

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority. Citation is disfavored, but may be permitted in accordance with the provisions of Rule 30(e)(3) of the North Carolina Rules of Appellate Procedure.

IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA24-21

Filed 16 July 2024

Pitt County, Nos. 22 JA 217; 11 JA 62

IN THE MATTER OF:

L.D. & A.W.

Appeal by respondent-mother from order entered 14 August 2023 by Judge Mario E. Perez in Pitt County District Court. Heard in the Court of Appeals 28 May 2024.

*The Graham Nuckolls Conner Law Firm, PLLC, by Jon G. Nuckolls and LeAnne M. Goss, for petitioner-appellee Pitt County Department of Social Services.*

*Nelson Mullins Riley & Scarborough LLP, by Carrie A. Hanger, for Guardian ad Litem.*

*Rebekah W. Davis, for respondent-appellant mother.*

THOMPSON, Judge.

Respondent-mother appeals from the trial court's order adjudicating her minor children abused and neglected juveniles. After careful review, we affirm.

**I. Factual Background and Procedural History**

L.D. and A.W. are both the biological children of respondent-mother, but have different fathers.<sup>1</sup> On Friday, 22 April 2022, respondent-father kept L.D. out of school to go on a boating trip with family friends. L.D. was picked up from school by respondent-mother on 25 April and was taken for a routine pediatric checkup on 2 May 2022; there were “no concerns or issues at that visit.”

However, on 3 May 2022, Pitt County Department of Social Services (DSS) received a report alleging that L.D. had not attended school on 22 April because “he was bleeding from being” sexually assaulted by respondent-father. That same day, a social worker with DSS (social worker) opened an investigation into the allegations against respondent-father.

On 5 May 2022, L.D. participated in an evaluation at Tedi Bear Child Advocacy Center (Tedi Bear), where “[t]here were no physical abuse findings[,]” and L.D. “denied all of the sexual abuse allegations that were the basis of the reports received by [DSS].” The nurse who conducted the initial evaluation at Tedi Bear “had significant concerns of adult influence on [L.D.]’s disclosures” and “found the extreme difference in [L.D.]’s statements to [respondent-]mother versus his statements to professionals to be extremely uncommon.” Tedi Bear professionals also recommended that there be “no adult questioning of [L.D.] [about the accusations] due to concerns of [L.D.] being quizzed and constantly questioned about the allegations, which can be

---

<sup>1</sup> L.D.’s father (respondent-father) is not involved in this appeal.

detrimental to the juvenile. A.W. missed school that day to attend L.D.'s Tedi Bear appointment, even though there were no allegations of sexual abuse committed against A.W., and she was not examined at the appointment.

On 16 May 2022, respondent-mother brought L.D. in for a follow-up appointment at Tedi Bear because she claimed he had been sexually abused again and "had been bleeding for days." Urine and anal cultures were taken from L.D., but Tedi Bear found no signs or symptoms of physical sexual abuse, no signs of anal bleeding, and "no signs of any past physical trauma or sexual abuse." Unbeknownst to the professionals at Tedi Bear, respondent-mother had also brought L.D. to the ECU Health Center Emergency Room to be examined for rectal bleeding on 11 May 2022, five days earlier. ECU Health Center "did not find any rectal bleeding" and further found that "there were no signs of" sexual abuse.

A detective with the Beaufort County Sheriff's Office (detective) investigated the allegations against respondent-father, wherein they interviewed respondent-mother, respondent-father, and respondent-father's wife (stepmother), and reviewed medical records. The detective confirmed that there was no medical evidence of sexual abuse from ECU Health nor Tedi Bear's records. As part of the investigation, respondent-mother sent law enforcement audio recordings of conversations between herself and L.D., which occurred sometime between 3 and 12 May 2022. On 8 July 2022, the Beaufort County District Attorney's Office declined to prosecute respondent-father for the sexual abuse of L.D., because there was insufficient

evidence to warrant prosecution and “there were concerns regarding the credibility for truthfulness of [respondent-mother].”

