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IN THE COURT OF APPEALS OF NORTH CAROLINA

2022-NCCOA-539

No. COA22-12

Filed 2 August 2022

Mecklenburg County, Nos. 18 JT 577–78

IN THE MATTER OF:

L.C. AND L.C.

Appeal by respondent-mother from order entered 11 October 2021 by Judge Regan A. Miller in Mecklenburg County District Court. Heard in the Court of Appeals 13 July 2022.

Mecklenburg County Attorney's Office, by Senior Associate Attorney Kristina A. Graham, for petitioner-appellee Mecklenburg County Department of Social Services/Division of Youth and Family Services.

N.C. Administrative Office of the Courts, by Guardian Ad Litem Staff Counsel Michelle FormyDuval Lynch, for guardian ad litem.

J. Thomas Diepenbrock for respondent-appellant mother.

ZACHARY, Judge.

¶ 1 Respondent-Mother Courtney Todd-Fairfax appeals from an order terminating her parental rights to two of her minor children, "Latasha" and "Lashonda."[1] On

[1] We use the pseudonyms adopted by the parties for ease of reading and to protect the juveniles' identities.

appeal, Respondent-Mother argues that the trial court erred by admitting hearsay testimony, and by terminating her parental rights on the grounds of neglect and failure to pay a reasonable portion of the cost of the children's care. After careful review, we affirm.

Background

¶ 2 Latasha and Lashonda were born in January 2015 and October 2016, respectively. Even before their births, Petitioner-Appellee Mecklenburg County Department of Social Services, Division of Youth and Family Services ("YFS") received numerous referrals concerning Respondent-Mother and her older children, and YFS provided family intervention services. Nonetheless, the problems persisted.

¶ 3 On 20 December 2018, YFS filed a petition alleging that Latasha and Lashonda, as well as Respondent-Mother's other children, were neglected and dependent juveniles. The petition alleged, in relevant part, repeated instances of intimate partner violence against Respondent-Mother in the presence of her children. That same day, the trial court entered an order granting YFS nonsecure custody of the children.

¶ 4 On 6 February 2019, the juvenile petition came on for hearing in Mecklenburg County District Court. By its adjudication and disposition order entered on 1 March 2019, the trial court adjudicated the children to be neglected and dependent. Additionally, the court ordered that the children remain in the legal custody of YFS

with placement in the discretion of YFS. The trial court also determined that intimate partner violence between Respondent-Mother and Kieshaun Harper, the father of one of Respondent-Mother's children, was a significant issue that "must be resolved to achieve reunification[.]" On disposition, the court designated the primary plan of care for the children as reunification with a secondary plan of guardianship. The court further ordered, among other things, that Respondent-Mother "must acknowledge that the juveniles are not the only ones hurt by the" intimate partner violence, and that Respondent-Mother "must learn how to make different decisions and not just show up to therapy and test negative" on drug screens.

¶ 5 Respondent-Mother was also ordered to comply with the terms of her Mediated Family Services Agreement ("FSA"), pursuant to which she was required to, *inter alia*, engage in services to address intimate partner violence, substance abuse, mental health, and parenting issues; maintain employment or sufficient income; obtain safe and stable housing; refrain from contact with Harper; and engage in grief therapy at the Promise Resource Network. Following a review hearing on 20 August 2019, the trial court found that Respondent-Mother "made no progress whatsoever in the areas of intimate partner violence . . . , obtaining suitable housing[,]" or substance abuse. The court changed Latasha and Lashonda's primary plan to adoption, with guardianship as the secondary plan.

¶ 6 After the August 2019 review hearing, Respondent-Mother made some

progress with her FSA regarding the areas of substance abuse, parenting, and housing; however, she continued to have contact with Harper, which led to further instances of intimate partner violence between them. Consequently, on 6 December 2019, YFS filed a petition to terminate Respondent-Mother's parental rights to Latasha and Lashonda, alleging that the children were neglected and that Respondent-Mother "willfully failed to pay a reasonable portion of the cost of care for the juveniles although physically and financially able to do so" during the six months immediately preceding the petition's filing. *See* N.C. Gen. Stat. § 7B-1111(a)(1), (3) (2021).

