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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA26-43

Filed 16 September 2026

Cabarrus County, No. 25JA000069-120

IN THE MATTER OF: D.L.H.

Appeal by respondent-mother from order entered 23 September 2025 by Judge Christy E. Wilhelm in District Court, Cabarrus County. Heard in the Court of Appeals 26 August 2026.

*Hartsell & Williams, PA, by Emily J. Arnold, for petitioner-appellee CCDSS.*

*Smith, Anderson, Blount, Dorsett, Mitchell & Jernigan, L.L.P., by Amelia L. Serrat, for guardian ad litem.*

*Mary McCullers Reece for respondent-appellant-mother.*

STROUD, Judge.

Respondent-mother appeals an adjudication and disposition consent order adjudicating the juvenile as neglected. Because the trial court's findings of fact support the conclusion of law that juvenile is a neglected juvenile, we affirm.

**I. Background**

On or about 2 June 2025, Cabarrus County Department of Social Services (CCDSS) filed a juvenile petition alleging three-year-old Derek was a neglected

juvenile.<sup>1</sup> Mother failed to challenge most of the trial court's findings of fact on appeal. The court's unchallenged findings of fact include the following:

1. This family has been involved with Department of Social Services (DSS) since 2010, including both Cabarrus County DSS (CCDSS) and Rowan County DSS (RCDSS). Many CPS reports were substantiated for improper discipline, physical abuse, substance abuse, and injurious environment. The mother has two other children who were previously removed from her care, with custody assumed by CCDSS and RCDSS.
2. On July 25, 2024, Cabarrus County Department of Social Services ("CCDSS") received a Child Protection Services ("CPS") report for improper supervision and substance abuse. The report alleged that the mother was passed out in her car and the child was found in the home alone. It is unknown how long the child was without appropriate supervision. The mother disclosed to law enforcement that she used methamphetamines and marijuana earlier that morning. Law enforcement confiscated a cracked pipe, gram of weed, and a bong from the mother's bedroom. During the investigation, the mother denied being under the influence of any substances and CCDSS encouraged the mother to complete a drug screen. The mother refused to complete a drug screen.
3. Throughout the life of the case, CCDSS spoke to the mother about juvenile's limited speech. At 3-years old, the child was unable to respond with clear words and phrases (ex. CCDSS asked the child "Where is mom?" and child responded, "yeah!" [] The alleged father expressed concern that the child may have autism and stated his interest in learning how to parent a child with a possible autism diagnosis. CCDSS encouraged the mother to have the child evaluated for autism. The mother responded that she did not believe the child had

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<sup>1</sup> The record notes "Derek" is a stipulated pseudonym.

autism. Despite this, CCDSS continued to encourage the mother to engage with the Children's Developmental Services Agency (CDSA) for an autism evaluation. However, the mother demonstrated minimal and delayed efforts in pursuing these recommended services for the child.

CCDSS began providing in-home services to Mother on 4 September 2024. Derek was placed with Father<sup>2</sup> and provided supervised visitation with Mother. Mother was to participate in parenting classes, a substance abuse assessment, and random drug and alcohol screenings. Mother was also to have "a CDSA evaluation/developmental assessment" of Derek.

Mother completed her parenting assessment, parenting classes, and substance abuse assessment; she also participated in the recommended substance abuse therapy and "after-care plan," as well as Derek's recommended assessments. Father did not engage in his drug screenings or Derek's evaluations. On 15 January 2025, Derek was returned to Mother's home.

But on 9 March 2025, CCDSS received a new report of "improper supervision and substance abuse" while Derek was in Mother's care.

8. The report alleged that the mother had fallen asleep and the child came to her covering his mouth and screaming. The mother found the empty round up bottle that was full prior to her falling asleep. The mother transported the child to Atrium Cabarrus, *and while there, the mother left the child in the hospital alone for about 30 minutes*<sup>[3]</sup>. The

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<sup>2</sup> The order on appeal also found that Father, who was initially identified in the Petition as the putative father, is the juvenile's biological father.

<sup>3</sup> Mother challenges this portion of finding 8 as unsupported by the evidence.

child was screaming and crying non-stop, and the child's mouth and face were red. The mother returned to the hospital and made a ruckus when security searched her, so she was asked to leave.

9. CCDSS initiated this report by interviewing the mother and attempting to interview the child. CCDSS observed the mother asleep while the child was under supervision of a sitter that was assigned to the room. The child was observed in a gown that was provided by the ER with no visible bruises or marks on his body or mouth. The sitter and medical professionals were concerned about the amount of time mom slept while there. The mother admitted to leaving the child alone watching tv while she napped. Due to the child's limited speech, CCDSS was unable to obtain a clear account of what occurred from the child's perspective.

