IN THE COURT OF APPEALS OF NORTH CAROLINA

2021-NCCOA-282

No. COA20-516

Filed 15 June 2021

Gaston County, Nos. 19 JA 138, 19 JA 139

IN THE MATTER OF: L.M. & T.M.

Appeal by Respondent-Mother from orders entered 13 February 2020 and 30 March 2020 by Judge Pennie M. Thrower in Gaston County District Court. Heard in the Court of Appeals 23 February 2021.

Elizabeth Myrick Boone for Petitioner-Appellee Gaston County Department of Health and Human Services.

Smith, Anderson, Blount, Dorsett, Mitchell & Jernigan, L.L.P., by Michael W. Mitchell and Edward F. Roche for Guardian ad Litem.

J. Thomas Diepenbrock for Respondent-Appellant Mother.

GORE, Judge.

¶ 1 On 20 September 2019, Gaston County Department of Health and Human Services ("DHHS") filed a juvenile petition alleging the minor children "Levon" and "Tisha" were neglected and dependent juveniles.[1] Respondent-Mother Valencia

[1] Pursuant to N.C.R. App. P. 42(b), pseudonyms are used to protect the identity of the juveniles.

McLean ("Ms. McLean") appeals from the trial court's juvenile adjudication order finding the minor children neglected. On appeal, Ms. McLean argues that the trial court erred when it adjudicated Tisha a neglected juvenile because its conclusion of law that she was neglected was not supported by adequate findings of fact. We affirm the trial court's order.

I. Factual Background

¶ 2 Ms. McLean is the natural mother of Tisha, born 25 January 2018, and Levon, born 19 June 2002. Willie Breeden ("Mr. Breeden") is the biological father of Tisha. Levon's biological father is not a party to this appeal. Over the course of a year, law enforcement officers responded to three incidents of suspected domestic violence between Mr. Breeden and Ms. McLean on 30 September 2018, 3 April 2019, and 2 September 2019.

A. 30 September 2018 kidnapping incident

¶ 3 On 30 September 2018, an altercation took place between Ms. McLean and Mr. Breeden while the juveniles were present in Ms. McLean's home. Detective David Whitlock ("Det. Whitlock") of the Gastonia City Police Department received a call that evening from his supervisor advising him that a kidnapping had occurred. When Det. Whitlock arrived at Ms. McLean's residence, only Levon was home. Det. Whitlock testified that Levon told him he was upstairs when he heard a commotion downstairs. Levon heard his mother yell for him to come get his younger sister.

Levon retrieved Tisha from downstairs and returned to his bedroom. Soon after, Levon observed that Ms. McLean was "bleeding around the face" and she told him "that if she did not see them again that she loved them."

¶ 4 Det. Whitlock immediately placed an emergency ping on Ms. McLean's cell phone. After numerous phone calls, he was finally able to contact her 45 minutes to an hour later. Patrol officers stopped Ms. McLean and Mr. Breeden while they were traveling home in his vehicle. Det. Whitlock arrived shortly thereafter and was able to speak with them. Subsequently, a handgun was seized from Mr. Breeden's vehicle after the couple was pulled over, and Det. Whitlock testified that Ms. McLean "appeared visibly shaken," had "dry blood on her face," "did not appear . . . [to have] been to any type of medical facility . . . for treatment," and was crying.

¶ 5 Ms. McLean denied that there was any altercation between her and Mr. Breeden that day. Ms. McLean testified that she was downstairs in the kitchen at about 9:00 p.m. Mr. Breeden was in another room on that floor, and the children Levon and Tisha were upstairs. Ms. McLean claimed that she slipped and fell while in the kitchen, and she was bleeding because her nose collided with the corner of the table. When Mr. Breeden heard her fall, he rushed to help her and suggested going to the hospital when he saw the blood on her face. Ms. McLean did not recall seeing Levon come downstairs or seeing him crying upstairs in his bedroom. Further, Ms. McLean had no recollection of saying, "Tell your sister I love you," or of telling Levon

to "look after his sister" if she does not return.