¶ 7 This matter came on for hearing on 9 June, 15 July, and 16 July 2021. The trial court heard testimony from numerous witnesses, including that of Courtney Flack, the YFS social worker assigned to Respondent-Mother's case from 27 December 2018 to 12 February 2021. Ms. Flack testified to her recollection of the case, as well as Respondent-Mother's progress with her FSA and the continued instances of intimate partner violence between Respondent-Mother and Harper.

¶ 8 On 11 October 2021, the trial court entered an order in which it determined that grounds existed to terminate Respondent-Mother's parental rights due to neglect and failure to pay a reasonable portion of the cost of the children's care, as alleged in YFS's petition. The trial court referenced Respondent-Mother's lack of progress in completing the goals of her FSA and found that her efforts to address intimate

partner violence were insufficient:

> The ground of neglect continues to exist and there is reasonable probability that it will continue in the future. [Respondent-Mother] has gone to parenting classes, has completed domestic violence education, is in therapy that is ongoing, and has completed certain other aspects of her case plan. However, the aspect about receiving domestic violence counseling and then incorporating the counseling into her decision-making has not been established. This is the main reason the children are in custody.

Additionally, the court found that Respondent-Mother "had the ability to contribute some amount greater than zero to the cost of care for the juveniles yet failed to do so." The court determined that it was in Latasha and Lashonda's best interests to terminate Respondent-Mother's parental rights, which the trial court then did.

¶ 9 Respondent-Mother filed timely notice of appeal.

Discussion

¶ 10 On appeal, Respondent-Mother argues that the trial court "committed prejudicial error" by admitting portions of Ms. Flack's testimony, which Respondent-Mother contends were hearsay. Further, Respondent-Mother argues that the trial court erred by ordering the termination of Respondent-Mother's parental rights on the grounds of neglect and "willful[ ] fail[ure] to pay a reasonable portion of the cost of care for the juveniles although physically and financially able to do so" during the six months immediately preceding the petition's filing.

I. Admission of Hearsay

¶ 11 Respondent-Mother first argues that the trial court erred by admitting parts of Ms. Flack's testimony that she alleges were hearsay. Specifically, Respondent-Mother challenges the admission of Ms. Flack's testimony regarding (1) Ms. Flack's recollection of the files maintained by YFS concerning Respondent-Mother's case; (2) Ms. Flack's communications with the Promise Resource Network regarding Respondent-Mother's progress in her case; (3) Ms. Flack's awareness of the continued contact between Respondent-Mother and Harper; and (4) Ms. Flack's knowledge of a videotaped incident between Respondent-Mother, Harper, and Harper's wife at a hotel.

A. Standard of Review

¶ 12 The rules of evidence in civil cases apply in an adjudication hearing on the termination of parental rights. N.C. Gen. Stat. § 7B-1109(f). "The trial court's determination as to whether an out-of-court statement constitutes hearsay is reviewed de novo on appeal." *State v. Castaneda*, 215 N.C. App. 144, 147, 715 S.E.2d 290, 293, *disc. review denied and appeal dismissed*, 365 N.C. 354, 718 S.E.2d 148 (2011). "However, even when the trial court commits error in allowing the admission of hearsay statements, one must show that such error was prejudicial in order to warrant reversal." *In re M.G.T.-B.*, 177 N.C. App. 771, 775, 629 S.E.2d 916, 919 (2006).

B. Analysis

¶ 13 Hearsay is "a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted." N.C. Gen. Stat. § 8C-1, Rule 801(c). Hearsay is inadmissible unless it falls into one of the hearsay exceptions or is admissible pursuant to statute. *In re C.R.B.*, 245 N.C. App. 65, 69, 781 S.E.2d 846, 850, *disc. review denied*, 368 N.C. 916, 787 S.E.2d 23 (2016).

¶ 14 "One exception to the hearsay rule is the business record exception, which provides that business records of regularly conducted activity are not excluded by the hearsay rule . . . ." *In re S.D.J.*, 192 N.C. App. 478, 482, 665 S.E.2d 818, 821 (2008). The North Carolina Rules of Evidence define a business record as, in relevant part:

> [a] memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses, made at or near the time by, or from information transmitted by, a person with knowledge, if (i) kept in the course of a regularly conducted business activity and (ii) it was the regular practice of that business activity to make the memorandum, report, record, or data compilation, all as shown by the testimony of the custodian or other qualified witness . . . . The term "business" as used in this paragraph includes business, institution, association, profession, occupation, and calling of every kind, whether or not conducted for profit.

