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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA23-904

Filed 21 May 2024

Guilford County, Nos. 22 JA 615, 22 JA 624–25

IN THE MATTER OF: M.R., M.R., K.R.

Appeal by Respondent-Father from orders entered 20 March 2023, 16 May 2023, and 18 May 2023 by Judge Angela C. Foster in Guilford County District Court. Heard in the Court of Appeals 30 April 2024.

*Mercedes O. Chut for Petitioner-Appellee Guilford County Department of Health and Human Services.*

*Rebekah W. Davis for Respondent-Appellant Father.*

*Parker Poe Adams & Bernstein LLP, by Maya Madura Engle, for Guardian ad Litem.*

GRIFFIN, Judge.

Respondent appeals from the trial court’s orders adjudicating his children M.R. (Mel), M.R. (Mike), and K.R. (Kate)<sup>1</sup> neglected and dependent juveniles and continuing custody of the children with the Guilford County Department of Health

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<sup>1</sup> Pseudonyms are used to protect the juveniles’ identity and for ease of reading. See N.C. R. App. P. 42(b).

and Human Services. For the reasons discussed below, we affirm the adjudication orders for Mel, Mike and Kate. We also affirm the disposition order.

### **I. Background**

On 20 September 2022, DHHS filed a juvenile petition alleging that Mel, born in August 2022, was a neglected and dependent juvenile. The petition alleged that DHHS had received two reports following Mel's birth. The first on 7 September 2022 alleged neglect after Mel's umbilical cord blood tested positive for cocaine and benzoylecgonine. Following that report, DHHS met with Respondent and the mother on 13 September 2022. The mother admitted to using cocaine during her pregnancy, though she reported she had last used cocaine about three months before she gave birth. Respondent reported that he was aware of the mother's prior substance abuse issues, but he was unaware of Mel's cord blood results.

DHHS received the second report, alleging improper supervision, on 17 September 2022. Law enforcement responded to the home after a family member went by to check on the mother and found all three children home alone. When the mother returned home, she was intoxicated and had an open container in her car. She was arrested and charged with three counts of child neglect and an open container. The children were left at the home in the care of Respondent and a family member.

The petition also alleged DHHS had received three reports prior to Mel's birth, alleging concerns related to domestic violence and the mother's substance abuse issues. All three prior cases were closed with services recommended.

The petition indicated that DHHS met with both Respondent and the mother on 19 September 2022. At the child and family team (CFT) meeting with Respondent, Respondent expressed concern regarding Mel's paternity and asserted that he wanted a paternity test before he committed to caring for Mel. He also expressed that he was unsure he would be able to provide for Mel, given Mel's needs from being born addicted to substances. Respondent expressed no concerns about caring for the two older children, one-year-old Mike and six-year-old Kate. At the meeting with the mother at the jail, the mother reported Respondent was home when she left on 17 September 2022, so she did not leave the children unattended. When asked about an alternative caretaker for Mel, the mother provided the number of relatives in New York. Both the mother's aunt and the maternal grandmother expressed willingness to care for the children, but indicated they would need some time to come down from New York.

The petition alleged that Mel needed more care than could be provided by his family and that he was at risk of harm if left in the custody of his parents. DHHS obtained nonsecure custody of Mel on 20 September 2022.

On 22 September 2022, DHHS filed juvenile petitions alleging that Mike and Kate were neglected and dependent. The petitions included the allegations

underlying Mel's petition. The petitions also detailed contacts with the family since the filing of Mel's petition, alleging that DHHS met with Respondent on 20 September 2022 when he was at the agency applying for assistance to care for Mike and Kate. Upon learning the identity of a second putative father of Mel, Respondent expressed doubts regarding the paternity of Mike and Kate, and he requested a paternity test for them as well. When Respondent was told a paternity test could not be conducted as Mike and Kate were not in DHHS custody, Respondent indicated that he wanted DHHS to take custody until paternity could be established.