(Emphasis added.) Mother met with CCDSS and the safety plan was revised. Mother agreed to complete a parenting reassessment, complete a sleep assessment, engage in mental health therapy, take prescribed psychiatric medications, engage in Derek's developmental assessment, and "[f]ollow through with case plan tasks within a reasonable time frame."

CCDSS worked with Mother on the revised case plan, but Mother did not follow through on Derek's developmental assessment, her mental health therapy, her parenting assessment, the sleep assessment, random drug screenings, or her psychiatric visit to refill her medications. On 9 May 2025, Mother "reported that she was no longer complying with CCDSS In-home Services." And as of the 21 August 2025 hearing, Mother was "not engaging in any services."

On 21 August 2025, the trial court held an adjudication and disposition

hearing. On 23 September 2025, the trial court entered an adjudication/disposition consent order (Order), which adjudicated Derek neglected and determined it was in Derek's best interests to remain in Mother's custody. CCDSS was directed to continue to make reasonable efforts to eliminate the need for placement. Mother was also ordered to complete various tasks: parenting reassessment and education, substance abuse treatment, drug and alcohol screenings, completing the CDSA evaluation of the juvenile, and weekly in-person contact with CCDSS. Mother appeals.

## **II. Appellate Jurisdiction**

"Any initial order of disposition and the adjudication order upon which it is based" "may be appealed directly to the Court of Appeals[.]" N.C. Gen. Stat. § 7B-1001(a)(3) (2025).

## **III. Standard of Review**

When reviewing a trial court's order adjudicating a juvenile abused, neglected, or dependent, this Court's duty is to determine (1) whether the findings of fact are supported by clear and convincing evidence, and (2) whether the legal conclusions are supported by findings of fact. It is well settled that in a non-jury neglect adjudication, the trial court's findings of fact supported by clear and convincing competent evidence are deemed conclusive, even where some evidence supports contrary findings.

The clear and convincing standard requires evidence that should fully convince. This burden is more exacting than the preponderance of the evidence standard generally applied in civil cases, but less than the beyond a reasonable doubt standard applied in criminal matters.

Findings of fact are binding if they are not challenged on appeal. When reviewing findings of fact in a juvenile order, we set aside findings that lack sufficient evidentiary support and examine whether the remaining findings support the trial court's determination.

The determination of whether a child is abused, neglected, or dependent is a conclusion of law. We review the trial court's conclusions of law de novo. Under a de novo review, this Court considers the matter anew and freely substitutes its own judgment for that of the lower tribunal.

*In re K.C.*, 295 N.C. App. 363, 367, 905 S.E.2d 776, 780 (2024) (citations and quotation marks omitted).

#### **IV. Neglect**

Mother's only issue on appeal is "[d]id the trial court err by adjudicating Derek neglected where the findings of fact were insufficient to support the conclusion that he was a neglected child?"

Mother challenges only one portion of one finding of fact as unsupported by the evidence: "[t]he second half of the fourth sentence, that Mother left Derek 'alone' at the hospital for 30 minutes, is not supported by the evidence, as the medical records and testimony reflected that medical staff or a 'sitter' remained with [Derek] at the hospital."

Mother's argument takes the second half of this sentence out of context. The trial court's findings did not indicate Derek was left entirely alone in the hospital. The problem was that Mother was not assisting in Derek's care and was sleeping even at the hospital while he was "screaming and crying non-stop[.]"

Finding 9 explains CCDSS's, and the trial court's, concern: while Derek, age 3, was being treated in the hospital for drinking Round Up<sup>4</sup> at home, he was very upset—screaming and crying non-stop—and Mother was not with him for a period of time while he was being treated. Instead, she “left the child in the hospital alone for about 30 minutes.” “The sitter and medical professionals were concerned about the amount of time [Mother] slept while” at the hospital. And when Mother was at the hospital, before she was asked to leave for causing a “ruckus,” “CCDSS observed . . . [M]other asleep while the child was under supervision of a sitter that was assigned to the room.” The trial court's finding 8 was fully supported by the evidence.

Mother argues “[t]he trial court's findings were insufficient to support the conclusion that Derek was a neglected child.” Her argument focuses almost entirely on the facts about her falling asleep, at home and in the hospital, but overlooks the trial court's other unchallenged findings.

Mother argues that the trial court's findings do not support neglect but simply “reflect a lapse of supervision by a parent napping in her own home. Still, Mother's immediate taking of the child to the hospital was an appropriate response to a frightening situation.” But the trial court's findings addressed much more than one instance of Mother falling asleep at home while Derek was left unsupervised and able

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<sup>4</sup> Round Up® is a brand of weed killer. Mother did not have a picture of the ingredients in the bottle to provide to the medical personnel at the hospital. The hospital noted Derek had pain, “redness around his lips and what appears to be burns in his mouth,” but no other symptoms. They contacted Poison Control.

to find and drink Round Up. CCDSS and medical personnel at the hospital were concerned that Mother could not stay awake to care for Derek at the hospital. She was sleeping at home when he drank the Round Up, and she was sleeping at the hospital while he was being evaluated or treated by medical personnel. She caused a “ruckus” and left the hospital when security approached her. And her lapse of supervision at home came shortly after the 2024 incident when “[M]other was passed out in her car and the child was found in the home alone.”