N.C. Gen. Stat. § 8C-1, Rule 803(6).

¶ 15 A business record "is admissible when a proper foundation is laid by testimony of a witness who is familiar with the records and the methods under which they were

made so as to satisfy the court that the methods, the sources of information, and the time of preparation render such evidence trustworthy." *S.D.J.*, 192 N.C. App. at 482, 665 S.E.2d at 821 (citation and internal quotation marks omitted). "While the foundation must be laid by a person familiar with the records and the system under which they are made, there is no requirement that the records be authenticated by the person who made them." *Id.* at 482–83, 665 S.E.2d at 821 (citation and internal quotation marks omitted); *see also C.R.B.,* 245 N.C. App. at 70, 781 S.E.2d at 850.

¶ 16 In *C.R.B.*, this Court concluded that the business records exception applied to a social worker's hearsay testimony that was based in part on a DSS report that "was never offered into evidence at the termination [of parental rights] hearing[.]" 245 N.C. App. at 70, 781 S.E.2d at 851. The Court first determined that the social worker was "qualified to introduce and testify to the report" because she was intimately familiar with it, as evinced by the fact that "she personally signed it and appear[ed] to be one of its authors." *Id.* at 70, 781 S.E.2d at 850–51.

¶ 17 The *C.R.B.* Court then reasoned that the social worker's testimony "that she had reviewed and was familiar with DSS's case file on th[e] matter, that she had kept and maintained the file since her employment with DSS, and that the file's contents were maintained during the 'regular, ordinary course of DSS's business[,]' " when paired with her familiarity with the report itself, provided the proper foundation for the report to be admitted pursuant to the business records exception. *Id.* at 70, 781

S.E.2d at 851. This Court ultimately concluded that the trial court did not err in allowing the social worker's testimony based on the report because "the report as a whole would have been admissible under the business records exception to the hearsay rule." *Id.*

¶ 18 In the instant case, Respondent-Mother's first hearsay challenge concerns the following exchange between Ms. Flack and counsel for YFS:

> [YFS:] When did you receive the case?
>
> [Ms. Flack:] December -- I believe it was [the] 27th, 2018.
>
> [YFS:] And as the assigned social worker, did you maintain a file on the family?
>
> [Ms. Flack:] Yes.
>
> [YFS:] Is that done within the regular practice of YFS?
>
> [Ms. Flack:] Yes.
>
> [YFS:] Is it the assigned social worker who's responsible for making entries into the record?
>
> [Ms. Flack:] Yes.
>
> [YFS:] And do you keep that file or record within the regular course of YFS business?
>
> [Ms. Flack:] Yes.
>
> [YFS:] Are you familiar with the recordkeeping procedures of YFS?
>
> [Ms. Flack:] Yes.
>
> [YFS:] Okay. How are entries made into the record? What's

> the policy?
>
> [Ms. Flack:] We have a system that we are to -- any time there's an event, or we, you know, see the family, we keep it pretty close to that day, to that event. We write it up into a report.

¶ 19 Respondent-Mother argues that this exchange was insufficient to lay the requisite foundation for Ms. Flack's testimony "based on her recollection of the YFS files," asserting that the trial court "allowed YFS to avoid the evidentiary requirements for introducing files as business records, which are only admissible provided certain requirements are satisfied."

¶ 20 Assuming, *arguendo*, that Ms. Flack's testimony based on her recollection of the YFS files constituted hearsay, we conclude that such testimony falls under the business records exception to the prohibition against the admission of hearsay evidence.[2] Ms. Flack's exchange with YFS counsel establishes that the YFS files were a "record . . . of acts [and] events," N.C. Gen. Stat. § 8C-1, Rule 803(6): she testified that "any time there's an event, or we, you know, see the family," YFS employees

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[2] We note that, even where a qualified witness has laid the proper business records foundation, "entries which amount to hearsay on hearsay" remain inadmissible. *State v. Smith*, 157 N.C. App. 493, 497, 581 S.E.2d 448, 450 (2003) (citation omitted) (concluding that the paramedics' statements contained in hospital records amounted to hearsay on hearsay, and were not admissible for the truth of the matter stated under the business records exception where the paramedics' statements were not admissible under another exception to the hearsay rule). Nevertheless, because Respondent-Mother makes no argument that Ms. Flack's testimony regarding her recollection of the YFS files constituted hearsay within hearsay, we need not address this issue in the instant case.