The petitions alleged that at a 22 September 2022 CFT meeting, Respondent reported that he was not able to care for Mike and Kate at that time, and reasserted that he wanted to establish paternity. Respondent had brought Mike's and Kate's belongings to the meeting, and he indicated that he would be leaving the children at DHHS. The petition further alleged that the mother was homeless, the parents were unable to make an appropriate care plan for Mike and Kate, the maternal relatives were still in New York, and Mike and Kate required more care than the family could provide. DHHS sought and obtained nonsecure custody of Mike and Kate that same day. Neither petition was verified.

Paternity tests from September and October 2022 confirmed that Respondent was the father of all three children. On 1 November 2022, DHHS filed a notice of voluntary dismissal of the 22 September 2022 petitions for Mike and Kate. DHHS

also filed new, nearly identical juvenile petitions that included verifications, and obtained new nonsecure custody orders.

The 1 November 2022 petitions for Mike and Kate were heard on 1 February 2023 and 3 February 2023. The trial court entered its order on 20 March 2023, adjudicating Mike and Kate neglected and dependent. The juvenile petition for Mel came on for hearing on 29 March 2023. That same day, the trial court held a combined disposition hearing for all three children. On 16 May 2023, the trial court entered an order adjudicating Mel neglected and dependent. On 18 May 2023, the trial court entered a disposition order continuing custody of the children with DHHS and continuing Respondent's two hours of weekly supervised visitation. Respondent appealed all three orders.

## **II. Analysis**

Respondent presents four arguments on appeal: (1) the trial court lacked subject matter jurisdiction to place Mike and Kate into DHHS custody, (2) the trial court's conclusions that Mike and Kate were neglected and dependent were unsupported by the evidence, (3) the trial court abused its discretion in continuing custody of the children with DHHS, and (4) the trial court failed to provide "an essential framework for visits between" Respondent and the children.

### **A. Subject Matter Jurisdiction**

Respondent contends that the trial court lacked jurisdiction to place Mike and Kate into DHHS's custody because the first petitions filed on 22 September 2022 were

unverified. He argues that the trial court should have dismissed the 22 September 2022 juvenile petitions and accompanying nonsecure custody orders, and Mike and Kate should have been returned to his care.

It is true that “[a] trial court’s subject matter jurisdiction over all stages of a juvenile case is established when the action is initiated with the filing of a properly verified petition.” *In re T.R.P.*, 360 N.C. 588, 593, 636 S.E.2d 787, 792 (2006). The 22 September 2022 petitions were unverified; however, DHHS voluntarily dismissed those petitions on 1 November 2022, filed new, verified petitions, and obtained new nonsecure custody orders. These properly verified petitions established the trial court’s jurisdiction. *Id.* Thus, any orders or proceedings entered prior to the court obtaining jurisdiction were void. *Id.* at 590, 636 S.E.2d at 790. To the extent that Respondent argues the trial court’s failure to dismiss the juvenile action prior to 1 November 2022 was error, his arguments are moot. The adjudication hearing was held only on the 1 November 2022 petitions and nonsecure custody order.

Respondent also contends that the 1 November 2022 petitions were deficient, as they were based on the same allegations as the first petitions. He argues that the petitions failed to account for paternity being established by 3 October 2022, and once that had occurred, the petitions should have been dismissed.

Juvenile petitions must contain “specific factual allegations . . . sufficient to put [the] respondent on notice as to each alleged ground for adjudication[.]” *In re D.C.*, 183 N.C. App. 344, 350, 644 S.E.2d 640, 643 (2007). It is unclear how the

absence of the paternity determination rendered petitions alleging neglect and dependency inadequate. Moreover, while Respondent made motions to dismiss the petitions after the close of DHHS's evidence and at the close of all evidence, there is no indication that Respondent made any prior motions to dismiss the 1 November 2022 petitions.<sup>2</sup> Thus, it is unclear when he believes the trial court should have dismissed them. Generally, when the allegations in a juvenile petition are not proven, the trial court will dismiss the petition at the adjudication hearing. N.C. Gen. Stat. § 7B-807(a) (2023).