B. 3 April 2019 shooting incident

¶ 6 On 3 April 2019, Det. Whitlock, and Detective Cody Edge ("Det. Edge"), responded to a shooting call at Ms. McLean's home. The detectives initially responded to the hospital where they spoke with Ms. McLean and Mr. Breeden. Ms. McLean gave conflicting accounts as to what had occurred. First, she claimed that Mr. Breeden was cleaning an AR-15 rifle when it went off. Next, she said that Mr. Breeden was showing her how to cock the gun when a round accidently discharged and struck her in the foot.

¶ 7 After talking with Ms. McLean, Detectives spoke with Mr. Breeden in the waiting room. Mr. Breeden claimed that the morning of the shooting he was showing Ms. McLean the gun and trying to demonstrate a function where if the bolt were not all the way forward it would not fire. However, it accidently went off because of a hair trigger. Mr. Breeden said he could not believe the gun went off, so he immediately ran to the backyard and fired two more rounds into the air. He then ran inside and wrapped Ms. McLean's foot in a garbage bag because "he didn't want to get blood in his car" when he drove her to the hospital.

¶ 8 Shortly thereafter, the detectives drove to Ms. McLean's home where the shooting occurred. They observed an AR-15 rifle with a large amount of blood on the living room floor, and a few shell casings on the back porch. At the time Mr. Breeden

shot Ms. McLean in the foot, Tisha was in the same room. Ms. McLean could not remember who was holding the AR-15 rifle. However, for the purposes of impeachment, Det. Edge testified that Ms. McLean spoke with her father and told him that "Mr. Breeden shot her in the foot because she disrespected him." Further, Det. Edge testified that, based on his observations, "there was no emotion on [Mr. Breeden] when he told him that [Ms. McLean] may lose her foot." Mr. Breeden was charged with a felony for his involvement in the shooting.

¶ 9 While speaking with Ms. McLean in the hospital, Det. Edge learned that the couple was having difficulties in their relationship and had argued over finances the night before the shooting. Det. Whitlock testified that based on his 22 years of experience, he believed that both the kidnapping and shooting involved acts of domestic violence.

¶ 10 DHHS took 12-hour custody of the juveniles Levon and Tisha after the shooting. DHHS released them back into Ms. McLean's custody after she received medical treatment and signed a Safety Plan. Pursuant to the terms of the Safety plan, Ms. McLean agreed that: 1) the juveniles would have no contact with Mr. Breeden; 2) she and the juveniles would reside with a family friend; and 3) she would cooperate with DHHS throughout their investigation. Later, Ms. McLean was unwilling to sign portions of an updated safety assessment, specifically refusing to uphold the no contact provision with Mr. Breeden. Shortly thereafter, Ms. McLean

sent a text message to Social Worker Jennifer Hollmer ("Ms. Hollmer") stating that she would no longer cooperate with DHHS.

C. 2 September 2019 incident

¶ 11 On 2 September 2019, Ms. McLean instructed Levon to call 911. Ms. McLean later testified that she "needed [the police] to come out and mediate" because of an argument with Mr. Breeden. However, she expressed regret that the call was made because "[Mr. Breeden] was actually packing his stuff to leave." In lieu of Levon's testimony, and by stipulation of the parties, a recording of his 2 September 2019 call to 911 was played in court.

¶ 12 A portion of that recording is as follows:

> [LEVON]: I have an emergency. My stepdad is trying to beat up my mom.
>
> [OPERATOR]: You need an ambulance for your mom?
>
> [LEVON]: I need like assistance for my mom.
>
> . . .
>
> [OPERATOR]: Okay. All right. Do you need an ambulance or police or—
>
> [LEVON]: Police.
>
> [OPERATOR]: Okay. All right. What's going on there?
>
> [LEVON]: [inaudible] arguing.