"write it up into a report." Her testimony that YFS employees write the reports "pretty close to th[e] day" of the event or family visit further demonstrates that the files were "made at or near the time by . . . a person with knowledge[.]" *Id.* Additionally, her testimony that YFS "ha[s] a system" for writing reports establishes that the files were "kept in the course of a regularly conducted business activity" of YFS, and that "it was the regular practice of [YFS's] activity to make the . . . record" using the reporting system. *Id.* As such, the YFS files qualified as business records.

¶ 21 Thus, Ms. Flack's testimony confirms that she was a "witness who [wa]s familiar with the records and the methods under which they were made so as to satisfy the court that the methods, the sources of information, and the time of preparation render such evidence trustworthy." *S.D.J.*, 192 N.C. App. at 482, 665 S.E.2d at 821 (citation omitted). Like the social worker in *C.R.B.*, Ms. Flack was "qualified to introduce and testify to the report," 245 N.C. App. at 70, 781 S.E.2d at 850, because she was intimately familiar with it: she worked at YFS as a social worker for two and a half years, and, as the social worker assigned to Respondent-Mother's case from 27 December 2018 to 12 February 2021, she was chiefly responsible "for making entries into the record[.]" Moreover, "there is no requirement that the records be authenticated by the person who made them" as long as the foundation is "laid by a person familiar with the records and the system under which they are made[.]" *S.D.J.*, 192 N.C. App. at 482–83, 665 S.E.2d at 821 (citation and

internal quotation marks omitted). As such, despite the fact that the YFS files contained some reports that Ms. Flack did not create herself, Ms. Flack was nonetheless sufficiently familiar with the files to testify as she did at the termination hearing.

¶ 22 By testifying to her personal contribution to the YFS files using the YFS system, Ms. Flack provided the proper foundation for admitting the portion of the YFS files to which she testified as business records. Therefore, the trial court did not err in admitting Ms. Flack's testimony "based on her recollection of the YFS files[.]" *See C.R.B.,* 245 N.C. App. at 70, 781 S.E.2d at 851.

¶ 23 We next examine Respondent-Mother's challenges to Ms. Flack's testimony regarding (1) communications with the Promise Resource Network, (2) her awareness of the contact between Respondent-Mother and Harper, and (3) a videotaped incident between Respondent-Mother and Mr. and Mrs. Harper at a hotel. Assuming, *arguendo*, that this testimony was hearsay and admitted in error, as Respondent-Mother contends, her claim nevertheless fails.

¶ 24 Notwithstanding the erroneous admission of hearsay testimony, "one must show that such error was prejudicial in order to warrant reversal." *M.G.T.-B.*, 177 N.C. App. at 775, 629 S.E.2d at 919. In other words, the appellant must demonstrate that she "was prejudiced and [that] a different result would have likely ensued had the error not occurred." *In re F.S.*, 268 N.C. App. 34, 39, 835 S.E.2d 465, 468–69 (2019)

(citation omitted).

¶ 25 Here, Respondent-Mother advances a single unsupported challenge concerning the statements: that she "was prejudiced and the order terminating her parental rights must be vacated." Respondent-Mother does not contend that any of the trial court's findings of fact were based on the erroneous admission of hearsay, or that "a different result would have likely ensued had the error not occurred." *Id.* (citation omitted). Indeed, she makes no argument and cites no case law regarding her assertion of prejudice. In that the erroneous admission of hearsay cannot justify reversal without a particularized showing of prejudice, *see M.G.T.-B.*, 177 N.C. App. at 775, 629 S.E.2d at 919, Respondent-Mother's argument necessarily fails.