To the extent Respondent argues the allegations in the petition were insufficient for the trial court to make an adjudication determination, we conclude that Respondent has failed to preserve that issue for appeal. *See In re H.L.A.D.*, 184 N.C. App. 381, 392, 646 S.E.2d 425, 434 (2007) (holding that 12(b)(6) motions to dismiss cannot be made for the first time on appeal). We address Respondent's challenges to the sufficiency of the evidence to support adjudication below.

## **B. Adjudication**

"We review an adjudication under N.C. Gen. Stat. § 7B-807 to determine whether the trial court's findings of fact are supported by 'clear and convincing competent evidence' and whether the court's findings support its conclusions of law.

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<sup>2</sup> Respondent did move to dissolve nonsecure custody at a 7 October 2022 nonsecure custody hearing, which was denied, but no such motion was made at the hearing on continued nonsecure custody that was held after the 1 November 2022 petitions were filed.

*In re M.H.*, 272 N.C. App. 283, 286, 845 S.E.2d 908, 911 (2020) (quoting *In re Helms*, 127 N.C. App. 505, 511, 491 S.E.2d 672, 676 (1997)). A trial court's findings of fact are binding on appeal when they are either properly supported or unchallenged. *In re K.B.*, 253 N.C. App. 423, 428, 801 S.E.2d 160, 164 (2017). "When reviewing findings of fact in a juvenile order, the reviewing court 'simply disregards information contained in findings of fact that lack sufficient evidentiary support' and examines whether the remaining findings support the trial court's determination." *In re A.J.L.H.*, 384 N.C. 45, 52, 884 S.E.2d 687, 693 (2023) (quoting *In re A.C.*, 378 N.C. 377, 394, 861 S.E.2d 858, 874 (2021)).

"When determining whether a child is abused, neglected, or dependent, the determinative factors are the circumstances and conditions surrounding the child, not the fault or culpability of the parent." *In re A.B.*, 272 N.C. App. 13, 17, 844 S.E.2d 368, 371 (2020) (citation and internal quotation marks omitted). We review the trial court's conclusions that a child is neglected or dependent de novo. *In re M.H.*, 272 N.C. App. at 286, 845 S.E.2d at 911.

Respondent does not challenge the trial court's adjudication of Mel as neglected or dependent, thus we affirm that order and only consider the trial court's adjudication of Mike and Kate.

### ***1. Challenged Findings***

Out of the twenty-two evidentiary findings in Mike and Kate's adjudication order, Respondent challenges six, in whole or in part, as being unsupported by the



evidence:

16. [Respondent] was present at the home and reports that he lives in the home with the mother and the children. He reports that it is his residence and that he had knowledge of mom's prior substance abuse issues, and that he was not aware that [Mel's] cord tested positive for cocaine. He reported that he is not sure of the paternity of [Mel] and that the mother is supposed to be leaving to go back to Buffalo, NY with the children. He reports that he wants the mother to leave the home soon and would be filing eviction papers to get her out of the home legally.

17. On September 17, 2022, a new report was received alleging improper supervision. Law Enforcement responded to the home after a family member went by the home to check on [the mother] and the children and found the children home alone. [The mother] had left the children home alone, unattended while [Respondent] was working, cutting hair. Law Enforcement spoke with [the mother] on the phone and [she] stated that the children are not her responsibility and she "didn't sign up for this". When [the mother] showed up to the home while police were there, she was highly intoxicated, and had an open container in her car. Mom was arrested and charged with 3 counts of child neglect and an open container. The children were left with [Respondent] and his cousin at the time.

...

19. On September 19, 2022, Social Worker . . . arrived at the Guilford County Jail to interview the mother, Social Worker asked [the mother] to describe what happened and why she is in jail. [The mother] advised she was charged with child neglect and child abuse. [The mother] stated, "They say I neglected my kids". [The mother] stated "They were with the father; I was out with a friend. When I left home, the father was there". [The mother] advised her friends . . . can confirm the father was there when they left. . . . [The mother] stated she was gone for about 30 minutes.