As a result of the 911 call, police officers arrived at Ms. McLean's residence and observed Mr. Breeden packing and getting ready to leave. The police remained in the

home until Mr. Breeden left.

¶ 13 Later that day, Ms. McLean made another 911 call because Mr. Breeden made two verbal threats to "whoop [her] ass," and to "burn down the house." Ms. McLean later testified that she lied to the 911 operator, that Mr. Breeden had not made those threats, and that she called 911 because she "didn't want him to come back and get the rest of his stuff, and I didn't want the relationship to end."

¶ 14 DHHS did not find out about the 911 calls made on 2 September 2019 until 19 September 2019. Neither Ms. McLean nor Mr. Breeden disclosed those calls to DHHS, and Mr. Breeden was unresponsive to Ms. Hollmer's repeated attempts to contact him. Ms. Hollmer testified that based on her training and experience, she believed there was domestic violence between Ms. McLean and Mr. Breeden. Ms. Hollmer also stated her belief that this domestic violence posed a risk to the juveniles Tisha and Levon.

II. Procedural Background

¶ 15 On 20 September 2019, DHHS filed a juvenile petition alleging Levon and Tisha were neglected and dependent. The petition asserted that "[Ms. McLean] and [Mr. Breeden] have a history of domestic violence with the juveniles being present." Ms. McLean and Mr. Breeden were both served at Ms. McLean's home on 24 September 2019. Non-secure custody orders were entered on 20 September 2019, 1 October 2019, 5 November 2019, and 10 December 2019. As a result, the juveniles

were placed in foster care. On 13 December 2019, an order of paternity was entered finding Mr. Breeden to be Tisha's biological father.

¶ 16 The adjudication hearing was held on 7-8 January 2020 before the Honorable Pennie M. Thrower. The court entered a Juvenile Adjudication Order on 13 February 2020 finding both Tisha and Levon to be neglected but not dependent. After a disposition hearing on 18 February 2020, the court entered a Juvenile Disposition Order filed 30 March 2020 granting legal and physical custody to DHHS and ordering Ms. McLean and Mr. Breeden to comply with the recommended case plan. Ms. McLean filed an untimely Notice of Appeal on 12 May 2020, made allowable per the Chief Justice's extension directive issued 30 May 2020.

III. Discussion

¶ 17 On appeal, Ms. McLean argues that the trial court erred when it adjudicated Tisha a neglected juvenile because its conclusion that she was neglected was not supported by adequate findings of fact. Ms. McLean makes no argument regarding her second question presented, whether the evidence fails to clearly and convincingly show the exposure to domestic violence negatively impacted Tisha or raised a substantial risk of impairment and therefore fails to support an adjudication of neglect. Additionally, she presents no argument regarding the 30 March 2020 Order. "Issues not presented in a party's brief, or in support of which no reason or argument is stated, will be taken as abandoned." N.C.R. App. P. 28(b)(6). We address her

remaining arguments as follows.

A. Standard of Review

¶ 18 "A proper review of a trial court's finding of neglect entails a determination of (1) whether the findings of fact are supported by 'clear and convincing evidence,' . . . and (2) whether the legal conclusions are supported by the findings of fact[.]" *In re Gleisner*, 141 N.C. App. 475, 480, 539 S.E.2d 362, 365 (2000) (internal citations omitted). "In a non-jury neglect adjudication, the trial court's findings of fact supported by clear and convincing competent evidence are deemed conclusive, even where some evidence supports contrary findings." *In re Helms*, 127 N.C. App. 505, 511, 491 S.E.2d 672, 676 (1997) (citations omitted). "Where no exception is taken to a finding of fact by the trial court, the finding is presumed to be supported by competent evidence and is binding on appeal." *Koufman v. Koufman*, 330 N.C. 93, 97, 408 S.E.2d 729, 731 (1991) (citation omitted).

