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IN THE COURT OF APPEALS OF NORTH CAROLINA

2022-NCCOA-270

No. COA21-560

Filed 19 April 2022

Yadkin County, Nos. 20 JA 28-31

IN THE MATTERS OF: C.L., D.L., E.L., and S.L.

Appeal by respondent-mother from order entered 3 June 2021 by Judge David V. Byrd in Yadkin County District Court. Heard in the Court of Appeals 8 March 2022.

James N. Freeman, Jr., for the petitioner-appellee Yadkin County Human Services Agency.

Parent Defender Wendy C. Sotolongo, by Assistant Parent Defender Jacky L. Brammer, for the respondent-appellant mother.

North Carolina Administrative Office of the Courts, by Matthew D. Wunsche, for the Guardian ad Litem.

ARROWOOD, Judge.

¶ 1 Respondent-mother ("mother"), biological mother of minor children C.L., D.L., E.L., and S.L. (the "children"),[1] appeals from an order adjudicating all children neglected and S.L. also adjudicated as abused. For the following reasons, we affirm the trial court's order.

[1] Initials are used throughout to protect the identity of the minor children.

I. Background

¶ 2 On 8 July 2020, the Yadkin County Human Services Agency ("YCHSA") received a Child Protective Services report ("CPS report") regarding the children. The CPS report alleged, among other things, that respondent-father ("father"), mother's husband and biological father to the children, was sexually abusing S.L., then fourteen years old, and that "[t]here were also concerns . . . that [father] had given [S.L.] methamphetamines in exchange for sexual intercourse." The CPS report further alleged that mother "was aware that this was happening and continued to allow [father] to live in the[ir] home" in Jonesville, North Carolina. Upon receipt of the CPS report, the YCHSA contacted the Jonesville Police Department and also "made a referral to" the Dragonfly House Children's Advocacy Center[2] ("Dragonfly House") for D.L. and S.L. specifically.

¶ 3 Captain Scotty Vestal ("Captain Vestal") of the Jonesville Police Department assisted the YCHSA in responding to the complaint that same day. Upon arriving at the home, Captain Vestal "approached the door, knocked, and received no answer." He then "observed the strong odor of marijuana . . . emanating from the residence."

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[2] Graham Harmon, a crime victim advocate employed by Dragonfly House, testified before the trial court that Dragonfly House is a nonprofit that aids "in investigations regarding child physical and sexual abuse, neglect[,] and witness to violence[,]" with staff specifically trained to create a safer and more comfortable environment for children than a traditional hospital or law enforcement setting.

Mother and S.L. "soon arrived on scene by car[,]" and "Captain Vestal observed S.L. exit her mother's vehicle and run directly into the home." Captain Vestal spoke to mother, who "admitted to having smoked marijuana just before leaving the house earlier." Mother and S.L. later "admitted that [mother] had directed [S.L.] to run into the home to hide the marijuana and paraphernalia." "The pair were advised of the allegations" contained in the CPS report "and both agreed to come to the Jonesville Police Department to be interviewed." Father was also contacted and agreed to be interviewed by the police that day as well.

¶ 4 Mother, father, and S.L. were each interviewed individually regarding the allegations contained in the CPS report. S.L.'s interview proceeded as follows:

> [S.L.] advised that years prior, when she was around eight or nine years old and living in Missouri, her father had fondled her breasts under her shirt. She then stated that approximately one month ago, [father] had relapsed on methamphetamine and began to cuddle her inappropriately and request to perform oral sex on her and to have intercourse with her. [S.L.] denied allowing her father to perform either at this time. She advised that she told her mother about the incidents approximately one week prior and that she had confronted the father. [S.L.] advised that [father] had blamed [S.L.]'s wearing of revealing clothing for the incident. [S.L.] advised that her mother had tried to throw [father] out but let him come back. [S.L.] further advised the father had a history of violence on the mother. [S.L.] further advised she had gotten in trouble and had her phone taken away because she had attempted to sell nude pictures of herself on Instagram.

¶ 5 Mother's interview proceeded as follows:

> [Mother] admitted that [S.L.] told her about her father's requests for intercourse and oral sex. [Mother] indicated she confronted [father] about it and that she attempted to kick him out, but that he "was very manipulative" and she "didn't know what to do" so she allowed [father] to come back.