¶ 26 Regardless, the trial court's unchallenged findings, which in turn support its conclusions, are amply supported by evidence other than the challenged testimony. *See In re McMillon*, 143 N.C. App. 402, 411, 546 S.E.2d 169, 175 ("Where there is competent evidence to support the court's findings, the admission of incompetent evidence is not prejudicial."), *disc. review denied*, 354 N.C. 218, 554 S.E.2d 341 (2001).

¶ 27 In sum, Respondent-Mother cannot show that the trial court committed prejudicial error by admitting the statements that she contends are hearsay. The first challenged admission (concerning Ms. Flack's recollection of the files maintained by YFS related to Respondent-Mother's case) is covered by the business records exception, and therefore was properly admissible. *S.D.J.*, 192 N.C. App. at 482, 665

S.E.2d at 821. With regard to the remaining challenged statements, Respondent-Mother has not demonstrated that she "was prejudiced and [that] a different result would have likely ensued had the error not occurred." *F.S.*, 268 N.C. App. at 39, 835 S.E.2d at 468–69 (citation omitted). Accordingly, her argument lacks merit.

II. Neglect

¶ 28 Respondent-Mother next argues that the trial court erred by concluding that grounds existed to terminate her parental rights to Latasha and Lashonda on the bases of neglect and failure to pay a reasonable portion of the cost of the children's care. However, "[b]ecause only one ground is necessary to terminate parental rights, we only address [Respondent-Mother]'s arguments regarding the ground of neglect." *In re M.A.*, 378 N.C. 462, 2021-NCSC-99, ¶ 13.

A. Standard of Review

¶ 29 "A termination of parental rights proceeding consists of an adjudicatory stage and a dispositional stage." *In re D.L.A.D.*, 375 N.C. 565, 567, 849 S.E.2d 811, 814 (2020); *see* N.C. Gen. Stat. §§ 7B-1109, -1110. Our appellate courts "review a trial court's adjudication to determine whether the findings are supported by clear, cogent and convincing evidence and the findings support the conclusions of law." *M.A.*, 378 N.C. 462, 2021-NCSC-99, ¶ 14 (citation and internal quotation marks omitted). "Unchallenged findings of fact are deemed supported by competent evidence and are binding on appeal. Moreover, we review only those findings necessary to support the

trial court's determination that grounds existed to terminate [the] respondent's parental rights." *Id.* (citations and internal quotation marks omitted). "The trial court's conclusions of law are reviewable de novo on appeal." *Id.* (citation omitted).

B. Analysis

¶ 30 Respondent-Mother argues that the trial court erred by terminating her parental rights on the basis of neglect under N.C. Gen. Stat. § 7B-1111(a)(1). "A trial court may terminate parental rights when it concludes the parent has neglected the juvenile[s] within the meaning of [N.C. Gen. Stat.] § 7B-101." *Id.* ¶ 15. For the purposes of § 7B-1111(a)(1), a neglected juvenile is defined, in pertinent part, as "[a]ny juvenile . . . whose parent, guardian, custodian, or caretaker . . . [d]oes not provide proper care, supervision, or discipline" or "[c]reates or allows to be created a living environment that is injurious to the juvenile's welfare." N.C. Gen. Stat. § 7B-101(15)(a), (e).

¶ 31 "In some circumstances, a trial court may terminate a parent's rights based on neglect that is currently occurring at the time of the termination hearing." *M.A.*, 378 N.C. 462, 2021-NCSC-99, ¶ 15. However, in cases such as this, where the children have been removed from their parent's custody, thereby rendering it impossible to show that they are "currently being neglected by their parent, a prior adjudication of neglect may be admitted and considered by the trial court in ruling upon a later petition to terminate parental rights on the ground of neglect." *In re M.J.S.M.*, 257

N.C. App. 633, 636, 810 S.E.2d 370, 373 (2018) (citation and internal quotation marks omitted).

