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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA26-346

Filed 4 November 2026

Surry County, No. 25JA000036-850

IN THE MATTER OF: L.Q.O.

Appeal by respondent-father from orders entered 19 December 2025 by Judge William F. Southern, III in Surry County District Court. Heard in the Court of Appeals 29 September 2026.

Parent Defender Annick Lenoir-Peek, by Assistant Parent Defender Jacky Brammer, for respondent-appellant father.

James N. Freeman, Jr. for Guardian Ad Litem.

R. Blake Cheek for petitioner-appellee Surry County DSS.

FREEMAN, Judge.

Respondent-father (Father) appeals from the trial court's adjudication and disposition orders, adjudicating Lauren[1] neglected and abused and placing her in DSS custody. On appeal, Father challenges three findings of fact and argues that the trial court's conclusions of abuse and neglect are unsupported by the remaining findings of fact. After careful review, we affirm.

[1] Pseudonyms are used to protect the juveniles' identities. *See* N.C. R. App. P. 42(b).

I. Background

On 20 March 2025, Surry County DSS (DSS) filed a petition alleging that Lauren was neglected and abused. The same day, Lauren was placed in nonsecure custody with DSS. In an adjudication order filed 19 December 2025, the trial court adjudicated Lauren neglected and abused. In a disposition order filed 19 December 2025, the trial court kept Lauren in DSS custody. On 15 January 2026, Father noticed his appeal.

II. Jurisdiction

This Court has jurisdiction to review adjudication and disposition orders of a district court. N.C.G.S. §§ 7A-27(b)(2), 7B-1001(a)(3) (2025).

III. Standard of Review

We review "a trial court's adjudication of neglect and dependency . . . to determine (1) whether the findings of fact are supported by clear and convincing evidence, and (2) whether the legal conclusions are supported by the findings of fact." *In re D.S.*, 286 N.C. App. 1, 11 (2022) (cleaned up).

IV. Discussion

Father brings two issues on appeal. First, he challenges three findings of fact, arguing that they were mere recitations and supported by inadmissible hearsay, and challenges the trial court's conclusions of law as unsupported by the remaining findings of fact. Alternatively, he argues that the trial court's orders should be vacated because there were deviations from the trial court's oral rendition.

A. Factual Findings and Conclusions of Law

1. Findings of Fact 6, 10. 11

Father challenges the trial court's findings of fact 6, 10, and 11, arguing that (1) they are improper findings that merely recite allegations and (2) even if they are proper findings, the only support for the findings were inadmissible hearsay.

"In all actions tried upon the facts without a jury or with an advisory jury, *the court shall find the facts specially* and state separately its conclusions of law thereon and direct the entry of the appropriate judgment." N.C.G.S. § 1A-1, Rule 52(a)(1) (2025) (emphasis added). "[T]his Court cannot make the findings of fact, as only the trial court has the discretion to make findings." *In re S.M.L.*, 272 N.C. App. 499, 517 (2020). "The trial court may not simply recite allegations, but must through processes of logical reasoning from the evidentiary facts find the ultimate facts essential to support the conclusions of law." *In re Harton*, 156 N.C. App. 655, 660 (2003) (internal quotation marks omitted) (quoting *In re Anderson*, 151 N.C. App. 94, 97 (2002)). We have determined that allegations in Child Protective Services reports or "things 'reported' by 'school personnel' do not constitute affirmative findings of fact that would support a conclusion" of neglect. *In re J.C.M.J.C.*, 268 N.C. App. 47, 58 (2019).

In re O.W. illustrates when remand is proper to make appropriate findings of fact. 164 N.C. App. 699, 703 (2004). In that case, finding of fact 8 stated:

> That on June 21, 2001, Robeson County DSS substantiated injurious environment on both of [respondent's] children after [respondent] pulled a knife on [K.W.'s] father during

> a visit with both children present. [Respondent] was under the influence of alcohol at the time.

Id. We could not "tell whether the trial court found that the events occurred or if DSS substantiated an injurious environment based upon what someone told them." *Id.* Then, finding of fact 11 stated:

> That on August 16, 2002, a visit was held by [B.F.] at Dukes and Daisies Daycare for [respondent] and [O.W.]. Daycare staff stated that [respondent] smelled like alcohol and appeared to be unbalanced during the visit. The staff also stated that [respondent] heard a child cry at the daycare and became irritated and asked to end the visit after fifteen or twenty minutes.