DSS’s investigation into the case lasted from May 2022 until October 2022. DSS’s investigation led to the discovery that L.D. had missed fifty-five days of school in the most recent school year and had not been enrolled into a new school year. Respondent-mother claims L.D. is homeschooled, but there was never confirmation or verification provided to DSS during the investigation that L.D. was actually enrolled in “any official homeschool program.” L.D. had not been receiving recommended developmental services such as speech therapy, and case workers repeatedly had difficulty understanding L.D. due to a speech impediment.

DSS investigators (evaluators) also conducted a Child/Family Evaluation (Evaluation), a more in-depth process recommended by Tedi Bear to further evaluate the allegations, beginning on 16 August 2022 and completed on 7 October 2022. As part of the evaluation, DSS interviewed both L.D. and A.W., respondents, stepmother, the social worker who conducted the initial evaluation at Tedi Bear, the detective from Beaufort County Sheriff’s Office, the Beaufort County District Attorney’s Office, Beaufort County DSS, North Carolina SBI, L.D.’s therapist, and the juveniles’ teachers at school. The evaluators also received the audio recordings from respondent-mother of her conversations with L.D. from 3 May to 12 May 2022. The Evaluation concluded that it was “highly improbable” that L.D. had been

sexually abused by respondent-father, and that it was “probable” L.D. and A.W. were “emotionally abused” and “neglected” by respondent-mother.

On 14 October 2022, DSS filed a juvenile petition in Pitt County District Court, alleging that L.D. and A.W. were abused and neglected juveniles pursuant to N.C. Gen. Stat. § 7B-101(1), (15). The adjudication hearing began on 23 May 2023, and was continued on 1 and 8 June 2023. At the hearing, the court heard testimony from the evaluators who conducted the Evaluation, the social worker, the detective with the Beaufort County Sheriff’s Office, respondent-father, respondent-mother, and others. By order entered 14 August 2023, the trial court adjudicated L.D. and A.W. abused and neglected juveniles. From this order, respondent-mother filed timely written notice of appeal.

## **II. Discussion**

On appeal, respondent-mother alleges the following issues:

- I. The trial court improperly relied on recordings and hearsay for many of the findings. Also, some of the findings were not supported by the evidence.
- II. The evidence and the findings are insufficient to support the court’s conclusion that [A.W.] was abused and neglected.
- III. The evidence and the findings are insufficient to support the court’s conclusion that [L.D.] was abused and neglected by [respondent-mother].
- IV. The court should not have closed the adjudication hearing in both cases, *In the Matter of: A.W.* and *In the Matter of: L.D.*

We will address each of these issues in the analysis to follow.

**A. Audio Recordings of L.D.**

Respondent-mother contends that “the trial court improperly relied on recordings and hearsay for many of the findings” and “erred when it listened to some of the recordings and when it used them to justify many findings of fact.” We do not agree.

“The admissibility of evidence is governed by a threshold inquiry into its relevance . . . [and] [i]n order to be relevant, the evidence must have a logical tendency to prove any fact that is of consequence in the case being litigated.” *State v. Griffin*, 136 N.C. App. 531, 550, 525 S.E.2d 793, 806 (2000) (internal quotation marks and citation omitted). “This Court reviews questions of relevancy *de novo*, but accords deference to the trial court’s ruling.” *State v. Shareef*, 221 N.C. App. 285, 299, 727 S.E.2d 387, 397 (2012) (emphasis added).

“Under certain circumstances, however, otherwise inadmissible evidence may be admissible if the door has been opened by the opposing party’s cross-examination of the witness.” *State v. Baymon*, 336 N.C. 748, 752, 446 S.E.2d 1, 3 (1994). “Opening the door refers to the principle that where one party introduces evidence of a particular fact, the opposing party is entitled to introduce evidence in explanation or rebuttal thereof, even though the rebuttal evidence would be . . . irrelevant had it been offered initially.” *Id.* at 752–53, 446 S.E.2d at 3 (citation omitted).