¶ 32 "If a prior adjudication of neglect is considered, the trial court must also consider any evidence of changed conditions in light of the evidence of prior neglect and the probability of a repetition of neglect." *Id.* (citation and internal quotation marks omitted). "After weighing this evidence, the trial court may find the neglect ground if it concludes the evidence demonstrates a likelihood of future neglect by the parent." *M.A.*, 378 N.C. 462, 2021-NCSC-99, ¶ 15 (citation and internal quotation marks omitted). "Thus, even in the absence of current neglect, the trial court may adjudicate neglect as a ground for termination based upon its consideration of any evidence of past neglect and its determination that there is a likelihood of future neglect if the child is returned to the parent." *Id.*

¶ 33 In the present case, Respondent-Mother does not specifically challenge the validity of any of the trial court's findings of fact, so they "are deemed supported by competent evidence and are binding on appeal." *Id.* ¶ 14 (citation omitted). Instead, Respondent-Mother argues that the trial court's findings "did not support the conclusion that there is a substantial probability of the repetition of neglect." This argument is unpersuasive.

¶ 34 Throughout YFS's involvement in this matter, intimate partner violence has been a major concern. As the trial court found in its termination order, "[m]ost, if not

all," of YFS's initial, pre-petition neglect investigations "involved the exposure of one or more [of] the children of [Respondent-Mother] to intimate partner violence and resulted in [Respondent-Mother] being advised to seek domestic violence counseling." The trial court noted that at the 6 February 2019 adjudication hearing on the underlying neglect and dependency petition, Respondent-Mother "admitted that she had a history of domestic violence incidents with Keishaun Harper, that she obtained a Domestic Violence Order of Protection (DVPO) against Mr. Harper, and that she then let him return to her place of residence, after which another domestic violence incident occurred." Further, the trial court recounted in its termination order that at the disposition hearing following the adjudication of the juveniles as neglected and dependent, the court expressly "found intimate partner violence between [Respondent-Mother] and Mr. Harper to be a specific and vital issue that needed to be resolved to achieve reunification." At the disposition hearing, trial court had ordered Respondent-Mother to comply with her FSA, which provided that she "participate in domestic violence education, obtain a 1-year DVPO against Mr. Harper, and not engage in acts of domestic violence." The trial court also noted in its termination order that the FSA "included that, if [Respondent-Mother] dated someone whom either she or her social worker determined to not be safe or appropriate, [Respondent-Mother] would choose her children over maintaining the dysfunctional relationship."

¶ 35 In its termination order, the trial court devoted several findings of fact to detailing numerous instances of intimate partner violence between Respondent-Mother and Harper that occurred between June 2019 and the filing of the termination petition on 6 December 2019. In June 2019, Respondent-Mother told the social worker that she believed that Harper would kill her. Nonetheless, although Respondent-Mother acknowledges that "there had been a number of documented domestic violence incidents in 2019," she contends that intimate partner violence is no longer a barrier because "once [she] completed the domestic violence classes in September 2020, the record reflects no further domestic violence incidents between" her and Harper. Respondent-Mother notes that the trial court's findings of fact 21, 22, and 24, which detail incidents between her and Harper occurring in May and June of 2021, "do not describe incidents of domestic violence[.]" While this characterization is accurate, it misses the purpose of these findings.

¶ 36 When properly viewed in the full context of the trial court's termination order, these three findings of fact support the trial court's conclusion that there is a likelihood of future neglect. First, immediately before describing these three incidents, the trial court found that, "[o]n multiple occasions throughout 2020 during the COVID-19 restrictions, [Respondent-Mother] denied having contact with Mr. Harper." Yet, as the trial court then detailed, by May 2021 this no longer was true:

> 21. . . . [O]n May 22, 2021, Mr. Harper was found by police

> officers in the home of [Respondent-Mother] while responding to a call for breaking and entering. Mr. Harper had keys to the home in his possession. [Respondent-Mother] was out of town and was contacted by the police. [She] named Mr. Harper as a person who had a right to be in the home. As a result of her statement, Mr. Harper was released and not criminally charged.
>
> 22. On May 24, 2021, [Respondent-Mother] reported to police that her laptop was missing from her home and that she believed Mr. Harper took it. Mr. Harper was contacted by the police and he returned the laptop to the officer at [Respondent-Mother]'s home. At that time, [Respondent-Mother] informed the police that Mr. Harper did not have a right to be in her home. [Respondent-Mother] was advised of the processes of eviction and obtaining a DVPO.
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> . . . .
>
> 24. On June 1, 2021, [Respondent-Mother] and Mr. Harper appeared for a juvenile court hearing. At the conclusion of that hearing, Mr. Harper was arrested on a larceny charge and out of county warrants. Mr. Harper gave his car keys and key fob to Mecklenburg County Sheriff Deputy Rudisill who was present in the courtroom and asked him to give them to [Respondent-Mother]. [She] accepted the keys and thanked Deputy Rudisill. There was no direct communication between [Respondent-Mother] and Mr. Harper, and [she] did not ask where Mr. Harper's car was parked. [Respondent-Mother] retrieved Mr. Harper's car and drove the car to her home where it remained parked until it came back into his possession.