Id. We classified that as "not even really a finding of fact" because it merely recites testimony of what the daycare had told DSS. *Id.*

Here, Father challenges findings of fact 6, 10, and 11, which provide as follows:

> 6. The Department became involved with this family in the fall of 2024 after the juvenile's siblings [J.R.] and [G.O.] informed their school social worker that Respondent-Father was striking [J.R.] and [G.O.] on multiple occasions.
>
> . . . .
>
> 10. On March 7, 2025, the Department received a report that Respondent-Father had hit Respondent-Mother and the minor child. The Department found Respondent-Mother with a black eye and the juvenile's sibling, [D.O.], with scratches and bruises on his face. [D.O.] reported that Respondent-Father had caused the bruising on him. The juvenile and her siblings were placed in a safety placement with the maternal grandparents that day, and Respondent-Father was not to be present in the maternal grandparents' home.
>
> 11. On March 19, 2025, the Department received a report

> stating Respondent-Father was at the maternal grandparents' home and slept in [J.R.]'s bed. Respondent-Mother and Respondent-Father were reportedly sleeping in a van in the maternal grandparents' driveway.

In finding of fact 6, the trial court did not find that Father struck anyone. Rather, like *O.W.*, this finding merely recites what DSS *said* the school social worker *said* the siblings *said*. Indeed, this constitutes multiple recursions of recitations, making it "not even really a finding of fact." *In re O.W.*, 164 N.C. App. at 703. Findings of Fact 10 and 11 merely state what was in the DSS reports, what DSS "found," what D.O. "reported," and where the parents were "reportedly" sleeping. These do not constitute affirmative findings of fact; thus, they cannot be used to support the conclusions of law.

Because findings of fact 6, 10, and 11 are insufficient, we need not determine whether support for those findings constitute inadmissible hearsay.

2. Findings of Fact 8, 9, 12

Father contends that once findings 6, 10, and 11 are taken out, the "ultimate finding of a risk of harm and the adjudication conclusions are unsupported." DSS contends that the unchallenged findings support the conclusion of neglect and abuse. GAL contends that the unchallenged findings support the adjudication of neglect but not abuse.

Under our General Statutes, a juvenile can be considered neglected if a parent "[c]reates or allows to be created a living environment that is injurious to the

juvenile's welfare." N.C.G.S. § 7B-101(15) (2025). A juvenile can be considered abused if a parent does, among other things, any of the following:

> 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;

N.C.G.S. § 7B-101(1)(a)-(c) (2025).

Unchallenged factual findings are binding on appeal.[2] *In re J.A.K.*, 258 N.C. App. 262, 266 (2018). We address each finding in turn:

a. Domestic Violence - Finding of Fact 9

Findings of fact must be made with specificity. N.C.G.S. § 1A-1, Rule 52(a)(1) (2025). For example, in *E.B.*, we held that the trial court's vague findings concerning domestic violence were insufficient to support the court's conclusions of law. *In re E.B.*, 256 N.C. App. 27, 33 (2017). There, the trial court "merely found" that "incidents" of domestic violence "occurred." *Id.* at 32. The court made no findings

[2] The adjudication order made 13 findings of fact. Findings of fact 1–5 constitute background information. Findings of fact 6, 10, and 11 were challenged on appeal. Finding of fact 13 states, "Despite the Department's efforts, the juvenile remained at a significant risk of harm and her safety cannot be assured." This finding, which results from judgment rather than perception by the human senses, is better classified as a conclusion of law. *See N.C. State Bar v. Key*, 189 N.C. App. 80, 88 (2008); *In re M.R.D.C.*, 166 N.C. App. 693, 697 (2004). Thus, it is not factual finding binding on appeal. The unchallenged factual findings that are binding are thus 8, 9, and 12.

that the father "was engaged in the domestic violence incident involving [the mother]." *Id.* We reasoned that these findings "shed little light on the circumstances of the domestic violence, its severity, or the impact on the juveniles." *Id.* We concluded that "the trial court's vague findings regarding domestic violence lack the required specificity necessary 'to enable an appellate court to review the decision and test the correctness of the judgment.' " *Id.* at 33 (quoting *Quick v. Quick*, 305 N.C. 446, 451 (1982)).