¶ 6 Father's interview proceeded as follows:

> [Father] stated that [S.L.] had approached him regarding her phone and told him she would "do anything" to get it back. He stated that he asked [S.L.] what she would do for him to give her the phone and that she responded saying[,] "What if I give it to you, what happened in Missouri, what if I give it to you." When asked to clarify what this statement meant, [father] explained that it meant "something sexual." [Father] then stated that he [wanted to perform oral sex on S.L.] and that [S.L.] said "yes." He then stated that he gave [S.L.] the phone back but did not engage in any form of sex act with her. [Father] went on to state that [S.L.] was very manipulative and that she was always dressing provocatively. He further admitted that he was high on methamphetamine during the incident in question. He further admitted that he and [mother] allow [S.L.] to smoke marijuana with them and to providing her with the same. [Father] also stated that he had nude pictures of [S.L.] on his phone, but that he had sent them to himself from her phone as "evidence."

¶ 7 After father's interview, Captain Vestal "seized [father]'s phone." The next day, 9 July 2020, father was arrested and charged with "Felony 3rd Degree Sexual Exploitation of a Minor, Felony Neglect Child Abuse-Serious Physical Injury, Felony

Indecent Liberties with a Child, Misdemeanor Contributing to the Delinquency of a Minor, and two counts of Felony 3rd Degree Sex Exploitation of a Minor."

¶ 8 On 22 July 2020, "Captain Vestal received further allegations" that mother knew that father had engaged in "sexual intercourse" with S.L., that he "was supplying [S.L.] with drugs, and that he was selling pornographic images of [S.L.] . . . ." Mother agreed to another interview regarding these allegations the next day.

¶ 9 During this interview, mother stated she knew father had offered S.L. $500.00 to perform oral sex on her "6-8 months ago." Mother then stated, "OK, I know that he had sex with [S.L.] a couple of weeks ago[,]" and that father had admitted to it. Mother stated father "kept apologizing, saying he was high" and "blaming" S.L. for the incident because, according to him, S.L. had been wearing revealing clothing around the house. Mother "advised that both [S.L.] and [father] admitted to having sexual intercourse[,]" "that she knew [father] had given [S.L.] methamphetamine and cocaine approximately 'a month ago[,]' " and that father's brother had also given S.L. methamphetamine "when he was visiting and staying with them."

¶ 10 Mother was subsequently arrested and "charged with Felony Child Abuse-Sex Act, Contributing to the Delinquency of a Minor, Possession of Marijuana, and Possession of Drug Paraphernalia." "She was held at the Yadkin County Detention Center" until "she was bonded" on 27 July 2020.

¶ 11 On 24 July 2020, the YCHSA filed Juvenile Petitions in Yadkin County District Court alleging that all four of the children were neglected under N.C. Gen. Stat. § 7B-101(15) and that S.L. was also abused; the YCHSA also filed orders for non-secure custody on the same day. Pursuant to the petitions and orders, the children were subsequently placed in the custody of the YCHSA. S.L. was eventually placed in a kinship placement, while the remaining three children were placed in licensed foster homes.

¶ 12 On 28 July 2020, Graham Harmon ("Harmon") of Dragonfly House conducted "a forensic interview" with S.L. "for the purpose of medical evaluation . . . ." This interview proceeded as follows:

> [S.L.] confirmed that when she was eight years old and living in Missouri that [father] had fondled her breasts. She stated it was reported to the police but nothing was done. She reported that the conduct stopped for a while but began again when she was thirteen and living in North Carolina. She disclosed that she had in fact had oral sex and sexual intercourse with [father]. She indicated that he had manipulated and pressured her by offering her things he knew she would want in exchange for sexual things. The first thing [father] offered was giving her permission to see her boyfriend in exchange for letting him [perform oral sex on her]. She also indicated that [father] had provided her with methamphetamine, gotten her "super addicted," then used the methamphetamine to leverage sexual favors from her. When asked about her mother[,] [S.L.] indicated that she had first informed her about [father] providing her with methamphetamine. A few days later [S.L.] told her mother about [father] [performing oral sex on her] in exchange for methamphetamine.

> Approximately two weeks after having disclosed the oral sex to her mother, [S.L.] told her about [father] having intercourse with her. She indicated that after she told the mother about [father] having sex with her[,] the mother attempted to kick him out of the house but that he talked his way into staying. [S.L.] indicated that she had nude photos of herself on her cellphone that were not intended for [father] to see, but that he had stolen them based on the way their accounts are linked. She indicated that [father] sent her one of the images and said "look how sexy that is." She further indicated that [father] told her she should keep taking them and that if she had any "good" pictures she should send them to him.

