010)).

¶ 9 Stewart Moore testified that he was employed at DCFS as a child protective investigator. He testified that on December 21, 2010, he was assigned to Mykale's case because the minor was in Hartgrove Hospital and respondent was not allowing him to return home. Moore testified that Hartgrove Hospital is a psychiatric hospital and Mykale was admitted because of aggressiveness towards his mother and her partner. He spoke with respondent on the date he was assigned and asked if she had any relative caretakers or a care plan available, to which she responded "No, he [was] not ready to return home." Moore testified that respondent would not allow Mykale to return home because she was afraid of him because he had been physically aggressive towards her, her partner and the other children in the home. Respondent also informed him that she was concerned with Mykale's out-of-control behavior regarding his use of drugs, his escalating aggressiveness in school and his stealing. He further stated that respondent had been

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unsuccessful in her efforts to find relatives who would take Mykale in.

¶ 10 Moore also testified that respondent did not provide him with a care plan for Mykale between December 2010 and February 2011 when temporary custody was taken. Moore stated that respondent indicated that she had been unable to visit Mykale at the hospital because of the weather, her asthma and the fact that she did not have a car. Moore told respondent that Mykale had only one set of clothing at the hospital, which she remedied on a later date. Respondent did not sign any consents allowing Mykale to be placed at a residential treatment center. On cross-examination however, Moore admitted that he never gave respondent any consent forms to sign so that Mykale could be placed elsewhere nor did anyone else give respondent any consent forms to sign to his knowledge. Additionally, Moore stated that he was the only DCFS worker assigned to the case during the relevant time period and he had made no efforts to place Mykale in Boys Town, the Baptist Children's Home, or any residential placement recommended by the hospital.

¶ 11 Moore testified that it was his job as the assigned DCFS representative to determine the appropriate placement for Mykale. Moore testified that he was aware that throughout Mykale's stay at Hartgrove that the staff had repeatedly indicated that Mykale had a potential for aggressiveness. He also testified that he was aware that Mykale had a history of previous psychiatric hospitalizations, but that he had never inquired as to the reasons for the past hospitalizations. Moore was not aware that Mykale had been in outpatient therapy previously. Moreover, Moore testified that he never asked or had conversations with Hartgrove staff regarding the appropriate placement for Mykale prior to a January 21, 2011, clinical staffing, and that Mykale's psychological results were not ready for the staffing.

¶ 12 Moore spoke to Mykale while he was in the hospital and Mykale told him that

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respondent's partner threw a bottle at him. After speaking to Mykale and respondent, Moore tried unsuccessfully to find Mykale's natural parents prior to the clinical staffing.

¶ 13 DCFS held a clinical staffing in January 2011 to determine the appropriate placement for Mykale. Present at the staffing were Elie Barta-Moran, the hospital social worker, Moore, Colette Reed, the DCFS clinical facilitator, and both Mykale and respondent via phone. At the staffing, respondent was offered in-home services upon Mykale's return home which she declined. According to Moore, respondent stated "that due to the minor's behavior and aggressiveness as well as his history of stealing at home and in school, that at that time she would not be willing to allow the minor home." Moore testified that respondent was concerned that Mykale would not follow house rules, such as going to school, his running away behavior, his out-of-control behavior, his drug use and his escalating aggressiveness in school. While Moore testified that respondent was asked about consents at the staffing, he subsequently admitted on cross-examination that his notes from the staffing contained no mention of respondent being asked to sign consents.

¶ 14 Moore further stated on cross-examination that the recommendation of the hospital social worker at the staffing was that Mykale be placed in a residential placement. Moore then testified that "a decision was made by higher ups to take custody of the child" based on the recommendation that he was in need of residential treatment. The parties stipulated that the result of the staffing was a DCFS clinical recommendation that Mykale is most appropriate for residential care. Moore testified that he notified Mykale on January 27, 2011, that the recommendation of the staffing was for residential placement and that he would be taking the case to screening. After the staffing, a decision was made to take custody of Mykale.

