IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA17-10

Filed: 17 October 2017

Harnett County, No. 15 CVD 1966

CHRISTIAN M. LOPEZ, Plaintiff,

v.

HOLLI C. LOPEZ, Defendant.

Appeal by defendant from order entered 24 August 2016 by Judge Caron H. Stewart in Harnett County District Court. Heard in the Court of Appeals 9 August 2017.

*Cecil B. Jones for plaintiff-appellee.*

*Ryan McKaig for defendant-appellant.*

ELMORE, Judge.

Holli C. Lopez (defendant) appeals from a permanent custody order awarding Christian M. Lopez (plaintiff) primary custody of their only minor child, S.L,[1] and Holli secondary custody in the form of visitation. She contends parts of two of the trial court's seventy-nine factual findings were unsupported by competent evidence,

[1] A pseudonym is used to protect the minor's identity.

and that its remaining findings were inadequate to support its conclusion that its custodial award promoted S.L.'s best interests. Holli also contends the trial court committed reversible or remandable error by failing to issue findings in its order reflecting that it considered testimonial evidence of an isolated domestic incident between the parties in violation of N.C. Gen. Stat. § 50-13.2(a) (mandating that a custody order "include written findings of fact that reflect the consideration of [an act of domestic violence between the parties] . . . .").

Because we conclude the challenged portions of the findings were supported by competent evidence, the trial court's findings adequately supported its best-interests conclusion, and, under the circumstances of this case, remand is not required for entry of findings in accordance with N.C. Gen. Stat. § 50-13.2(a), we affirm.

## *I. Background*

A few months after S.L. was born on 19 August 2009, the parties married and resided together with their child until marital troubles caused the parties to separate in July 2014.

Christian was employed by the United States Marine Corps, and after the parties married in October 2009, they lived together in Washington, D.C. After Christian was transferred to Camp LeJune around July 2010, the family moved to Jacksonville, N.C. About one year later, Christian was deployed to the Middle East. While serving in Afghanistan, Christian sustained injuries to his hand. After

returning from deployment in January 2012, Christian began suffering from Post-Traumatic Stress Disorder (PTSD) due in part to the death of numerous friends, as well as from depression. Holli quit her job to take care of Christian and S.L., and Christian began counseling. Christian currently receives disability pay from the military of $3,200.00 per month due to the injuries to his hand and PTSD.

In August 2013, the family moved to Revere, M.A., so Christian could enroll in school and attain a degree. The family moved into Christian's parents' three-story home, which was shared among his parents and siblings, and Christian, Holli, and S.L. lived together on a separate floor. Holli had difficulty adjusting to life in Revere and, in the spring of 2014, got into an argument with Christian's mother and struck her. In June, Holli brought S.L. to North Carolina to visit her family and, with Christian's encouragement, decided to stay.

After separating, Christian continued living with his parents and siblings in Revere and attending school there; S.L. and Holli moved in with her parents in Spring Lake, N.C. In July, Holli began a relationship with Daniel Creagar. In August, S.L. and Holli moved across the street into her friend's, Laura Tabbert's, four-bedroom trailer, and S.L. was enrolled in school in Spring Lake.

During the 2014-2015 school year, Holli saw very little of S.L. due to her work schedule, leaving Tabbert, Creagar, or Holli's parents to share most of the responsibility of caring for S.L. After Creager moved into the Tabbert residence in

December 2014, S.L. started doing poorly in school, receiving unacceptable grades for her behavior and for her failure to focus and complete assignments.

In February 2015, the school dentist performed a routine checkup on S.L. and sent her home with a report indicating that she had dental issues he recommended be further treated. In June, the school dentist performed another checkup on S.L. and indicated that S.L.'s dental issues had worsened and again recommended she be seen by a dentist. Holli never brought S.L. to the dentist and informed Christian she saw a dark spot on one of S.L's teeth, but that she saw no "dire need" for dental care for S.L. Holli stated she could not afford to bring S.L. to the dentist, and Christian agreed to pay for S.L.'s dental care when Holli agreed to let S.L. spend the summer with Christian in Revere. After obtaining custody of S.L. in June 2015, Christian brought her to the dentist and discovered her teeth were in significant decay and infection had set in, requiring the dentist to extract four of S.L.'s teeth and prescribe her antibiotics.

In August 2015, after determining that S.L.'s dental care had been inappropriately neglected and discovering that Creagar had been physically disciplining S.L., Christian obtained an *ex parte* emergency custody order in Suffolk, M.A., which awarded him temporary custody of S.L. until 5 September, and he enrolled S.L. into a school in Revere.