¶ 13 Harmon interviewed D.L. the same day. During her interview, D.L. identified father as the perpetrator of the allegations described in the CPS report and S.L., her older sister, as the victim; D.L. was only aware that "something" had happened to S.L. and that S.L. and father "did stuff" she found "inappropriate." D.L. also stated that mother and father had done "bad drugs" "a long time ago," but that "they [we]re way better now"; "one time they accidentally started again[,] but it was years ago." When asked whether anything had happened to herself, D.L. replied "no" even though "people think it did and that she was hiding it[.]"

¶ 14 On 27 August 2020, mother entered into a case plan with the YCHSA and subsequently "completed parenting classes, participated in a mental health

assessment, completed the 'Darkness to Light'[3] program, submitted to drug screens[,] and continued to participate with Daymark Recovery Service for substance abuse treatment."

¶ 15 On 5 February 2021, the trial court filed a pre-adjudication order in which it concluded, in pertinent part, that "visits as between either parents and any of the children would currently be contrary to the health, safety and best interests of the children" and that it was "in the children's best interest and consistent with their safety and well-being that visitation not be established with either parent until it is therapeutically approved."

¶ 16 The matter came on before the Yadkin County District Court, Judge Byrd presiding, on 4 March 2021 "to adjudicate the existence of conditions of abuse, neglect, or dependency, and to design an appropriate plan to meet the needs of" the children. At this time, father remained in custody in Yadkin County Jail.

¶ 17 As a preliminary matter, all attorneys agreed to consolidate the adjudication and disposition sections of the proceedings in open court. Captain Vestal, as well as Harmon, Kim McDevitt (Child Protective Services Supervisor at the YCHSA), and

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[3] As explained by Kim Brown, the children's foster care social worker at YCHSA, while providing witness testimony at trial, "Darkness to Light" "is a program for sexually abused youth and families working through sexual abuse."

Kim Brown (the children's foster care social worker at the YCHSA) provided oral testimony before the trial court.

¶ 18 Reports from S.L.'s and D.L.'s interviews at Dragonfly House (the "Dragonfly House interviews") were admitted into evidence; a "YCHSA Court Report" was admitted and incorporated by reference "as additional Findings of Fact only for dispositional purposes." Notably, when the Dragonfly House interviews were introduced, father, through trial counsel, made the following objection:

> Your Honor, I guess we would just note for the record . . . I can't not object, but at the same time if you would ask for my argument on the objection, I have no argument. But I can't just consent to those coming in, but I don't have any argument to keep them from coming in.

Mother's counsel added: "And, Your Honor, likewise, I would just echo [father]'s . . . objection." When the trial court asked whether either mother or father wanted to "make any more specific argument as to the reason [for] making the objection[,]" father's counsel replied: "I don't have any argument" and "I don't wish to be heard any further with regards to . . . said objection[,]" while mother's counsel replied: "Likewise[.]" The trial court subsequently overruled both objections.

¶ 19 In a written order filed 3 June 2021, after making findings of fact consistent with the aforementioned facts, the trial court concluded that "[t]he allegations in the Juvenile Petitions have been proven by clear, cogent, and convincing evidence." Specifically, the trial court found the evidence supported adjudicating the children as

neglected under N.C. Gen. Stat. §§ 7B-101(15) and 7B-801 because the children "live in an environment that is injurious to [their] welfare[,]" and because mother and father were "unable to provide for the juveniles' care or supervision" and lacked "an appropriate alternative child care arrangement." The trial court thus concluded that it was in the best interest of the children that their legal and physical custody be given to the YCHSA, with "a primary plan of reunification and a secondary plan of adoption" for C.L. and E.L., and a "primary plan for reunification with a secondary plan of Guardianship" for D.L. and S.L.

¶ 20 The trial court adjudicated all of the children as neglected juveniles and adjudicated S.L. as an abused juvenile as well. The trial court provided legal and physical custody of all of the children to the YCHSA, with instructions to continue to make reasonable efforts toward reunification "with respondents." The trial court also sanctioned and approved of the children's current placement. The trial court then ordered that father "have no visitation or contact with any of the children at this time[,]" and that mother "have no visitation or contact with [S.L.]" and be allowed "bi-weekly, one[-]hour, supervised visitation with the remaining children if and only if the children's respective therapist makes a recommendation to the Court in the affirmative."