B. Findings of Fact

¶ 19 Ms. McLean contends that the following findings of fact were not supported by clear and competent evidence:

> 6. The Court also finds there are three (3) separate incidents involving domestic violence between the Respondent/parents.
>
> 8. During the incident of September 30, 2018, the juvenile [Levon] told police that there was a commotion downstairs and he went downstairs to get the juvenile [Tisha]. The Court finds that this incident created an environment

> injurious to the juveniles' welfare.
>
> 11. Respondent/father reported to Detective Edge that he and Respondent/mother had been arguing about tax returns the night before the shooting incident. There was probable cause for Respondent/father to be charged with Felony Assault With a Deadly Weapon Inflicting Serious Injury.
>
> 13. The juvenile [Tisha] was present in the room and in close proximity of the Respondent/parents during the above mentioned shooting incident. This Court finds this incident created an environment injurious to the juvenile's welfare.
>
> 16. The Court finds that there are three (3) cumulative domestic violence incidents and the failure to address each incident of domestic violence led to the next incident occurring.

We address these challenged findings and examine the trial court's adjudication of Tisha as a neglected juvenile.

1. Findings 6 and 16

¶ 20 Ms. McLean challenges the trial courts findings of fact 6 and 16 which found "three (3) separate incidents involving domestic violence between the Respondent/parents[ ]" and "the failure to address each incident of domestic violence led to the next incident occurring."

¶ 21 N.C. Gen Stat. § 50B-1, provides in pertinent part that:

> (a) Domestic violence means the commission of one or more of the following acts upon an aggrieved party or upon a minor child residing with or in the custody of the aggrieved party by a person with whom the aggrieved party has or

> has had a personal relationship, but does not include acts of self-defense:
>
> > (1) Attempting to cause bodily injury, or intentionally causing bodily injury; or
> >
> > (2) Placing the aggrieved party or a member of the aggrieved party's family or household in fear of imminent serious bodily injury or continued harassment, as defined in G.S. 14-277.3A, that rises to such a level as to inflict substantial emotional distress[.]

N.C. Gen. Stat. § 50B-1(a)(1)-(2) (2020). Ms. McLean contends that the three separate instances at issue in this case were not acts of domestic violence because they do not show that Mr. Breeden attempted to cause or intentionally caused her serious bodily injury. However, we find that the trial court's findings were supported by clear, convincing, and competent evidence.

a. 30 September 2018 incident

¶ 22 Ms. McLean first points to the 30 September 2018 alleged kidnapping incident and attempts to dispel a finding of domestic violence by pointing to her own testimony. She denies that there was any violence or kidnapping on this occasion and claims that she simply fell and hit her head on the kitchen table while Mr. Breeden was in another room. Further, she argues that the trial court erred when it relied on impermissible hearsay evidence as Det. Whitlock's testimony recounted Levon's out-of-court statements about the incident.

¶ 23 We address her argument as it pertains to the 30 September 2018 incident

two-fold. First, we note that Ms. McLean failed to preserve the issue of inadmissible hearsay evidence for appellate review. "In order to preserve an issue for appellate review, a party must have presented to the trial court a timely request, objection, or motion, stating the specific grounds for the ruling the party desired the court to make if the specific grounds were not apparent from the context." N.C.R. App. P. 10(a)(1). While counsel for Mr. Breeden objected to the testimony at trial, this did not preserve the issue for Ms. McLean on appeal. *See Lloyd v. Norfolk S. Ry. Co.*, 231 N.C. App. 368, 374, 752 S.E.2d 704, 708 (2013) (citation omitted) (finding that "[w]here one party objects to testimony at trial, that objection does not inure to the benefit of another party for purposes of preserving that objection for appellate review.)" Accordingly, Ms. McLean has waived the right to contest the issue of inadmissible hearsay in this matter.