Respondent-mother contends in her appellate brief that after respondent-mother's counsel's motion to continue the case to review the recordings "was denied, [respondent-mother]'s attorney objected to the use of the recordings – all of them." However, our careful review of the transcript establishes that respondent-mother's counsel did not make timely objections to *any* of the *multitude* of testimonial references to the audio recordings during the hearing. In fact, respondent-mother's counsel *referenced and asked questions about* the audio recordings on several occasions throughout the hearing. Respondent-mother did not object when one of the recordings was played aloud before the court on the second day of the hearing and, astonishingly, given the argument on appeal, respondent-mother's counsel even inquired whether the court "want[ed] to hear recordings, Your Honor."

It is paramount that "[i]n 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). "This rule is equally applicable to evidentiary arguments in the context of abuse, neglect, and dependency proceedings." *In re E.P.-L.M.*, 272 N.C. App. 585, 591, 847 S.E.2d 427, 433 (2020).

Because respondent-mother did not object to testimony about the content or details of the recordings at the adjudication hearing, we conclude that the argument

regarding the admissibility of the audio recordings of L.D. has not been preserved for appellate review.

## **B. Family Evaluation**

Alternatively, defendant argues that the trial court improperly “relied on the Evaluation for important findings and for conclusions” because the Evaluation “was filled with hearsay and the [evaluator]’s conclusions.” We disagree.

North Carolina Rule of Evidence 702 provides that a witness may testify in the form of an expert opinion if they can show: “(1) [t]he testimony is based upon sufficient facts or data. (2) The testimony is the product of reliable principles and methods. (3) The witness has applied the principles and methods reliably to the facts of the case.” N.C. Gen. Stat. § 8C-1, Rule 702 (2023). Moreover, “there [i]s no need for the court to make a formal ruling that the witness was an expert because her qualifications had already been presented to the court.” *State v. Wise*, 326 N.C. 421, 431, 390 S.E.2d 142, 148 (1990). Similarly, under Rule 703 of the North Carolina Rules of Evidence,

[t]he facts or data in the particular case upon which an expert bases an opinion or inference may be those perceived by or made known to him at or before the hearing. If of a type reasonably relied upon by the experts in the particular field in forming opinions or inferences upon the subject, the facts or data need not be admissible in evidence.

N.C. Gen. Stat. § 8C-1, Rule 703. Such “[i]nherently reliable information is admissible to show the basis for an expert’s opinion, even if the information would otherwise be inadmissible hearsay.” *State v. Daughtry*, 340 N.C. 488, 511, 459 S.E.2d 747, 758



(1995). “Allowing disclosure of the bases of an expert’s opinion is essential to the factfinder’s assessment of the credibility and weight to be given to it.” *State v. Golphin*, 352 N.C. 364, 467, 533 S.E.2d 168, 235 (2000) (internal quotation marks and citation omitted).

Most importantly, however, “[t]rial courts are afforded a wide latitude of discretion when making a determination about the admissibility of expert testimony.” *Kearney v. Bolling*, 242 N.C. App. 67, 76, 774 S.E.2d 841, 848 (2015) (citation omitted). “The trial court’s ruling on the qualifications of an expert or the admissibility of an expert’s opinion will not be reversed on appeal absent a showing of abuse of discretion.” *Id.* (internal quotation marks and citation omitted). “A trial court’s evidentiary ruling is not an abuse of discretion unless it was so arbitrary that it could not have been the result of a reasoned decision.” *Id.* (internal quotation marks and citation omitted).