¶ 21 Pertinently, during his argument before the trial court, mother's counsel stated the following regarding visitation restrictions: "Visitation, we do understand

therapeutically approved given the situation." Then, while making its ruling in open court, the trial court stated, "[T]he way I'm going to order it is [sic] there would be no visitation with the three other children unless and as set out by therapist recommendation."

¶ 22 Mother filed written notice of appeal on 1 July 2021.

II. Discussion

¶ 23 On appeal, mother argues that: (1) the trial court erred in admitting the Dragonfly House interviews because they constituted hearsay that did not meet either the business records exception or the statement in pursuit of medical treatment exception; (2) the trial court relied on "incompetent evidence and did not make adjudicatory findings by clear and convincing evidence"; (3) alternatively, the evidence and findings do not support adjudicating C.L., D.L., and E.L. as neglected; and (4) the trial court "misapprehended the law in giving all authority over" mother's visitation to the children's respective therapists. We address each issue in turn.

A. Hearsay

¶ 24 We first address whether mother's hearsay argument has been properly preserved for appellate review.

¶ 25 "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) (emphasis added). "It is well settled that an error, even one of constitutional magnitude, that defendant does not bring to the trial court's attention is waived and will not be considered on appeal." *In re E.P.-L.M.*, 272 N.C. App. 585, 591, 847 S.E.2d 427, 433 (2020) (citation and quotation marks omitted). "This rule is equally applicable to evidentiary arguments in the context of abuse, neglect, and dependency proceedings." *Id.* (citation omitted).

¶ 26 Here, the first issue mother argues on appeal is that the Dragonfly House interviews were inadmissible hearsay. However, mother made no such objection at trial. Specifically, when father objected to the admission of the Dragonfly House interviews, he merely stated, in pertinent part: "I can't not object, but at the same time . . . I have no argument. . . . I don't have any argument to keep them from coming in." Then, mother added: "[L]ikewise, I would just echo [father]'s . . . objection." When the trial court gave both father and mother an additional opportunity to specify the grounds for their respective objections so that their objections could be preserved on appeal, neither did so; father stated, "I don't have any argument[,]" and mother stated, "Likewise[.]"

¶ 27 Because father expressly followed his objection by stating, "I have no argument[,]" his objection was generic, failed to state specific grounds, and grounds were not otherwise made apparent from the objection's context. *See* N.C.R. App. P. 10(a)(1). In turn, mother "echoed" both father's objection and the assertion that there

was no argument to support the objection. Consequently, mother's objection was also generic, failed to state specific grounds, and grounds were not otherwise made apparent from the objection's context. *See id.*

¶ 28 Accordingly, mother has failed to preserve for appellate review any argument whatsoever as to whether the Dragonfly House interviews were inadmissible hearsay, and thus these interviews constitute competent evidence. *See id.*; *see also In re F.G.J.*, 200 N.C. App. 681, 693, 684 S.E.2d 745, 753-54 (2009) ("[N]o objection on hearsay grounds was made by either parent at trial. Therefore, any objection has been waived, and the testimony must be considered competent evidence." (citation omitted)). This argument is hereby dismissed.

B. Competency of Evidence and Standard of Proof

¶ 29 Mother next argues that "the trial court failed to make all adjudicatory findings by clear and convincing evidence" and that the trial court "did not neatly divide its order in an adjudicatory and a dispositional section[,] making it impossible to determine which findings are made by which standards of proof." Mother further argues that the trial court "admitted and relied on incompetent evidence in making its findings."

¶ 30 Because we have concluded that the Dragonfly House interviews are competent evidence, and there were no other objections at trial as to the admissibility

of evidence, mother's argument that the court "admitted and relied on incompetent evidence" is now moot.

¶ 31 To the extent mother takes issue with the fact that the trial court did not "neatly divide" the adjudicatory and dispositional sections of the proceeding, we disagree. First, when, in open court, counsel for the YCHSA asked to consolidate adjudication and disposition, mother agreed without any challenge or objection. Thus, she has waived this challenge. *See* N.C.R. App. P. 10(a)(1); *see also In re O.W.*, 164 N.C. App. 699, 701, 596 S.E.2d 851, 852 (2004) ("When Mr. Kinlaw, the attorney for DSS[,] requested the adjudication and disposition hearings be consolidated, respondent did not object. Thus, respondent has failed to properly preserve this issue for appellate review."). Furthermore, this Court has "f[ou]nd no requirement that the stages be conducted at two separate hearings, even though the trial court is required to apply different evidentiary standards at each stage of the proceedings." *In re O.W.*, 164 N.C. App. at 701, 596 S.E.2d at 853 (citation omitted). Accordingly, we find no error.