[The mother] stated that she and [Respondent] had an altercation before she left the home, and that her friend . . . and [Respondent] were arguing as well because [her friend] was telling [Respondent] not to put his hands on [her]. [The mother] advised she came back home because the father called her and was arguing about leaving the kids home alone. [The mother] stated when she pulled up to the house the police were already outside. She reports [Respondent] was there when she left and that he was there when she returned. Social Worker asked if she was able to provide an appropriate caretaker who could care for [Mel] at this time. . . . [The mother] stated, "I knew this would happen he said my son be crying too much, He has said he can't handle my son[.]"

20. On September 19, 2022, Social Worker . . . called the maternal relatives provided by the mother. SW contacted . . . the mother's aunt. . . . She reports [Respondent] made her aware of the situation when he called to inform her that the mother was incarcerated for leaving the children at home alone. She stated to her knowledge that he was [Respondent] of all the children and that he cannot take care of them without some support. . . .

. . .

24. On September 22, 2022, a CFT was held at the [DHHS] with the mother . . . and [Respondent], and Maternal grandparents . . . . [DHHS staff] were present and spoke with the parents regarding making an appropriate plan[.] [Respondent] reports he cannot care for the children at this time and wishes to establish paternity for the children. He stated he brought their belongings and he would be leaving the agency without the children. . . .

. . .

28. The family has had a history with the [DHHS] in the past:

- June 23, 2021: Report came in due to concerns for neglect-injurious environment and domestic

violence. . . .

- October 4, 2021: Report alleges that [the mother] is addicted to cocaine and has been leaving the home at night and not coming home until the next day and [Respondent] cannot care for the children. At initiation, [Respondent] denied not being able to care for the children. [Respondent] stated that he needs financial assistance as he only receives disability and [the mother] is unemployed. . . .
- May 27, 2022: Report alleges that [the mother] and [Respondent] were yelling when Law Enforcement arrived at the home. [Respondent] left the home for the evening. . . .

Respondent contends that his “reporting” in Finding of Fact 16, the mother’s statements in Findings of Fact 17 and 19, the reports of the family members in Finding of Fact 20, and all of Finding of Fact 28 were not supported by the evidence presented at the hearing. As to Finding of Fact 24, Respondent contends that the evidence establishes he “was adamant that he was able to take care of Mike and Kate.”

We agree that much of Finding of Fact 16 is unsupported by the evidence presented at the hearing. Most of the information contained within that finding related to the circumstances underlying Mel’s juvenile petition, and there was only limited discussion of that separate case during the adjudication hearing on the petitions for Mike and Kate. However, testimony presented by the DHHS social worker established that Respondent was present when she first responded to the report, and Respondent was aware the mother had a substance abuse issue, but still

allowed her to be left alone with the children. Respondent testified that he first became involved with the social worker when she came to his house when Mel tested positive for cocaine. The remainder of the finding is unsupported; thus, we disregard those unsupported portions.

The social worker's testimony supports the majority of Finding of Fact 17, but for the specific statements purportedly made by the mother and the finding that she was "highly" intoxicated. Accordingly, we disregard those unsupported portions.

As to Finding of Fact 19, the social worker's testimony established that the social worker visited the mother when she was in jail; the mother provided her explanation of the events of 17 September 2022, including that Respondent was present when she left the house that day; and the mother provided the name of a potential relative placement. We disregard the remainder of that finding.

As to Finding of Fact 20, the social worker testified that the mother identified her relatives in Buffalo, New York, as a potential placement option, and DHHS contacted the maternal relatives but they could not assume custody within a certain time frame. We disregard the remainder of the finding, including any specific statements made by the relatives.

Finding of Fact 24 is fully supported by the social worker's testimony. After a nonsecure custody hearing in Mel's case, Respondent became "very concerned" regarding Mike's and Kate's paternity and made statements that he was not willing to care for children who were not his. Thus, a CFT was held on 22 September 2022

to establish a plan for Mike and Kate. Respondent arrived at the meeting with Mike, Kate, and their belongings. Respondent repeatedly stated that he was concerned about their paternity and that he wanted Mike and Kate to go into DHHS's custody for paternity to be established. On cross examination, the social worker specified that Respondent brought large trash bags containing "a lot of things[.]" and that Respondent "was very clear about not wanting to keep the children."