Here, in objecting to the admission of “the CFE evaluation into evidence[,]” respondent-mother’s counsel argued that, “[t]his report has so many levels of hearsay that I don’t even know where to begin.” Despite respondent-mother’s contention that “[p]etitioner and the court did not specifically provide the exception which would allow all of the statements[,]” this contention is false.

In determining whether the Evaluation was admissible into evidence, petitioner’s counsel specifically argued that the Evaluation was an expert witness report because the information “contained within the report is reasonably relied upon

by experts in her field in formulating conclusions . . . *that's going to be admissible under 702 . . .*” The court overruled respondent-mother’s objection to the admission of the Evaluation and allowed it into evidence.

The evaluators who created the Evaluation clearly laid out their qualifications to conduct a CFE, with one testifying that she was a licensed clinical social worker for six years and detailing the process of conducting a CFE, while the other testified that she was a child and family evaluator at the University of North Carolina who had been conducting these evaluations for three years, and that she collaborated with and participated in the Evaluation and drafting of the Evaluation wherein both evaluators “made the conclusions—professional conclusions toward the end of the evaluation,” that it was “probable” that L.D. and A.W. were abused and neglected.

Moreover, at trial, respondent-mother did not object to the qualifications of either of the evaluators who drafted the Evaluation, and “there [i]s no need for the court to make a formal ruling that the witness was an expert because her qualifications had already been presented to the court.” *Wise*, 326 N.C. at 431, 390 S.E.2d at 148. We conclude, therefore, that the trial court did not abuse its discretion in allowing the Evaluation into evidence, as the Evaluation was the basis of the expert witnesses’ testimony, admissible pursuant to Rules 702 and 703 of the North Carolina Rules of Evidence.

### **C. L.D. Adjudication**

#### **1. Standard of review**

Our Court reviews “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.” *E.P.-L.M.*, 272 N.C. App. at 592, 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.” *In re B.O.A.*, 372 N.C. 372, 379, 831 S.E.2d 305, 310 (2019).

## **2. L.D. abuse**

Respondent-mother contends that “[t]he evidence and the findings are insufficient to support the court’s conclusion that [L.D.] was abused” because “the evidence and findings did not show that [L.D.] was abused after [respondent-mother] reported his statements.” We do not agree.

Under N.C. Gen. Stat. § 7B-101, an abused juvenile is defined as one whose parent or caretaker:

- a. Inflicts or allows to be inflicted upon the juvenile a serious physical injury by other than accidental means;
- b. Creates or allows to be created a substantial risk of serious physical injury to the juvenile by other than accidental means;
- c. Uses or allows to be used upon the juvenile cruel or grossly inappropriate procedures or cruel or grossly inappropriate devices to modify behavior;

....

e. Creates or allows to be created serious emotional damage to the juvenile; serious emotional damage is evidenced by a juvenile's severe anxiety, depression, withdrawal, or aggressive behavior toward himself or others . . . .

N.C. Gen. Stat. § 7B-101(1)(a)-(e).

“Although several criteria are listed [in N.C. Gen. Stat. § 7B-101(1)], they are both disjunctive and overlapping.” *In re M.G.*, 363 N.C. 570, 573, 681 S.E.2d 290, 292 (2009). “There is a commonality present in these criteria[;] [e]ach definition states that a juvenile is abused when a caretaker harms the juvenile in some way, allows the juvenile to be harmed, or allows a substantial risk of harm.” *In re A.J.L.H.*, 384 N.C. 45, 53, 884 S.E.2d 687, 693 (2023). “The harm may be physical; emotional; or some combination thereof.” *Id.* (citation omitted). “At its core, the nature of abuse, based upon its statutory definition, is the existence or serious risk of some nonaccidental harm inflicted or allowed by one’s caretaker.” *Id.* (internal quotation marks and citation omitted).