¶ 32 We next address whether the trial court applied the correct standard of proof. "In the adjudicatory phase of a hearing to determine if a child is abused or neglected, the petitioner is required to prove allegations of abuse or neglect by 'clear and convincing evidence,' while in the disposition stage the court's decision as to the best

interests of the child and its placement is discretionary." *Id.* (quoting N.C. Gen. Stat. § 7B-805 (2003) and citing N.C. Gen. Stat. § 7B-901 (2003)).

¶ 33 In its written order, after making thorough findings of fact, the trial court stated as follows:

> 14. For reasons stated and findings made herein it remains contrary to the health, safety and *best interests* of [S.L.] to have any visitation or contact with [mother].
>
> 15. It would be in the *best interests* of [D.L., E.L., and C.L.] to have supervised visitation with the mother if and only if their respective therapists indicate said visitation would be appropriate.
>
> . . . .
>
> 3. *Clear, cogent, and convincing evidence* exists to support an adjudication of the minor juveniles as neglected juveniles pursuant to N.C. Gen Stat. § 7B-101(15) & 7B-801, *et. seq.*, in that the minor juveniles live in an environment that is injurious to the juveniles' welfare and the juveniles' parent, guardian, or custodian, is unable to provide for the juveniles' care or supervision and lacks an appropriate alternative child care arrangement. *Clear, cogent and convincing evidence* also exists to support and [sic] adjudication of [S.L.] as abused in that she has suffered sexual abuse at the hands of a parent.
>
> . . . .
>
> 5. It is in the *best interests* of the minor children that the legal and physical custody of the minor children be given to the YCHSA . . . .
>
> . . . .

> 8. A primary plan of reunification and secondary plan of adoption would suit the *best interests* of [C.L.] and [E.L.] at this time. A primary plan of reunification with a secondary plan of Guardianship would suit the *best interests* of [D.L.] and [S.L.] at this time.

(Emphasis added.)

¶ 34 It is clear from the record that the trial court expressly applied the correct, respective standards of proof for both adjudication and disposition. Accordingly, we find no error here. *See id.* at 702, 596 S.E.2d at 853 ("In the trial court's order, it clearly states that it "CONCLUDES THROUGH CLEAR, COGENT AND CONVINCING EVIDENCE[.]" We find this to be sufficient to meet the requirement of N.C. Gen. Stat. § 7B-807. Therefore, this assignment of error is without merit." (alteration in original)).

C. Adjudication of C.L., D.L., and E.L. as Neglected

¶ 35 Mother next argues, in the alternative, that the evidence and findings do not support adjudicating C.L., D.L., and E.L. as neglected. We disagree.

¶ 36 An appeal of right lies with this Court from "[a]ny judicial order of disposition and the adjudication order upon which it is based." N.C. Gen. Stat. § 7B-1001(a)(3) (2021). "We review a trial court's abuse, neglect, and dependency adjudication to determine whether the findings are supported by clear, cogent, and convincing evidence and the findings support the conclusions of law." *In re E.P.-L.M.*, 272 N.C. App. at 592, 847 S.E.2d at 434 (citation and quotation marks omitted).

¶ 37 "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." *Id.* (citation and quotation marks omitted). "A trial judge sitting without a jury has the duty to consider and weigh the evidence, pass upon the weight and credibility of witness testimony, and draw reasonable inferences therefrom." *Id.* at 593, 847 S.E.2d at 434 (citation omitted). "A trial court's finding of fact that is supported by clear, cogent, and convincing evidence is deemed conclusive even if the record contains evidence that would support a contrary finding." *Id.* (citation and quotation marks omitted).

¶ 38 A "neglected juvenile" is, among other things:

> Any juvenile less than 18 years of age . . . whose parent, guardian, custodian, or caretaker does any of the following:
>
> a. Does not provide proper care, supervision, or discipline.
>
> . . . .
>
> e. Creates or allows to be created a living environment that is injurious to the juvenile's welfare.

N.C. Gen Stat. § 7B-101(15) (2021).

¶ 39 "[F]or 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.H.*, 2022-NCCOA-3, ¶ 14 (citation and quotation marks omitted) (alteration in original). Additionally, "[i]n

determining whether a juvenile is a neglected juvenile, it is relevant whether that juvenile . . . *lives in a home where another juvenile has been subjected to abuse or neglect by an adult who regularly lives in the home.*" N.C. Gen Stat. § 7B-101(15) (emphasis added).