Respondent contends that the evidence actually establishes he "was adamant that he was able to take care of Mike and Kate." While Respondent had once reported he was "the caretaker of the older two children and that those children are his children and he has no concerns about taking care of them[.]" the social worker noted those statement were made after the 17 September 2022 report concerning improper supervision. Once Respondent became aware of another putative father in Mel's case, he began to question the paternity of Mike and Kate and asserted he could not care for children he was not sure were his. Moreover, Respondent acknowledged he left Mike, Kate, and their belongings with DHHS on 22 September 2022 because he wanted DHHS to take custody and to conduct paternity testing. As Finding of Fact 24 is supported by some evidence, it is binding on appeal, and we will not reweigh the evidence.

No evidence was presented regarding prior DHHS reports, so we disregard Finding of Fact 28 in its entirety.

## ***2. Neglect***

The Juvenile Code defines a “[n]eglected juvenile,” in relevant part, as a child “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) (2023). A conclusion that a parent does not provide proper care requires “that there be some physical, mental, or emotional impairment of the juvenile *or a substantial risk of such impairment* as a consequence of the failure to provide proper care, supervision, or discipline.” *In re J.A.M.*, 372 N.C. 1, 9, 822 S.E.2d 693, 698 (2019) (citation and internal quotation marks omitted). A conclusion that a child lives in an injurious environment requires a showing of “current circumstances that present a risk to the juvenile.” *Id.*

Respondent contends that the trial court’s findings “do not illustrate any neglect of Mike and Kate.” He argues the only “event” indicating a possibility of neglect was the report from 17 September 2022 regarding improper supervision, ignoring any findings regarding the “conversations” that occurred after. He contends that the mother’s failure to supervise the children on 17 September 2022, and the “unfortunate” circumstances of him needing to confirm paternity and his inability to afford to do so did not amount to neglect. Respondent argues that he was willing and able to care for Mike and Kate as soon as paternity was established, and the trial court’s adjudication of neglect was based on “the misunderstanding” between him and DHHS “as to how paternity could be established.”

Contrary to Respondent’s arguments, the evidence underlying the adjudication of neglect does not hinge upon his paternity, or any purported “misunderstanding” as to how it could be established. Moreover, the single “event” of 17 September 2022—leaving a six-year-old, a one-year-old, and a three-week-old alone for an indeterminate period of time—is sufficient to support an adjudication of neglect. *See In re K.J.M.*, 288 N.C. App. 332, 348, 886 S.E.2d 589, 600 (2023) (“A six-year-old child without a caregiver for an indefinite period of time faces a substantial risk of impairment or harm due to that lack of proper care, supervision, or discipline or due to the injurious environment.”). While Respondent asserts he did not leave the children unattended, contrary evidence was presented at the hearing. Regardless, an adjudication of neglect is based on “the circumstances and conditions surrounding the child, not the fault or culpability of the parent.” *In re A.B.*, 272 N.C. App. at 17, 844 S.E.2d at 371. The unchallenged and properly supported challenged findings of fact establish that: the mother admitted to using cocaine while pregnant with Mel; Respondent was aware of the mother’s substance abuse issues and was informed that Mel tested positive for cocaine at birth; and on 17 September 2022, a family member found Mel, Mike, and Kate alone at home and called law enforcement.

Thus, the evidence establishes that the children were not provided proper supervision and were exposed to an injurious environment. “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 D.B.J.*, 197 N.C. App. 752,

755, 678 S.E.2d 778, 780 (2009) (citation and internal quotation marks omitted). The trial court’s findings support its conclusion that Mike and Kate were neglected juveniles.

### **3. Dependency**

The Juvenile Code defines a “[d]ependent juvenile,” in relevant part, as a “juvenile in need of assistance or placement because . . . the juvenile’s parent, . . . is unable to provide for the juvenile’s care or supervision and lacks an appropriate alternative childcare arrangement.” N.C. Gen. Stat. § 7B-101(9) (2023). The trial court must make findings of fact addressing both the parent’s ability to care for the child and the availability of an alternative childcare arrangement. *In re M.H.*, 272 N.C. App. 283, 286, 845 S.E.2d 908, 911 (2020).