In *In re E.P.-L.M.*, our Court affirmed the adjudication of a minor child as abused and neglected where the minor child “had been subjected to repeated unnecessary and harmful medical procedures, including invasive [genital] examinations and forensic interviews involving sexual content.” 272 N.C. App. at 595, 847 S.E.2d at 436. In that case, “[l]aw enforcement and child welfare agencies . . . found no signs of physical or sexual abuse”; but the minor child’s caretakers “nonetheless continued to make claims of sexual abuse, and to subject [the

minor child] to additional invasive medical procedures.” *Id.* at 595–96, 847 S.E.2d at 436.

Applying this standard to the evidentiary findings of the trial court, the court’s adjudication of abuse was proper. Here, the trial court entered several unchallenged findings of fact to support its conclusion of law that L.D. was abused within the meaning of N.C. Gen. Stat. § 7B-101(1), including:

37. [L.D.] underwent a physical examination as well as an interview while at Tedi Bear on May 5, 2022. There were no physical abuse findings.

....

39. During [L.D.]’s interview at Tedi Bear . . . he denied all of the sexual allegations that were the basis of the reports received by [DSS].

....

41. [The nurse who conducted the initial Tedi Bear examination] had significant concerns of adult influence on [L.D.]’s disclosures. Specifically, the evaluation stated[,] ‘the variation in [L.D.]’s statements to professionals and to [respondent-mother] are notable. There is concern for adult maternal influence on [L.D.]’s disclosures.’

42. [The nurse who conducted the initial Tedi Bear examination] found the extreme difference in [L.D.]’s statements to his mother versus his statements to professionals to be extremely uncommon.

....

52. [Respondent-mother] brought [L.D.] in for a follow[-]up [Tedi Bear] visit as she claimed he reported anal

penetration and that he had been bleeding for days.

53. At the follow-up Tedi Bear appointment, [L.D.] was again physically examined. Urine and anal cultures were taken.

54. Again, on May 16, 2022, Tedi Bear found no signs or symptoms of physical sexual abuse, no signs of anal bleeding, and no signs of any past physical trauma or sexual abuse.

....

56. [Respondent-mother] took [L.D.] to the ECU Health Center Emergency Room (hereinafter, 'ER') on May 11, 2022, 5 days prior to his Tedi Bear follow-up visit. The ER visit was for [L.D.] to be examined for rectal bleeding.

57. ECU Health Center did not find any rectal bleeding and found that [L.D.]'s anus was in tact [sic] and there were no signs of penetration or trauma.

58. [Respondent-mother] did not share with Tedi Bear professionals at the May 16, 2022 follow-up appointment that she had [L.D.] undergo a physical examination just 5 days before at the ER and there were no findings [of sexual abuse].

....

90. On July 8, 2022 the Beaufort County District Attorney's Office declined to prosecute this matter as there was insufficient evidence to warrant prosecution. More specifically, it reasoned that there [we]re concerns regarding the credibility for truthfulness of complainant, [respondent-mother].

....

122. The [evaluators] also found [in the Evaluation] that some of [L.D.]'s statements support concerns that his

disclosures regarding sexual abuse have been influenced, directly and/or indirectly, by [respondent-mother].

....

136. The [evaluators], along with [L.D.]’s pediatrician, Tedi Bear Child Advocacy Center, ECU Health Center Emergency Department, Beaufort County Sheriff’s Office, Beaufort County District Attorney’s Office, the North Carolina State Bureau of Investigation[ ], and Beaufort County DSS, found no indication or information to support concerns of sexual abuse.

....

141. [Respondent-mother]’s actions negatively impacted [L.D.]’s relationship with [respondent-father] and served to manipulate [L.D.]’s emotions.

....

163. Amidst multiple professional investigations regarding the allegations, [respondent-mother] subjected [L.D.] to additional physical examinations of his anus, rectum, and body in general.

164. The additional examinations that [L.D.] was subjected to were not recommended by the professional agencies involved in investigating the allegations regarding [L.D.].

165. [Respondent-mother] was not forthcoming with the medical professionals about the other evaluations and physical examinations that [L.D.] had undergone.