Here, finding of fact 9 states:

> 9. Respondent-Parents executed several safety plans with the Department, including a December 2024 Safety Plan acknowledging that the family had a history of domestic violence in the home of the juveniles.

This finding that the parents acknowledg[ed] "a history of domestic violence in the home of the juveniles" lacks the required specificity to enable us to determine the correctness of the trial court's adjudication of abuse or neglect. Accordingly, we hold that this finding of fact does not support the conclusions of law.

b. Noncompliance with DSS - Finding of Fact 12

"A parent's refusal to cooperate with DSS shows a substantial risk of future harm to the juvenile that can support an adjudication of neglect." *In re K.R.*, 931 S.E.2d 270, 276 (N.C. Ct. App. 2026); *see also In re C.M.P.*, 254 N.C. App. 647, 655 (2017) ("A parent's failure to make progress in completing a case plan is indicative of a likelihood of future neglect."); *In re A.D.*, 278 N.C. App. 637, 643 (2021) (holding

that an adjudication of neglect was supported when the child was at risk of substantial harm where the mother refused to participate in services, including parenting classes and mental health therapy).

In *T.R.T.*, we determined that a parent's refusal to cooperate with DSS supported an adjudication of neglect. *In re T.R.T.*, 225 N.C. App. 567, 571–72 (2013). There, the mother refused to cooperate with DSS and refused services from DSS. *Id.* Additionally, the mother refused to take parenting classes, refused free daycare, admitted that she was no longer attending mental health therapy, and refused to allow DSS access to her records to determine whether she was compliant with her mental health medication. *Id.*

Here, finding of fact 12 states:

> 12. The Department contacted Respondent-Parents to attempt to develop another safety plan, but they reported they were in Georgia for Respondent-Father's job. Respondent-Father was heard in the background of the call telling Respondent-Mother not to tell the Department any information.

DSS analogizes *T.R.T.* to the case before us to support the adjudication of abuse and neglect. The present case is slightly distinguishable from *T.R.T.* The trial court found that Father told Mother not to tell DSS any information on a phone call where DSS attempted to develop another safety plan. This noncompliance falls slightly short of the noncompliance described in cases such as *T.R.T.*, and thus does not alone support the trial court's conclusions of law. Nevertheless, it does show a refusal to

cooperate, a likelihood of refusal in the future, and weighs in favor of an adjudication of neglect.

c. Housing Instability - Finding of Fact 8

Lack of stable housing by itself, absent some evidence of harm or a substantial risk of harm to a juvenile, is insufficient to support a trial court's adjudication of neglect. *In re J.R.*, 243 N.C. App. 309, 314 (2015). "[W]hile housing instability may contribute to a juvenile's status as neglected, housing instability cannot support a conclusion of neglect without evidence that the housing instability impeded the care and supervision of the juveniles or exposed the juveniles to an injurious environment." *In re K.W.*, 282 N.C. App. 283, 291–92 (2022).

> [W]e disapprove of the district court's order in several respects, and remand for a new determination consistent with this opinion. First, to the extent that the court's order places the state's imprimatur on certain socio-economically based value judgments, it must be overruled. Courts cannot condition custody on a mother's ability to provide a separate bed for her [child]. Nor can a court say, without more, that the one-room living arrangement which [the mother] had available for [the child] . . . was not "suitable," and deny her custody on that ground.

In re Evans, 81 N.C. App. 449, 453 (1986).

However, "[t]he inability to maintain secure living arrangements is *relevant* to a determination of whether there is a substantial risk of injury to the juvenile." *In re Helms*, 127 N.C. App. 505, 511 (1997) (emphasis added). Housing instability—plus more—can support an adjudication of neglect. *See, e.g.*, *In re I.M.S.*, 298 N.C. App.

689, 698 (2025) (housing instability plus substance abuse); *In re Helms*, 127 N.C. App. 505, 512 (1997) (housing instability plus drugs, violence, and attempted sexual assault).

For example, in *Safriet*, we held that the trial court did not err in adjudicating the juvenile neglected when—in addition to housing instability—the findings of fact showed the following:

> "[The child] was in a filthy condition, other children made fun of him due to his uncleanliness, . . . and [the child's] grandparents and the School do not know how to contact [the Mother] in case of an emergency show that [the child's] physical, emotional, or mental well-being was impaired or in substantial risk of becoming impaired as a result of improper care.