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¶ 15 The State's Exhibit 2, admitted without objection, consisted of Mykale's Hartgrove Hospital records from his 2008, 2009 and 2010 hospitalizations. As part of his 2010 hospitalization, Mykale underwent a psychological evaluation, which determined that his "pattern of overcompensation through asserting dominance over others suggests a poor prognosis if intervention is not immediate. He is unwilling to admit his role in maintaining his problematic behavior, and is reluctant to self-reflect on ways he can remedy his current situation. If left untreated, Mykale is at risk for increased antisocial tendencies in the form of physical aggression and conning others, as well as the potential to become sexually aggressive and exploitive toward others." In summary, the evaluation noted that "he has a history of frequent inpatient and outpatient services, and has consistently shown a poor response to treatment." Mykale's diagnosis in 2010 was Axis I: Conduct Disorder, Childhood-Onset Type, Severe; Depressive Disorder NOS; Cannabis Dependence; Axis II: Antisocial personality disorder features - pervasive pattern of disregard for and violation of the rights of others, failure to conform to social norms, deceitfulness for personal profit or pleasure, irritability and aggressiveness." The recommendation from the evaluation was that "Mykale [be] placed in a living situation where he is monitored and assessed continually for his potential to cause harm to others."

¶ 16 Respondent testified on her own behalf that she was Mykale's second cousin and adoptive mother. She stated that his behavior became out of control when he entered school at six and a half years of age. Respondent stated that Mykale was "doing outpatient" at that time and that she was cooperating with the treatment for him. Respondent stated Mykale's behavior escalated to the point that he was hospitalized, more than six times. Respondent stated that Mykale was hospitalized in 2008 when he was 13 years old. After his hospitalization, Mykale

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was released back to her care. Respondent stated that Mykale was also hospitalized in 2009 because he was doing drugs and not going to school. After his release from the hospital in 2009, respondent stated that Mykale's behavior changed and he got more aggressive and disrespectful; he was not following rules and running away. Mykale's behavior in school was poor and he was aggressive towards the teachers also.

¶ 17 On December 2, 2010, respondent testified that Mykale was aggressive towards her, tried to fight with her and pushed her down. Mykale then began struggling with her partner, so she called the police. Respondent stated that Mykale agreed to go to Hartgrove with the police, and he was admitted. Respondent subsequently received a call from Hartgrove, asking her to pick up Mykale. Respondent indicated that she felt the problem had not been resolved and wanted him to stay in the hospital. Respondent spoke with Moore for assistance regarding Mykale's placement. The hospital again contacted respondent to pick Mykale up, and she did not, she told the hospital personnel that Mykale should be in a residential treatment program. Respondent further stated that she spoke with David Martinez from the Metropolitan Family Services Adoption Subsidized Guardianship Preservation Program prior to speaking with Moore. According to respondent, Martinez assured her that they could see the rage that Mykale was in and had a placement for him.

¶ 18 Respondent testified that she did not want her parental rights terminated, she just wanted some help with Mykale. Respondent stated that she did not refuse help for Mykale, and that she expected DCFS to "step up, give help, find out more details, and help [her] help him." In her opinion, DCFS did not do that. She also stated that she loved and missed Mykale. The court noted that "DCFS testified that they were going to get him in residential" per the stipulation

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entered in the State's case-in-chief. Respondent testified that when Mykale was released from the hospital, she had always brought him back home, but this time, she felt she had less help than any other time before.

¶ 19 On cross-examination, respondent admitted that she did not send a bag of clothing with Mykale when he was taken to Hartgrove but later gathered clothing for him. She stated that she was unable to get the clothing to him because of the weather and because she did not have a car. Nor did she visit him or send him gifts for the holidays. She did speak with Mykale on the telephone during his hospitalization.