¶ 37 The trial court then found as fact that Respondent-Mother "had at least two prior relationships with men that also involved domestic violence. She demonstrated a reluctance to terminate these relationships, including her relationship with the father of [Latasha and Lashonda], despite their risk to the safety and wellbeing of

her children." With this history in mind, the trial court culminated its findings supporting its conclusion of a likelihood of future neglect:

> 26. The facts of this case demonstrate the amount of control Mr. Harper has had and continues to have on [Respondent-Mother]. The Court discerns the high level of dysfunctional control from [Respondent-Mother]'s testimony, her inappropriate decision-making, her willingness to lie to authorities and this Court, and her refusal to terminate her relationship with an abuser even though it jeopardized her relationship with her children.
>
> 27. It is clear to the Court from the evidence that Mr. Harper has engaged in domestic violence with [Respondent-Mother]; that he has not engaged in any services to change his violent behaviors; that he has *not* changed his behaviors; and that there is still contact between Mr. Harper and [Respondent-Mother]. As late as May 22, 2021, Mr. Harper was in [Respondent-Mother]'s home with her permission at a time when she was not to have a relationship with him. [Respondent-Mother moved into a new residence and gave her abuser the address to that residence and access to it. Mr. Harper was there with keys to the home at a time when he should have been arrested. [Respondent-Mother] is still engaged in efforts to protect Mr. Harper from criminal convictions or procedures, and this behavior places her children at risk.

¶ 38 Consistent with its obligation to "consider any evidence of changed conditions in light of the evidence of prior neglect and the probability of a repetition of neglect[,]" *M.J.S.M.*, 257 N.C. App. at 636, 810 S.E.2d at 373 (citation omitted), the trial court then noted that after the filing of the termination petition, Respondent-Mother "completed domestic violence education and parenting education, re-engaged in

therapy, submitted to random drug screens requested by her probation officer, and obtained safe housing." Respondent-Mother keys in on this language, asserting that it "is clearly inconsistent with a conclusion that there is a likelihood of repetition of neglect." However, the trial court properly weighed this evidence against the remainder of the factual record in considering "whether [Respondent-Mother]'s engagement in services has changed her behaviors such that" it reduced the probability of repetition of neglect. The court concluded "by clear, cogent and convincing evidence" that Respondent-Mother's progress did not reduce that probability.

¶ 39 Respondent-Mother correctly asserts that she has made progress in completing her case plan; nevertheless, "a parent's compliance with . . . her case plan does not preclude a finding of neglect." *In re M.K.*, 2022-NCSC-71, ¶ 35 (citation omitted). As the trial court made clear, Respondent-Mother "has gone to parenting classes, has completed domestic violence education, is in therapy that is ongoing, and has completed certain other aspects of her case plan. However, the aspect about receiving domestic violence counseling and then incorporating the counseling into her decision-making has not been established." In that domestic violence was "the main reason" that Latasha and Lashonda were in YFS's custody, the trial court concluded that "[t]he ground of neglect continues to exist and there is reasonable probability that it will continue in the future." Our careful review of the record reveals that the trial

court's conclusion is supported by its findings, which in turn are supported by clear, cogent, and convincing evidence. *See M.A.*, 378 N.C. 462, 2021-NCSC-99, ¶ 14.

Conclusion

¶ 40 For the foregoing reasons, the trial court's order terminating Respondent-Mother's parental rights to Latasha and Lashonda is affirmed.

AFFIRMED.

Judges WOOD and GRIFFIN concur.

Report per Rule 30(e).