....

167. [Respondent-mother]’s actions have negatively impacted and could possibly have long-term negative effects on both [L.D. and A.W.].

Based upon the aforementioned findings of fact, we conclude that the trial court's conclusion of law that L.D. was an abused juvenile within the meaning of N.C. Gen. Stat. § 7B-101(1) was supported by clear, cogent, and convincing evidence. As in *E.P.-L.M.*, “[l]aw enforcement and child welfare agencies . . . found no signs of physical or sexual abuse[,]” but respondent-mother “nonetheless continued to make claims of sexual abuse, and to subject [L.D.] to additional invasive medical procedures.” *Id.* For the aforementioned reasons, we conclude that the trial court did not err in adjudicating L.D. an abused juvenile pursuant to N.C. Gen. Stat. § 7B-101(1).

### **3. L.D. neglect**

Next, respondent-mother contends that, “the evidence and findings about [L.D.] did not show neglect.” We do not agree.

A neglected juvenile is, in pertinent part, one whose parent, guardian, custodian, or caretaker “[d]oes not provide proper care, supervision, or discipline” or “[h]as not provided or arranged for the provision of necessary medical or remedial care[,]” or has “[c]reate[d] or allow[ed] to be created a living environment that is injurious to the juvenile’s welfare.” N.C. Gen. Stat. § 7B-101(15)(a), (c), (e). “[O]ur Courts have required 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 order to adjudicate a juvenile neglected.” *E.P.-L.M.*, 272 N.C. App. at 596, 847 S.E.2d at 436 (internal quotation marks and



citation omitted). However, “[w]here there is no finding that the juvenile has been impaired or is at substantial risk of impairment, there is no error if all the evidence supports such a finding.” *In re Padgett*, 156 N.C. App. 644, 648, 577 S.E.2d 337, 340 (2003).

Here, the trial court found that respondent-mother, *inter alia*, “d[id] not provide proper care, supervision, or discipline” and had “created or allowed to be created a living environment that is injurious to [L.D. and A.W.’s] welfare, and has not provided or arranged for the provision of necessary remedial care.” We need not exhaustively chronicle every unchallenged finding of fact to satisfy ourselves that the trial court did not err in concluding that L.D. was neglected; we are satisfied with the trial court’s findings of fact regarding L.D.’s education:

98. During [DSS’s] investigations, there were concerns about [L.D.]’s educational needs being met as well as him having excessive absences from school and not being enrolled in an educational program.

....

101. In the most recent school year, [L.D.], missed 55 days of school.

....

103. [L.D.] did not attend school the last month and a half of the school year. [Respondent-mother] made the decision, along with [L.D.]’s pastor, maternal family, and [L.D.]’s therapist, to keep him out of school for the remainder of the year.

104. There was no documentation from [L.D.]’s therapist recommending that he not attend school for the last month and a half of the school year.

105. Prior to being withdrawn from school, [L.D.] was scheduled to have an evaluation to assess his need for an individualized education plan (IEP). On the day of the evaluation, [respondent-mother] did not bring [L.D.] to school or answer the school’s calls.

....

148. From May 2022 until October 2022, [respondent-mother] failed to provide [L.D.] with the necessary developmental services such as speech therapy, among other services.

....

167. [Respondent-mother]’s actions have negatively impacted and could possibly have long-term negative effects on both [L.D. and A.W.].

Based upon the aforementioned findings of fact, we conclude that the trial court’s conclusion of law that L.D. was a neglected juvenile was supported by clear, cogent, and convincing evidence, as respondent-mother had failed to provide necessary remedial care, which creates a substantial risk of impairment for L.D., a six-year-old boy with speech and learning impediments. Therefore, we conclude that the trial court did not err in adjudicating L.D. a neglected juvenile pursuant to N.C. Gen. Stat. § 7B-101(15).