Again, Respondent frames his challenge to the trial court’s adjudication of dependency as a paternity issue. He contends he “had always been able to care for Mike and Kate[,]” and “Mike and Kate were not in” DHHS’s custody due to his “care of the children.” He asserts that DHHS “was allowed to retain nonsecure custody” of Mike and Kate when the 1 November 2022 petitions were filed, and “the only thing that kept Mike and Kate from living with” him “was the lack of a case plan[.]” In his dependency arguments, Respondent does not address the circumstances surrounding Mike and Kate coming into DHHS’s custody, but as noted above, he previously classified the whole matter as a “misunderstanding.”

Respondent does not challenge Finding of Fact 22, which establishes that after



the 21 September 2022 nonsecure custody hearing in Mel's case, Respondent began to question Mike's and Kate's paternity. When he asked for a paternity test, the social worker explained that DHHS could not conduct a paternity test on children who are not in DHHS's custody. Respondent then indicated that he wanted DHHS to take custody of Mike and Kate. The social worker advised that an appropriate plan would be developed at a CFT meeting. We have already concluded the events of 22 September 2022 CFT, as reflected in Finding of Fact 24, were sufficiently supported. On that day, Respondent brought Mike, Kate, and their belongings to DHHS and left them there.

Moreover, Respondent does not challenge the trial court's findings that Respondent obtained a protective order against the mother on behalf of the children, that she was homeless, or that she had pending criminal charges relating to the neglect of the children. Thus, we conclude the trial court's determination that the parents were unable to provide for Mike's and Kate's care or supervision was adequately supported by the findings and evidence.

We also conclude the trial court made sufficient findings of fact regarding the lack of an alternative childcare arrangement. The trial court's findings identify the maternal grandmother as a possible placement. However, the trial court's findings also reflect that the maternal grandmother lives in Buffalo, New York, but there was uncertainty as to when she could take custody of the children. Similarly, the trial court found that the maternal grandmother "reported that they could be in North

Carolina to get the children and take them back to Buffalo as soon as possible.” While willing to take custody, there was no indication as to when this could occur. Thus, the trial court entered findings showing there was a potential alternative childcare arrangement for Mike and Kate, but substantial uncertainty regarding the timeline of this arrangement. Moreover, Respondent failed to suggest an alternative childcare arrangement. *See In re L.H.*, 210 N.C. App. 355, 365, 708 S.E.2d 191, 197–98 (2011) (“[T]he trial court’s findings—supported by adequate evidence—establish both that [the] respondent father was unable to care for Luke and that he did not suggest an appropriate alternative placement. Under the above cases, these findings are sufficient to support the existence of the dependency ground.”) In light of this uncertainty and Respondent’s failure to suggest an appropriate alternative childcare arrangement, the trial court properly adjudicated Mike and Kate dependent.

Accordingly, we conclude the trial court’s determination that Mike and Kate were dependent was adequately supported by the findings and evidence.

### **C. Disposition**

Following an adjudication of abuse, neglect, or dependency, the trial court proceeds to the dispositional phase. N.C. Gen. Stat. § 7B-901(a) (2023). The court “has broad discretion to fashion a disposition from the prescribed alternatives in N.C. Gen. Stat. § 7B-903(a), based upon the best interests of the child.” *In re S.H.*, 217 N.C. App. 140, 144, 719 S.E.2d 157, 159 (2011) (citation and internal quotation marks omitted). We review the trial court’s disposition order for an abuse of discretion. *In*

*re K.H.*, 281 N.C. App. 259, 270, 867 S.E.2d 757, 765 (2022). Thus, the court’s “discretionary ruling is to be accorded great deference and will be upset only upon a showing that it was so arbitrary that it could not have been the result of a reasoned decision.” *In re S.H.*, 217 N.C. App. at 144, 719 S.E.2d at 159 (citation and internal quotation marks omitted).