¶ 20 Following the adjudication hearing, the court entered a finding of neglect based on lack of care pursuant to section 405/2-3(1)(a) of the Act (705 ILCS 405/2-3(1)(a) (West 2010)) and denied respondent's dependency petition, finding that there was a lack of concern by respondent. The court recognized that Mykale "[was] one of the hardest kids you've got to deal with, and so from the point of view to the extent the Court is allowed to extend sympathy, the Court is sympathetic or empathetic that he is not an easy child to parent, a kid who had this serious mental problems [sic.]. But if your kid has serious mental health issues, behavior issues or other issues, it's your job to be the parent. It's not DCFS' job to parent this child or the hospital's job." The court concluded that this case was about a failure to cooperate by respondent and not a lock-out case, finding that respondent declined numerous opportunities to find a placement for Mykale.

¶ 21 On November 16, 2011, the court held a disposition hearing. A DCFS service plan initiated on August 1, 2011, was admitted into evidence.

¶ 22 Evelyn Little, a DCFS caseworker, testified that she was assigned to Mykale's case. Little testified that Mykale was placed at UCAN, a residential treatment center, which appeared

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to be safe and appropriate, and that there were no signs of abuse or neglect. Little further testified that there had been approximately 49 unusual incident reports received from the minor's placement facility since the adjudication hearing, mostly related to Mykale's running or AWOL behavior. Three of the incidents involved aggressive, inappropriate or criminal behavior by Mykale. Mykale was enrolled in an alternative school because he was removed from his regular Chicago school due to his behavior.

¶ 23 Little further stated that respondent would need to be reassessed for services as no appropriate assessment of respondent and her needs had been made. According to Little, respondent had been offered services for counseling, as well as a child and family meeting through UCAN. Respondent missed the meeting and was not interested in Mykale's return home. She further testified that respondent indicated interest in reunification services and that the agency would determine what services, if any, were necessary to facilitate reunification or at least increased contact and visitation. There had been no visits because although respondent was willing to come, Mykale would "go on run." Little testified that it was difficult for her to meet with Mykale "because he was always running." The court then expressed concern that Mykale might need a higher structured facility to meet his needs than that provided by UCAN. Little and her supervisor felt that Mykale should become a ward of the court.

¶ 24 Mykale told the court that he wanted to be in an independent living placement and that he had no problem being a ward of the State.

¶ 25 At the conclusion of the dispositional hearing, the trial court entered a finding that respondent was unable for some reason other than financial circumstances alone to care for the minor. After a determination that it was in his best interests, Mykale was adjudicated a ward of

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the court and placed in DCFS guardianship.

¶ 26 Respondent filed this timely appeal, appealing solely the adjudication findings made by the trial court.

¶ 27 DISCUSSION

¶ 28 On appeal, respondent contends that the trial court's finding of neglect was against the manifest weight of the evidence, and additionally that the trial court erred in denying her counter petition to have Mykale adjudicated as a dependent minor. Specifically, she argues that Mykale meets the criteria of section 2-4(c) of the Juvenile Court Act of 1987 (705 ILCS 405/2-4(c) (West 2010)) in that he is without proper medical care or other care necessary for his well being through no fault, neglect or lack of concern on respondent's part. Respondent further contends that her concern is evident not only in her advocacy during Mykale's hospitalization at the time of the proceedings, but throughout his life and multiple psychiatric hospitalizations. Respondent also points to Mykale's hospital records detailing his psychiatric history, behavioral history and other aggressive behaviors that made her afraid to have him in the home.

¶ 29 The step-by-step process used to decide whether a child should be removed from his or her parents and made a ward of the court is set forth in the Juvenile Court Act of 1987 (Act). 705 ILCS 405/1-1 *et seq.* (West 2010). Upon the filing of a petition for wardship by the State, the Act provides that a temporary custody hearing shall be held during which the court shall determine whether there is probable cause to believe that the child is neglected, whether there is an immediate and urgent necessity to remove the child from the home and whether reasonable efforts have been made to prevent the removal of the child or that no efforts reasonably can be

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made to prevent or eliminate the necessity of removal. 705 ILCS 405/2-10 (West 2010).