¶ 24 Next, we address Ms. McLean's contention that the 30 September 2018 incident was a mere accident that did not rise to the level of domestic violence, and we find that she impermissibly asks this court to "re-weigh the evidence in h[er] favor[.]" *Laprade v. Barry*, 253 N.C. App. 296, 302, 800 S.E.2d 112, 116 (2017) (citation omitted). "[T]he trial court's findings of fact supported by clear and convincing competent evidence are deemed conclusive, even where some evidence supports contrary findings." *Helms*, 127 N.C. App. at 511, 491 S.E.2d at 676 (citations omitted).

¶ 25 Here, there is substantial evidence in the record supporting these findings. Det. Whitlock testified that shortly after the couple was pulled over in Mr. Breeden's vehicle, he observed that Ms. McLean "appeared visibly shaken," had "dry blood on her face," "did not appear . . . [to have] been to any type of medical facility . . . for treatment," and was crying. Ms. McLean's statement "that if she did not see [her children] again that she loved them" and telling Levon to "look after his sister" if she does not return is indicative of domestic violence and the apprehension of future violence.

b. 3 April 2019 incident

¶ 26 As to the 3 April 2019 shooting incident, Ms. McLean repeatedly asserts that this was merely an accident, and not an incident of domestic violence. She points to her own testimony and the statements of Mr. Breeden describing the shooting incident as an accident to substantiate this contention. As previously stated, we will not re-weigh the evidence in her favor where there is substantial evidence in the record to support the trial court's finding.

¶ 27 The following uncontested findings support a finding of domestic violence:

> 9. On Wednesday, April 3, 2019, approximately between 7:00 AM and 8:00 AM, there was an incident that involved an AR-15 rifle. [Ms. McLean] was shot in the foot. Present in the home was [Ms. McLean], [Mr.] Breeden, and the juvenile [Tisha].
>
> 10. During the incident on April 3, 2019, after [Ms.

> McLean] was shot in the foot, [Mr. Breeden] proceeded to go outside into the yard and fire two (2) more rounds from the AR-15 rifle. That causes concern for the Court, as to the safety of the juveniles.
>
> 12. In regards to the above mentioned shooting incident, there were differing explanations provided by [Ms. McLean and Mr. Breeden] explaining how [Ms. McLean] was shot in the foot. This Court finds that a pattern of differing explanations shows denial of a domestic violence situation.
>
> 18. This Court further finds that the untruthfulness of [Ms. McLean] is concerning.

¶ 28 In this instance, the trial court weighed Ms. McLean's claims that the shooting was accidental against the totality of the testimony and evidence at the hearing. The trial court found Ms. McLean to be untruthful and determined that the 3 April 2019 shooting was an instance of domestic violence.

> The trial judge becomes both judge and juror, and it is his duty to consider and weigh all the competent evidence before him. He passes upon the credibility of the witnesses and the weight to be given their testimony and the reasonable inferences to be drawn therefrom. If different inferences may be drawn from the evidence, he determines which inferences shall be drawn and which shall be rejected.

Knutton v. Cofield, 273 N.C. 355, 359, 160 S.E.2d 29, 33 (1968) (internal citations omitted). The differing explanations offered by Ms. McLean and Mr. Breeden as to the nature of the shooting do not rise to the level of clear and convincing evidence necessary to support her argument.

c. 2 September 2019 incident

¶ 29 Finally, Ms. McLean argues that the incident on 2 September 2019 that resulted in two 911 calls was not indicative of domestic violence. To reiterate, it is the trial court's duty to weigh the evidence, and it is free to disregard Ms. McLean's self-serving testimony in light of all the evidence presented at trial. In uncontested finding of fact 14, the trial court found:

> 14. On or about September 2, 2019, there were two (2) different telephone calls made to 911. The Court will only consider the call that the juvenile [Levon] made to 911, as the parties stipulated. During said telephone call, the juvenile [Levon] stated that his step-dad was trying to beat up his mom and that he needed help for his mom.