¶ 40 Under this statutory provision, our Court has repeatedly found that a minor child who lives in an environment where a sibling is abused is a neglected child. *See, e.g.*, *In re N.K.*, 274 N.C. App. 5, 10, 851 S.E.2d 389, 393 (2020) ("The proper adjudication of the recent and disturbing abuse of Norm while Doug was in the same environment is clear and convincing competent evidence of the neglect of Doug." (citation omitted)); *In re C.M.*, 198 N.C. App. 53, 65, 678 S.E.2d 794, 801 (2009) ("Since the statutory definition of a neglected child includes living with a person who has abused or neglected other children, and since this Court has held that the weight to be given that factor is a question for the trial court, the trial court, in this case, was permitted, although not required, to conclude that Tess was neglected based on evidence that respondent-father had abused Alexander." (citations omitted)); *In re A.S.*, 190 N.C. App. 679, 690, 661 S.E.2d 313, 320 (2008) (finding the same where a trial court concluded that "Adam" was neglected based on evidence that the respondent-parent had abused "Teresa" by intentionally burning her), *aff'd,* 363 N.C. 254, 675 S.E.2d 361 (2009).

¶ 41 Here, per our foregoing analysis, the trial court properly adjudicated, based on clear and convincing evidence, that S.L. was an abused and neglected juvenile. Consequently, all findings of fact with respect to S.L.'s abuse are now binding. *See In re E.P.-L.M.*, 272 N.C. App. at 592, 847 S.E.2d at 434.

¶ 42 C.L., D.L., and E.L.—S.L.'s three younger siblings—all lived in the same home as S.L.; this home included father—who used methamphetamine, sexually abused S.L., and provided S.L. with methamphetamine—and mother—who knew of the ongoing sexual abuse of S.L. by father, allowed father to continue living in the home despite her knowledge of his sexual abuse of S.L., and herself provided S.L. with marijuana.

¶ 43 The trial court's "proper adjudication of the recent and disturbing abuse of [S.L.] while [C.L., D.L., and E.L.] w[ere] in the same environment is clear and convincing competent evidence of the neglect of [C.L., D.L., and E.L.]." *See in re N.K.*, 274 N.C. App. at 10, 851 S.E.2d at 393. "Since the statutory definition of a neglected child includes living with a person who has abused or neglected other children, and since this Court has held that the weight to be given that factor is a question for the trial court, the trial court, in this case, was permitted, although not required, to conclude that [C.L., D.L., and E.L.] w[ere] neglected based on evidence that respondent-father had abused [S.L.]." *See In re C.M.*, 198 N.C. App. at 65, 678 S.E.2d at 801.

¶ 44 Accordingly, the trial court did not abuse its discretion in adjudicating C.L., D.L., and E.L. as neglected.

D. Visitation

¶ 45 Lastly, mother argues the trial court "misapprehended the law in giving all authority over her children's visitation . . . to her children's therapists."

¶ 46 During each counsel's argument in open court, mother expressly accepted restricting mother's visitation to the children's therapists' discretion, in accordance with the trial court's pre-adjudication order, stating: "Visitation, we do understand therapeutically approved given the situation." Thereafter, the trial court made its oral ruling and stated that "there would be no visitation with the three other children unless and as set out by therapist recommendation."

¶ 47 Because mother affirmatively accepted the trial court's visitation restrictions prior to the trial court's order, mother has not preserved this challenge for appellate review. N.C.R. App. P. 10(a)(1); *see also In re J.T.S.*, 268 N.C. App. 61, 76, 834 S.E.2d 637, 648 (2019) ("[B]ecause Respondent consented to the terms of DSS's revised recommendation regarding the conditions required for visitation and the role of Family Abuses Services, she did not properly preserve for appeal [these] contentions regarding the permanency planning order[.]" (citation and quotation marks omitted) (alterations in original)); *State v. Holliman,* 155 N.C. App. 120, 123, 573 S.E.2d 682,

685 (2002) ("The defendant may not change his position from that taken at trial to obtain a steadier mount on appeal." (citation and quotation marks omitted)).

¶ 48 Accordingly, this argument is hereby dismissed.

III. Conclusion

¶ 49 For the foregoing reasons, we affirm the trial court's order.

AFFIRMED.

Judges INMAN and MURPHY concur.

Report per Rule 30(e).