¶ 30 Following placement of a child in temporary custody, the circuit court must make a finding of abuse, neglect or dependence before it conducts an adjudication of wardship. 705 ILCS 405/2-21 (West 2010). Section 2-3(1)(a) of the Act (705 ILCS 405/2-3(1)(a) (West 2010)) defines a "neglected minor" to include "any minor under 18 years of age who is not receiving the proper or necessary support, education as required by law, or medical or other remedial care recognized under State law as necessary for a minor's well-being."

¶ 31 Generally, neglect is defined as the "failure to exercise the care that circumstances justly demand." *People ex rel. Wallace v. Labrenz*, 411 Ill. 618, 624 (1952). However, that does not mean that the term "neglect" is limited to a narrow definition; to the contrary, "neglect," by necessity, has a fluid meaning. *In re Arthur H.*, 212 Ill. 2d 441, 463 (2004). As our supreme court has stated, neglect " 'takes its content always from specific circumstances, and its meaning varies as the context of surrounding circumstances changes.' " *In re Stillely*, 66 (Ill. 2d 515, 520 (1977), quoting *People ex rel. Wallace v. Labrenz*, 411 Ill. 618, 624 (1952). Cases involving allegations of neglect and adjudication of wardship are *sui generis*, and must be decided on the basis of their own particular facts. *In re Christina M.*, 333 Ill. App. 3d 1030, 1034 (2002).

¶ 32 A proceeding for adjudication of wardship " 'represents a significant intrusion into the sanctity of the family which should not be undertaken lightly.' " *Arthur H.*, 212 Ill. 2d at 463, quoting *In re Harpman*, 134 Ill. App. 3d 393, 396-97 (1985). It is the burden of the State to prove allegations of neglect by a preponderance of the evidence; in other words, the State must establish that the allegations of neglect are more probably true than not. *Arthur H.*, 212 Ill. 2d at 463-64. On review, a trial court's ruling of neglect will not be reversed unless it is against the

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manifest weight of the evidence. *Arthur H.*, 212 Ill. 2d at 464. A finding is against the manifest weight of the evidence only if the opposite conclusion is clearly evident. *Arthur H.*, 212 Ill. 2d at 464.

¶ 33 In defining a neglected child in section 2-3 of the Act, the legislature focused exclusively upon the status of the child, and gave no consideration to an evaluation of the acts and/or omissions of the child's parents or any other individual responsible for the welfare of the child, in arriving at a determination of neglect. 705 ILCS 405/2-3(1)(a) through 2-3(1)(d) (West 2010); *Arthur H.*, 212 Ill. 2d at 466. At the adjudicatory stage under the Act, parents are not adjudged neglectful; rather, minors are adjudged neglected. *Arthur H.*, 212 Ill. 2d at 467.

¶ 34 Our examination of the case at bar reveals that it bears a striking factual similarity to this court's decision in *In re Christopher S.*, 364 Ill. App. 3d 76 (2006), in which the minor was adjudged dependent through no fault of his parents and that his parents were unable to care for him.

¶ 35 In that case, the minor had been placed in respondents' home initially as a foster child before subsequently being adopted. *Christopher S.*, 364 Ill. App. 3d at 78. The record revealed that, similarly to the minor in the instant case, Chris had a varied mental history that included various psychiatric or psychological evaluations over the years. *Christopher S.*, 364 Ill. App. 3d at 78. The State filed a petition for adjudication of wardship against the respondents for failure to provide the care necessary for his well-being in that they refused to allow Chris to return to their home after his hospitalization and refused to create a care plan for him, also similar to the facts of the instant case. *Christopher S.*, 364 Ill. App. 3d at 78-79. Respondents told the DCFS investigator that they were not willing to accept Chris back into their home because he was out of

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their control and had threatened violence against the family. *Christopher S.*, 364 Ill. App. 3d at 79. Respondents were eventually successful in coordinating a short-term guardianship for Chris with a biological aunt; however that placement was terminated when the aunt had to call the police on Chris twice and feared for her safety. *Christopher S.*, 364 Ill. App. 3d at 79, 83.