¶ 30 The transcript regarding Levon's 911 call is short, specific, and compelling. "I have an emergency." "My stepdad is trying to beat up my mom." I need the "Police." While the trial court only considered Levon's phone call in making this finding, Ms. McLean's subsequent 911 call is also indicative of domestic violence. Ms. McLean told 911 dispatch that Mr. Breeden had threatened to "whoop her ass" and to "burn the house down." Ms. McLean further testified that she lied to 911 dispatch that day and really intended to have the police mediate an argument with Mr. Breeden and prevent him from ending their relationship. This further substantiates the trial courts uncontested finding as to Ms. McLean's credibility, finding her "untruthfulness" to be "concerning."

¶ 31 As to each incident at issue, both Det. Whitlock and Ms. Hollmer testified that,

in their experience, there was a strong indication of domestic violence between Mr. Breeden and Ms. McLean. We find that the trial court's findings of fact 6 and 16 are supported by clear, convincing, and competent evidence.

2. Finding 8

¶ 32 Ms. McLean challenges the trial court's finding of fact 8, which reads as follows:

> 8. During the incident on September 30, 2018, the juvenile [Levon] told police that there was a commotion downstairs and he went downstairs to get the juvenile [Tisha]. The Court finds that this incident created an environment injurious to the juveniles' welfare.

Ms. McLean contends that the court's finding that "this incident created an environment injurious to the juveniles' welfare" is more properly characterized as a conclusion of law. Furthermore, she argues that the finding concerning what Levon told the police was based on inadmissible hearsay.

> The classification of a determination as either a finding of fact or a conclusion of law is admittedly difficult. As a general rule, however, any determination requiring the exercise of judgment . . . or the application of legal principles . . . is more properly classified a conclusion of law. Any determination reached through "logical reasoning from the evidentiary facts" is more properly classified a finding of fact.

Helms, 127 N.C. App. at 510, 491 S.E.2d at 675 (internal citations omitted).

¶ 33 We agree that the trial court's finding of "an environment injurious to the juveniles' welfare" requires a degree of judgment and application of legal principles

to which it is more aptly characterized as a conclusion of law. "However, our appellate courts have repeatedly found a trial court's misclassification of a conclusion of law as a finding of fact, or *vice versa*, to be inconsequential." *In re B.W.*, 190 N.C. App. 328, 335, 665 S.E.2d 462, 467 (2008) (citations and quotation marks omitted). "If a contested 'finding' is more accurately characterized as a conclusion of law, we simply apply the appropriate standard of review and determine whether the remaining facts found by the court support the conclusion." *Id.* at 335, 665 S.E.2d at 467 (citation omitted).

¶ 34 As previously discussed, Ms. McLean has waived her hearsay argument on appeal. The trial court's conclusion that the 30 September 2018 incident created "an environment injurious to the juveniles' welfare" is supported by testimony and unchallenged findings of fact. In uncontested finding 7, the trial court found that:

> 7. On or about September 30, 2018, there was an incident in which [Ms. McLean] was hurt and bleeding with an injury to her face. There was a call to 911 that was reported as a kidnapping and the juveniles were at home during this incident. The Court questions why 911 was called had this been an accident and [Ms. McLean] had just fallen.

¶ 35 Furthermore, as previously discussed, it was Det. Whitlock's testimony that Ms. McLean had blood on her face, was visibly shaken, crying, and had not appeared to receive any kind of medical treatment after the incident in question. We find that the trial court's conclusion of law that this incident created an injurious environment

to be based on competent evidence.

3. Finding 11

¶ 36 Ms. McLean partially contests the trial court's finding of fact 11 that "[t]here was probable cause for [Mr. Breeden] to be charged with Felony Assault With a Deadly Weapon Inflicting Serious Injury." Specifically, she argues that while it is undisputed that Mr. Breeden was in fact charged with this offense, it is beyond the scope of this trial to find whether there was probable cause for Mr. Breeden's arrest.