The trial court adjudicated Derek as neglected as defined under North Carolina General Statute Section 7B-1111:

If the trial court finds at adjudication that the allegations in a petition have been proven by clear and convincing evidence and concludes based on those findings that a juvenile is abused, neglected, or dependent, the court then moves on to an initial disposition hearing. . . . As [the] Respondent-Mother’s appeal is limited to the adjudication phase, we focus our review on the adjudication portion of the Order.

The Juvenile Code defines a neglected juvenile as any juvenile less than 18 years of age whose parent, guardian, custodian, or caretaker does any of the following:

- a. Does not provide proper care, supervision, or discipline.
- . . . .
- c. Has not provided or arranged for the provision of necessary medical or remedial care.
- . . . .
- d. Creates or allows to be created a living environment that is injurious to the juvenile’s welfare.

N.C. Gen. Stat. § 7B-101(15) (2023).

*Id.* at 368, 905 S.E.2d at 781 (citations, quotation marks, ellipses, and brackets omitted).

To support an adjudication of neglect, the trial court’s findings of fact must address “some physical, mental, or emotional impairment” of the juvenile or the risk of impairment:

Before adjudicating a juvenile neglected, the trial court must also find 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. . . . The Supreme Court of North Carolina has found neglect in cases where the conduct at issue constituted either severe or dangerous conduct or a pattern of conduct either causing injury or potentially causing injury to the juvenile.

The clear and convincing evidence in the record must show current circumstances that present a risk to the juvenile. But the trial court is granted some discretion in determining whether children are at risk for a particular kind of harm given their age and the environment in which they reside. 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.

As such, a trial court can consider evidence of a parent’s mental health and substance-abuse issues. Mental health issues, which are a fixed and ongoing circumstance, can lead to an adjudication of neglect. Findings that show a prolonged period of drug use in the home which pose a substantial risk of harm to a child can support an adjudication of neglect.

*Id.* at 368–69, 905 S.E.2d at 781 (citations, quotation marks, and brackets omitted).

In *K.C.*, this Court affirmed an adjudication of neglect where a meconium test

shortly after birth was positive for amphetamines and methamphetamines along with the mother's urine. *Id.* The mother failed to complete a substance abuse assessment and timely obtain a mental health assessment before the adjudication hearing, which demonstrated "a substantial risk of future abuse or neglect of [the juvenile] based on the historical facts of the case." *Id.* at 369–72, 905 S.E.2d at 781–83. The Court also noted that the mother had missed many medical appointments so she "failed to provide necessary medical care." *Id.* at 371, 905 S.E.2d at 783.

Here, the trial court's findings of fact noted that since 2010, there had been many substantiated reports of "improper discipline, physical abuse, substance abuse, and injurious environment" in the home. In July of 2024, after admitting to using methamphetamine and marijuana, Mother passed out in her car and later refused to complete a drug screen. On 9 March 2025, the Round Up incident occurred with Mother admitting she had been asleep. At the time of the hearing, Mother was refusing to meet with CCDSS.

As of the hearing, Mother had stopped engaging in any services despite agreeing to do so as part of her plan. Mother had failed to complete Derek's autism evaluation, engage in a parenting reassessment, attend a sleep assessment, comply with drug screens, and meet with her psychiatrist. The trial court ultimately found Mother "does not provide proper care, supervision or discipline," "allows to be created a living environment that is injurious to the juvenile's welfare," and "has not provided or arranged for the provision of necessary remedial care."

The findings regarding Mother’s substance abuse and failure to address it, as well as her failure to attend to her own mental health and Derek’s possible autism, support the trial court’s conclusion that she “[d]oes not provide proper care, supervision or discipline,” “[h]as not provided or arranged for the provision of necessary . . . remedial care,” and “allows to be created a living environment that is injurious to the juvenile’s welfare,” N.C. Gen. Stat. § 7B-101(15)(a), (c), (e) (2025), just as in *K.C.*, 295 N.C. App. 369–72, 905 S.E.2d at 781–83.

Her substance abuse, mental health issues, and failure to address Derek’s possible autism are “current circumstances that present a risk to the juvenile.” *Id.* at 369, 905 S.E.2d at 781. We conclude the trial court did not err in determining Derek was a neglected juvenile.

## **V. Conclusion**

Because the trial court’s findings of fact support the conclusion of law that Derek is a neglected juvenile, we affirm.

AFFIRMED.

Judges TYSON and MURRY concur.

Report per Rule 30(e).