Here, the trial court determined that it was in the children’s best interests to remain in the legal and physical custody of DHHS. *See* N.C. Gen. Stat. § 7B-903(a)(6). Respondent contends the court should have either (1) dismissed the case or continued the case to allow Respondent to take appropriate action, or (2) placed the children with him with continued supervision by DHHS. *See* N.C. Gen. Stat. § 7B-903(a)(1), (2). Respondent argues “it was never apparent why the children were being kept away from [his] care,” and when the first juvenile petitions were filed “the concern was not the children’s welfare or how [he] took care of them, it was [his] attempt to deal with what he was going to need to acquire financial assistance.”

Respondent only challenges Finding of Fact 32, which provides that Respondent’s failure to complete his case plan or to address the concerns that led to the removal of the children were barriers to reunification. He argues he “had addressed the concerns that led to [DHHS] assuming custody.” He contends DHHS never thought his home was unsafe, he had completed part of the required parenting education classes, he had income from government assistance programs “and would be able to apply for financial benefits for the children,” he had consistently tested

negative on drug screens, and he consistently visited with the children and acted appropriately with them.

However, the unchallenged findings of fact contradict several of Respondent's claims. The court found Respondent had not yet entered a case plan, Respondent currently lived with the mother, DHHS had not evaluated Respondent's home following his request that the evaluation wait until he moved to a home which did not need repairs, and Respondent had not provided verification of income he claimed from several jobs. Mel was removed from his parents' care due to the mother's substance abuse, improper supervision, and Respondent's assertions that he could not afford to care for Mel due to Mel's increased needs from being "born substance affected[.]" and he was subsequently adjudicated neglected and dependent. We have already concluded the trial court properly adjudicated Mike and Kate neglected due to being left unattended for an indeterminate period of time on 17 September 2022, while living with Respondent and the mother. Prior to Mel's removal, Respondent had agreed the mother would not be present in the home.

Thus, the evidence supports the trial court's finding that Respondent had yet to correct the conditions which led to the children's removal. Based on this finding and the unchallenged findings, we conclude the trial court did not abuse its discretion in determining that it was in the children's best interests to remain in DHHS's custody.

#### **D. Visitation**

An order continuing a child's placement outside of the home must "provide for visitation that is in the best interests of the juvenile consistent with the juvenile's health and safety." N.C. Gen. Stat. § 7B-905.1(a) (2023). When custody is continued with the department of social services, the visitation plan "shall indicate the minimum frequency and length of visits and whether the visits shall be supervised." N.C. Gen. Stat. § 7B-905.1(b). We review visitation designations in dispositional orders for an abuse of discretion. *In re J.R.*, 279 N.C. App. 352, 366, 866 S.E.2d 1, 10 (2021).

Here, the trial court concluded it was in the children's best interests to have continued supervised visitation with Respondent. Respondent contends the visitation determination was insufficient, as "the court did not let everyone know what the minimal visitation plan would be after disposition." However, prior to disposition, the court entered a limited review order addressing visitation. In that order, the court changed Respondent's visitation to a single, two-hour visit each week, providing for the "date and time" to be agreed upon by the parties and to not interfere with Respondent's work schedule. In the disposition order, the court found that Respondent "currently has supervised visitation with the juveniles once per week for two hours," neither DHHS nor the guardian ad litem recommended changing Respondent's visitation, and that it was in the children's best interests to continue supervised visitation with Respondent. Thus, we conclude that the court's conclusion

that the children “have continued supervised visitation with [Respondent]” complied with the requirements of N.C. Gen. Stat. § 7B-905.1.

### **III. Conclusion**

As Respondent did not challenge Mel’s adjudication, we affirm that order. The trial court properly adjudicated Mike and Kate neglected and dependent. Therefore, we affirm Mike and Kate’s adjudication order. As the trial court did not abuse its discretion with regard to its disposition determination or the visitation provision within the disposition order, we affirm the disposition order.

AFFIRMED.

Chief Judge DILLON and Judge STADING concur.

Report per Rule 30(e).