#### **D. A.W. Adjudication**

Next, respondent-mother contends that “the evidence and the findings are insufficient to support the court’s conclusion that [A.W.] was abused and neglected.” We will address each of these contentions in turn.

**1. A.W. abuse**

As discussed above, “[a]n abused juvenile is defined, in relevant part, as one whose caretaker by act or omission allows serious emotional damage to the juvenile, evidenced by the juvenile’s anxiety, depression, withdrawal, or aggressive behaviors.” *E.P.-L.M.*, 272 N.C. App. at 595, 847 S.E.2d at 435. “The nature of abuse, based upon its statutory definition, is the existence or serious risk of some nonaccidental harm inflicted or allowed by one’s caretaker.” *Id.* (brackets and citation omitted).

Here, the trial court made the following findings of fact that demonstrate the serious emotional damage A.W. suffered due to respondent-mother unnecessarily involving A.W. in the investigation:

49. [A.W.] missed school to attend [L.D.]’s Tedi Bear appointment although she was not examined at the appointment.

....

152. [Respondent-mother]’s actions and the way in which she handled the multiple investigations by the different agencies exposed [A.W.] to developmentally inappropriate information related to the details of the sexual abuse allegations and investigations.

153. [A.W.] had a false sense of responsibility for and the need to protect [L.D.].

154. [A.W.] was aware of the specific details of the sexual abuse allegations regarding [L.D.] and [respondent-father].

155. [A.W.] was aware that [L.D.], [respondent-mother], [respondent-father], her [m]aternal [g]randfather, and other adult relatives were having conversations about the alleged sexual abuse.

....

157. Instead of attending school on May 5, 2022, [A.W.] was present with [L.D.] at his Tedi Bear appointment.

158. [A.W.] was in the home and present during some of the recorded conversations where [respondent-mother] questions [L.D.] about the alleged sexual abuse.

Based on our careful review, we conclude that the trial court’s conclusion of law, that A.W. was an abused juvenile within the meaning of N.C. Gen. Stat. § 7B-101(1), was supported by its findings of fact, which, in turn, were supported by clear, cogent, and convincing evidence. As noted in Finding of Fact 152, which respondent-mother concedes, included “general findings” about “[A.W.] being exposed to information and that [A.W.] knew that some adult relatives had engaged in conversations about the allegations[,]” it was respondent-mother repeatedly exposing A.W. to age-inappropriate information regarding the investigation which constituted the serious emotional damage—abuse—to the juvenile. For this reason, we conclude that the trial court did not err in adjudicating A.W. an abused juvenile.

## **2. A.W. neglect**

Similarly, respondent-mother contends that “[t]he evidence and findings about [A.W.] did not show neglect.” We do not agree.

As established above, a neglected juvenile is one whose parent, guardian, custodian, or caretaker:

- a. Does not provide proper care, supervision, or discipline.
- b. Has abandoned the juvenile . . . .
- c. Has not provided or arranged for the provision of necessary remedial care.

. . . .

- 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)(a)-(e).

“[O]ur Courts have required 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 order to adjudicate a juvenile neglected.” *E.P.-L.M.* 272 N.C. App. at 596, 847 S.E.2d at 436 (internal quotation marks and citation omitted). However, “[w]here there is no finding that the juvenile has been impaired or is at substantial risk of impairment, there is no error if all the evidence supports such a finding.” *Padgett*, 156 N.C. App. at 648, 577 S.E.2d at 340.

