

No. 1-03-0551

In re T.T., a Minor)	Appeal from the
(The People of the State of Illinois,)	Circuit Court of
)	Cook County.
Petitioner-Appellee,)	
v.)	No. 01 JD 2958
T.T.,)	Honorable
)	Rodney H. Brooks,
Respondent-Appellant).)	Judge Presiding.

PRESIDING JUSTICE FITZGERALD SMITH delivered the opinion of the court:

Following a bench trial, respondent T.T. was adjudicated delinquent of two counts of aggravated criminal sexual assault and sentenced to five years of probation. On appeal, respondent contends the trial court erred in finding the complaining witness, G.F., unavailable to testify at trial so as to warrant the preclusion of cross-examination. Furthermore, respondent, citing Crawford v. Washington, 541 U.S. 36, 158 L. Ed. 2d 177, 124 S. Ct. 1354 (2004), argues that G.F.'s statements to a police detective, a Department of Children and Family Services (DCFS) investigator, and a physician were testimonial in nature, and that the admission of those statements pursuant to statutory hearsay exceptions in the absence of an opportunity to cross-examine G.F. violated respondent's right to confrontation.

We note at the outset the Illinois Supreme Court has entered a supervisory order (In re T.T., No. 99227 (May 31, 2007)) directing this court to vacate our previous order in this cause (In re T.T., 351 Ill. App. 3d 976 (2004)) and to reconsider our decision in light of People v. Stechly, 225 Ill. 2d 246 (2007). Pursuant to that order, we have vacated our prior decision. However, upon consideration of Stechly, we find that it does not change the analysis or outcome of the instant matter.

Therefore, as we concluded previously, we hold, for the following reasons, the trial court properly determined that G.F. was unavailable. We also find that G.F.'s statements to the police detective and DCFS investigator were testimonial, and her statement to the physician identifying respondent as the perpetrator was testimonial. Because G.F. was not cross-examined at trial, her testimonial statements were not admissible where respondent had no prior opportunity for cross-examination. Because the trial court considered testimonial evidence in the absence of a prior