¶ 36 At the close of the State's case, respondents moved for a directed finding, which was denied; however, the State subsequently was granted leave to amend the petition to add the allegation of no-fault dependency. *Christopher S.*, 364 Ill. App. 3d at 79. The evidence further revealed that Chris had a history of aggression, violence and criminal behavior, which made respondents fearful of him. *Christopher S.*, 364 Ill. App. 3d at 79-80. Respondents subsequently decided to have Chris admitted to Alexian Brothers for a psychiatric evaluation and police transported him there once he agreed. *Christopher S.*, 364 Ill. App. 3d at 82. Prior to his discharge, it was recommended by the social service agency involved that Chris should have a residential placement and that respondents should refuse to pick him up upon his discharge from the hospital so that the agency could be brought in as an intervention agency. *Christopher S.*, 364 Ill. App. 3d at 82. Upon Chris's discharge, respondents told DCFS that they would not allow Chris back into their home until they were satisfied that it could be done safely and that they felt he needed more help than could be provided at home. *Christopher S.*, 364 Ill. App. 3d at 82. Chris was subsequently placed in a temporary shelter. *Christopher S.*, 364 Ill. App. 3d at 82. Respondents contacted many agencies and individuals, seeking assistance, and met with DCFS several times. *Christopher S.*, 364 Ill. App. 3d at 83. At the time of the adjudication, respondents were willing to take Chris home if it was safe to do so. *Christopher S.*, 364 Ill. App. 3d at 84. The evidence further indicated that had Chris been accepted to a residential placement,

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DCFS would not have indicated a finding against respondents. *Christopher S.*, 364 Ill. App. 3d at 84.

¶ 37 During closing arguments, the State and respondents asked for a finding of no-fault dependency, while the guardian *ad litem* asked for a finding of neglect due to the lack of necessary care. *Christopher S.*, 364 Ill. App. 3d at 84. The trial court subsequently entered an adjudication order finding Chris was dependent through no fault of his parents. *Christopher S.*, 364 Ill. App. 3d at 84. We note that the time period from Chris's hospitalization to the conclusion of the adjudicatory hearing was June 6, 2004, to June 30, 2005.

¶ 38 On appeal, the guardian *ad litem* appealed the finding of the court. This court found that the circuit court correctly found that Chris was dependent through no fault of respondents because: Chris had a very troubled relationship with respondents; Chris used verbal and physical intimidation toward respondent mother on more than one occasion; respondents had Chris admitted to the hospital for a psychiatric evaluation following a violent altercation; when respondents visited, Chris became violent and had to be restrained, which led to their refusal to allow him home for safety reasons; respondents tried to provide alternative care; the doctors recommended residential placement for Chris rather than returning him to respondents' home; Chris's age and pending criminal issues foreclosed several options for placement; and Chris indicated that he did not wish to return to their home or have any contact with respondents. *Christopher S.*, 364 Ill. App. 3d at 87. This court further noted that the facts of the case "fit the purpose of the no-fault dependency provision because the underlying issue was neither Chris's nor respondents' fault." *Christopher S.*, 364 Ill. App. 3d at 88. Additionally, this court rejected the guardian *ad litem's* argument that respondents neglected Chris "because they only refused to

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take Chris home after a violent incident ensued, causing respondent mother to fear for her safety and that of her family. Caring for respondents' family's safety, which also included Chris's own safety, showed great parental concern for Chris's well being, not neglect." *Christopher S.*, 364 Ill. App. 3d at 89.

¶ 39 Turning to the case at bar, our examination of the record shows that respondent's actions did not evidence a lack of concern for Mykale. The evidence reveals that Mykale had a host of psychiatric and behavioral issues that led to several hospitalizations as well as out-patient services over the years. Each time, respondent made sure that Mykale had the care he needed, participated in the ensuing service plans and allowed him to return home. In recent times prior to his latest hospitalization at Hartgrove, in addition to his general behavioral issues, Mykale had been using drugs and involved in criminal activity. Due to a violent altercation in the family home against respondent and her partner, the police were called and Mykale was taken to Hartgrove as a result. Similar to the respondents in *Christopher S.*, respondent did not allow Mykale to return home because she was afraid of him and wanted additional help in dealing with his various problems. Relative placement was not an option for Mykale, and, similarly to the minor in *Christopher S.*, the treating physicians and all parties involved believed it to be in Mykale's best interests to have a residential placement and not return home to respondent due to his various psychological issues. Unfortunately for respondent, DCFS was apparently a lot less willing to assist with finding options for Mykale, unlike the assistance provided to the respondents in *Christopher S.*