In re Safriet, 112 N.C. App. 747, 753 (1993).

In the present case, finding of fact 8 states:

> 8. Following the Department's involvement, the juveniles and Respondent-Parents experienced continuous domestic instability, including multiple stays at the maternal grandparent's house where more than twelve (12) people were living in a cluttered two (2) bedroom home, residing at the Shepherd's House, an instance where the family was found sleeping in a minivan in a Sheetz parking lot in February 2025, and staying at the Surry Inn Hotel in March 2025.

We hold that this finding, without more, does not support a finding of neglect or abuse. However, when coupled with other findings—such as non-compliance with DSS when attempting to develop another safety plan—an adjudication of neglect can be supported.

3. Conclusions of Law

Father characterizes the unchallenged findings as "some minor housing concerns, a vague history of domestic violence, and [Father] telling [Mother] one time not to tell DSS anything." Father contends these "are insufficient to support a neglect adjudication, much less abuse." We disagree.

We emphasize that the trial court made many insufficient findings of fact, and that "this Court cannot make the findings of fact, as only the trial court has the discretion to make findings." *In re S.M.L.*, 272 N.C. App. 499, 517 (2020). However, when some factual findings are insufficient but "other findings of fact support an adjudication of neglect, erroneous findings unnecessary to the determination do not constitute reversible error." *In re T.M.*, 180 N.C. App. 539, 547 (2006).

Because the unchallenged factual findings, when considered together, support an adjudication of neglect, we affirm the trial court's conclusion of law on the adjudication of neglect. Because we affirm on neglect, we need not reach whether these findings also would constitute abuse. *See In re C.W.*, 182 N.C. App. 214, 218 (2007) ("If the court finds at least one ground to exist, then the proceeding continues to disposition phase."). However, we caution that the district court should not rely on any ground not approved by this Court in any further stage of the case.

B. Oral Renditions

Father argues that the court's "shift from an oral adjudication of neglect only to a written order with adjudications for neglect and abuse" requires this Court to

vacate the adjudication of abuse. Father also argues that the written order reducing his visitation to one hour every other week was a substantive change from the oral decree and is a reduction in a father's right to his children.

"[A] judgment is entered when it is reduced to writing, signed by the judge, and filed with the clerk of court. . . ." N.C.G.S. § 1A-1, Rule 58 (2025).

> Thus, an announcement of judgment in open court merely constitutes rendering of judgment, not entry of judgment. If the written judgment conforms generally with the oral judgment, the judgment is valid. However, if there is a discrepancy between the written order and the oral rendering of the order in open court as reflected by the transcript, the transcript is considered dispositive.

In re J.C., 236 N.C. App. 558, 562 (2014) (cleaned up). We have generally affirmed written orders that do not conform to the associated orally rendered judgments. *Scoggin v. Scoggin*, 250 N.C. App. 115, 120 (2016) (citing *In re O.D.S.*, 247 N.C. App. 711, 720–21 (2016)); *see also In re R.S.M*, 257 N.C. App. 21, 23 (2017) ("conflict between the announcement of judgment in open court and the written order is resolved in favor of the written order.").

Because we affirmed on neglect, and for the reasons stated above, we need not reach Father's argument in the alternative asking us to vacate the adjudication of abuse.

However, Father also argues that the written order reducing his visitation to one hour every other week was a substantive change from the oral decree and is a reduction in a father's right to his children.

Here, the trial court decreed that both Father's and Mother's visitation shall be two hours, twice per month. However, the written disposition order grants Mother and Father "visitation with the minor child for one (1) hour twice monthly." The order further elaborates that "visitation may be expanded by [DSS] should [Father] make more progress on his case plan" and also "when [Mother] is better able to handle the minor children's behavior during visits. . . ."

We cannot say that this is so inconsistent with the oral decree to amount to a substantive discrepancy. Two hours, twice monthly, is not so different from one hour, twice monthly, with the possibility of visitation being expanded. Accordingly, because this order conforms generally with the oral judgment, it is valid.

V. Conclusion

Because enough proper findings remain to support the neglect determination, we affirm the adjudication and disposition orders based on neglect. Further, we affirm the disposition order regarding visitation.

AFFIRMED.

Judges ARROWOOD and GRIFFIN concur.

Report per Rule 30(e).