¶ 37 Given the relevance of the shooting incident as a contested finding in an adjudication for neglect, it does not appear that finding probable cause for Mr. Breeden's arrest is "beyond the scope of the trial." Det. Whitlock and Det. Edge testified that they sought a warrant for Mr. Breeden's arrest, and the warrant was issued. Warrants may only be issued when there is probable cause to believe a crime has been committed and the person to be arrested committed the crime. Accordingly, there was clear and convincing evidence to support this finding.

4. Finding 13

¶ 38 Ms. McLean partially contests finding of fact 13 and argues that the trial court's determination that the shooting incident "created an environment injurious to the juvenile's welfare must be treated as a conclusion of law." As previously discussed, we agree that this finding is more accurately addressed as a conclusion of law. We apply the appropriate standard of review regardless of misclassification and

determine whether it is supported by the remaining findings of fact.

¶ 39 The above referenced uncontested findings of fact 9, 10, 12, and 18 regarding the 3 April 2019 incident support a conclusion that the shooting "created an environment injurious to the juvenile's welfare." Furthermore, the uncontested portion of finding 13 that "[t]he juvenile Tisha was present in the room and in close proximity of the Respondent/parents during the above mentioned shooting incident" is compelling support for finding a substantial risk of harm and imminent danger to the juvenile. Regardless of whether the shooting was accidental or purposeful, Tisha's presence in the room while the gun went off presents a substantial risk of injury or death. We find the trial court's conclusion that the 3 April 2019 shooting incident "created an environment injurious to the juvenile's welfare" to be well supported by the remaining findings of fact.

C. Neglected Juvenile

¶ 40 Finally, Ms. McLean argues that the trial court's findings of fact did not support the conclusion of law that Tisha was a neglected juvenile. Furthermore, she contends that the trial court made no specific finding that the environment in which the child resided has resulted in harm or a substantial risk of harm. We disagree with her contention and find that the trial court's findings support an adjudication of Tisha as a neglected juvenile.

¶ 41 A neglected juvenile is "one . . . whose parent, guardian, custodian, or caretaker

does not provide proper care, supervision, or discipline; or who has been abandoned; or who is not provided necessary medical care; or who is not provided necessary remedial care; or who lives in an environment injurious to the juvenile's welfare[.]" N.C. Gen. Stat. § 7B-101(15) (2020).

¶ 42 "In order to adjudicate a child to be neglected, the failure to provide proper care, supervision, or discipline must result in some type of physical, mental, or emotional impairment or a substantial risk of such impairment." *In re C.M.*, 183 N.C. App. 207, 210, 644 S.E.2d 588, 592 (2007) (citation omitted). "Similarly, in order for a court to find that the child resided in an injurious environment, evidence must show that the environment in which the child resided has resulted in harm to the child or a substantial risk of harm." *In re K.J.B.*, 248 N.C. App. 352, 354, 797 S.E.2d 516, 518 (2016). "It is well-established that the trial court need not wait for actual harm to occur to the child if there is a substantial risk of harm to the child in the home." *In re T.S.*, 178 N.C. App. 110, 113, 631 S.E.2d 19, 22 (2006) (citation omitted). "[C]onduct that supports a conclusion that a child is neglected includes exposing the child to acts of domestic violence[.]" *In re D.B.J.*, 197 N.C. App. 752, 755, 678 S.E.2d 778, 781 (2009).

¶ 43 On review, this Court has found clear and convincing evidence to support a finding of recurring domestic violence, which in turn supports a conclusion of neglect. Furthermore, we have affirmed the trial court's conclusion that Mr. Breeden and Ms.

McLean created an environment injurious to the welfare of the juvenile Tisha. Ms. McLean's repeated denial of domestic violence, noncompliance with her safety plan, and non-responsiveness to DHHS only serves to amplify a concern for future neglect. The trial court's findings are supported by clear and competent evidence. Those findings support a conclusion of neglect as Tisha faces a substantial risk of harm from recurring violence in the home.

AFFIRMED.

Judges ARROWOOD and CARPENTER concur.

Report per Rule 30(e).