¶ 40 *We also note that the events leading up to the adjudication hearing took place over a relatively short period of time (between December 2010 and February 2011) and that*

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*respondent cooperated with the relevant parties and participated in the process of determining an appropriate placement for Mykale. The record shows that respondent participated in the clinical staffing on January 21, 2011, maintained contact with Moore and the hospital, talked with Mykale over the phone while he was hospitalized, and contacted Martinez from the Metropolitan Family Services Adoption Subsidized Guardianship Preservation Program. While respondent declined placements recommended by the hospital, the record shows that she did so because she believed such placements were inadequate. Although respondent did not sign any consent forms, there is no evidence that she was ever provided with any such forms, and the hospital records indicate that she was willing to provide Mykale's social worker with her consent to contact any available programs. To the extent the record shows that respondent did not provide Mykale with clothing when he was taken to the hospital or visit him while he was there, the record also shows that she did not have transportation to the hospital and provided Moore with clothes to bring to Mykale when he requested she do so. Thus, unlike in *In re L.H.*, 384 Ill. App. 3d 836, 942 (2008) and *Christina M.*, 333 Ill. App. 3d at 1034-35, cited by the appellees, respondent here did not refuse to cooperate with DCF and the hospital, but merely declined placements that she deemed to be inadequate and participated in the placement process until Mykale was appropriately placed in residential care.*

¶ 41 We conclude that under the facts of this case, the evidence did not support a finding of neglect based on lack of care by respondent for Mykale. Instead, the evidence shows that respondent did not neglect Mykale, and showed a parent who was more than a little concerned for her family's safety and very concerned about receiving help and assistance for Mykale's issues: his drug use, mental issues and behavioral issues, all of which led to his hospitalization in

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the first place. These issues were not a result of any conduct by respondent, but were issues that existed either voluntarily or involuntarily because of Mykale. As stated by our supreme court, at the adjudicatory stage under the Act, parents are not adjudged neglectful; rather, minors are adjudged neglected. See *Arthur H.*, 212 Ill. 2d at 467. As such we conclude that Mykale was not neglected and the finding of the trial court was against the manifest weight of the evidence. Therefore we reverse the finding of the trial court and vacate the order entering the adjudication of neglect.

¶ 42 Respondent next contends that the trial court erred in denying her counter-petition for an adjudication based on dependency. We agree.

¶ 43 A "dependent minor" includes a minor who is without proper care through no fault, neglect or lack of concern by his parents, guardian or custodian. 705 ILCS 405/2-4(1)(c) (West 2010). Here, we have already determined that Mykale was not a neglected minor, but was a very troubled child (as also noted several times by the trial court), who required extensive care beyond what respondent could provide in her home. This is due to no fault of respondent, similarly to the conclusion reached by this court in *Christopher S.* We again note that at no time since his hospitalization has any professional involved with Mykale's case ever indicated that he should be returned home. Instead, everyone agreed that the best placement for Mykale was a residential placement with a very structured environment. As such, we find that respondent's counter-petition for an adjudication based on dependency should have been granted. We therefore reverse the order of the trial court denying respondent's counter-petition and remand for proceedings consistent with the order.

¶ 44 Our disposition of respondent's issues on appeal make it unnecessary to address her

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contention that the trial court never addressed her request under the minors requiring authoritative intervention section of the Act (705 ILCS 405/3-3(1)(b) (West 2010)).

¶ 45 CONCLUSION

¶ 46 For the foregoing reasons, we reverse and vacate the order of the trial court finding Mykale to be a neglected minor and we reverse and remand the order of the trial court denying respondent's counter-petition for adjudication based on dependency.

¶ 47 Reversed and remanded with directions.