Respondent-mother contends that “the only evidence of any harm suffered by [A.W.] was that she did have to talk about [L.D.] with DSS, the evaluators, and her family.” Although A.W. “did have to participate in the Evaluation[,] . . . participate[] in the interviews and testing[,] . . . [and] expressed her concern for [L.D.]’s

statements[,]" according to respondent-mother, A.W. "was not exposed to [the investigation] on a regular basis[,]" and although "[i]t is unfortunate that [A.W.] knew and dealt with aspects of the investigation regarding [L.D.]'s statements [ ] that did not create an injurious 'living environment.' "

Respondent-mother further contends that "what was most unfortunate was that DSS took [A.W.] . . . from [her] home" and A.W. "had to part ways with [L.D.] when both of them were taken into nonsecure custody of DSS." This contention ignores the reality that it was respondent-mother exposing A.W. to age-inappropriate information, manifesting in A.W.'s heightened anxiety about L.D.'s well-being, that led to A.W. being taken away from her home.

Despite respondent-mother's claim that the trial court's adjudication of A.W. as neglected was not supported, and the findings do not constitute an "injurious living environment[,]" our careful review of the record leads us to conclude otherwise. As discussed at length above, respondent-mother unnecessarily exposed and involved A.W. in an investigation regarding allegations of sexual abuse against her six-year-old brother. At the hearing, the court heard testimony from the evaluator that, "in terms of the exposure piece for [A.W.] having access or exposure to that type of information[,] it's developmentally inappropriate" and "also led to what [the experts] concluded to be a false sense of responsibility for [L.D.]'s safety as [A.W.] reported in her interview that . . . she was there to talk with us basically to secure [L.D.]'s safety and had been a part of many conversations around the sexual abuse." The evaluator

further testified that her “concern was more around the information that [A.W.] had been provided and how that had led her to—as part of her interview process[,] make notes about [L.D.]’s safety and what they—[collectively]—needed to do [to] make sure that [L.D.] was safe[,]” an effect the witness referred to as “parentification.”

The Court entered several findings of fact to support the conclusion that A.W. had a “physical, mental, or emotional impairment or a substantial risk of such impairment due” to respondent-mother unnecessarily involving A.W. in L.D.’s case. Therefore, the trial court did not err in adjudicating A.W. a neglected juvenile because the court’s conclusion was supported by clear, cogent, and convincing evidence.

#### **E. Closed hearing**

Finally, respondent-mother contends that “the court abused its discretion when the entire adjudication hearing was closed” because “the court was not considering whether that was in the best interest of the children but in the best interest of [respondent-father].” We do not agree.

N.C. Gen. Stat. § 7B-801(a) provides that the trial court “in its discretion shall determine whether the hearing or any part of the hearing shall be closed to the public.” N.C. Gen. Stat. § 7B-801(a). In determining whether to close the hearing or any part of the hearing, the court shall consider the circumstances of the case, including, but not limited to, the following factors:

- (1) [t]he nature of the allegations against the juvenile’s parent, guardian, custodian or caretaker;
- (2) [t]he age and maturity of the juvenile;
- (3) [t]he benefit to the juvenile of

confidentiality; (4) [t]he benefit to the juvenile of an open hearing; and (5) [t]he extent to which the confidentiality afforded the juvenile's record . . . will be compromised by an open hearing.

N.C. Gen. Stat. § 7B-801(a).

However, “[i]t is well established that where matters are left to the discretion of the trial court, appellate review is limited to a determination of whether there was a clear abuse of discretion.” *White v. White*, 312 N.C. 770, 777, 324 S.E.2d 829, 833 (1985). Therefore, we conclude that the trial court’s decision to close the hearing was not so arbitrary that it could not have been the result of a reasoned decision, but rather, was a reasoned decision due to the sensitive nature of the allegations in this case.

### **III. Conclusion**

We conclude that the trial court did not err in admitting the evaluation or recordings into evidence. Moreover, the trial court did not err in adjudicating L.D. and A.W. as abused and neglected juveniles because the trial court’s conclusions of law were supported by clear, cogent, and convincing evidence. Finally, the court did not abuse its discretion in closing the hearing to the public. For the aforementioned reasons, the order of the trial court is affirmed.

**AFFIRMED.**

Judges GRIFFIN and FLOOD concur.

Report per Rule 30(e).