On 1 September 2015, Christian filed a complaint in Cumberland County District Court in N.C., seeking both permanent and temporary custody of S.L. After an *ex parte* hearing, the district court entered an order that same day awarding Christian temporary custody of S.L. On 15 September, upon Holli's motion for change of venue, the case was transferred to Harnett County District Court. On 12 October, that court dissolved the *ex parte* temporary custody order and reinstated the status quo by awarding Holli temporary primary custody of S.L. S.L. returned to Holli's custody in late October. On 4 November, a consent order was entered decreeing that "temporary custody of [S.L.] shall remain with . . . [Holli], non-prejudicially" and awarding Christian temporary secondary custody in the form of visitation.

On 17 and 18 May 2016, the Harnett County District Court held a permanent custody hearing and considered testimony from Christian, his mother, and his friend, as well as from Holli, Creagar, and Tabbert. Both parties presented evidence bearing on S.L.'s welfare while in their custody, and Christian presented the court with a plan for S.L. to thrive if he were awarded primary custody. Additionally, at the hearing, Christian and Holli testified about an isolated domestic incident that resulted in Holli being arrested and charged with assaulting Christian. Their testimony indicated that one night during the summer of 2012, the parties got into an argument that escalated physically. Holli admitted that she had become intoxicated, was acting belligerently, and started physically assaulting Christian. In response, Christian

brought Holli to the ground and tried to restrain her. After the altercation ended, both parties suffered minor injuries, and Holli demanded that Christian leave the house. He refused, and she called the police. Holli fell asleep while waiting for the police to arrive. When she was awoken by the responding officers, they arrested her and, against Christian's requests, charged her with assault. Christian testified on Holli's behalf and pled with the judge to dismiss the case, and the charges against Holli were dropped. Both parties indicated this was an isolated incident and that no other domestic incidents ever occurred.

After hearing all of the evidence, the court on 24 August 2016 entered a permanent custody order awarding Christian primary custody and Holli secondary custody of S.L. In its order, the court found in relevant parts that Holli neglected S.L.'s dental care and that "it [was] clear to the court that [S.L.] is happier in her environment with [Christian] and her extended family in [Revere]" and "was well-cared for and thriving there, academically and emotionally." In conjunction with these and other relevant findings, the court concluded that S.L.'s best interests would be served by awarding Christian her primary custody and Holli her secondary custody in the form of visitation. The court made no findings about the domestic incident. Holli appeals.

## *II. Analysis*

On appeal, Holli contends (1) parts of two of the trial court's factual findings were unsupported by competent evidence and (2) its remaining findings were inadequate to support its conclusion that its custodial award served S.L.'s best interests. She also contends the trial court committed reversible or remandable error by (3) failing to make findings in its order reflecting that it considered evidence of the isolated domestic incident between the parties in violation of N.C. Gen. Stat. § 50-13.2(a). Finally, she contends the court erred by (4) failing to duly consider that Holli was S.L's primary caretaker for her entire life. Because Holli's second and fourth alleged errors present the same issue of whether the trial court's factual findings adequately supported its best-interests conclusion, we address them together.

**A. Standard of Review**

"Our trial courts are vested with broad discretion in child custody matters." *Shipman v. Shipman*, 357 N.C. 471, 474, 586 S.E.2d 250, 253 (2003) (citation omitted). Under our review standard "[i]n a custody proceeding, the trial court's findings of fact are conclusive on appeal if there is evidence to support them, even though the evidence might sustain findings to the contrary." *Owenby v. Young*, 357 N.C. 142, 147, 579 S.E.2d 264, 268 (2003) (citations omitted). Unchallenged factual findings are binding on appeal. *Meadows v. Meadows*, ___ N.C. App. ___, ___, 782 S.E.2d 561, 565 (2016) (citation omitted). We review *de novo* whether the trial court's

factual findings adequately support its legal conclusions. *Shipman*, 357 N.C. at 475, 586 S.E.2d at 254 (citation omitted).

In a custody dispute between parents, the trial court must conclude as a matter of law that its award will serve the child's best interests. *Hall v. Hall*, 188 N.C. App. 527, 532, 655 S.E.2d 901, 905 (2008); *see also* N.C. Gen. Stat. § 50-13.2(a) (2015). Because we accord great deference to a trial court's custody decisions, if we determine that its factual findings adequately supported its best-interests conclusion, its custody award will not be disturbed " 'absent a clear showing of abuse of discretion.' " *Pulliam v. Smith*, 348 N.C. 616, 625, 501 S.E.2d 898, 902–03 (1998) (quoting *Surles v. Surles*, 113 N.C. App. 32, 36–37, 437 S.E.2d 661, 663 (1993)).

**B. Factual Findings Sufficiency**

Holli first challenges the evidentiary sufficiency of the italicized portions of the following two of the trial court's seventy-nine factual findings:

> 42. That [Holli] did not inform [Christian] of the severity of the issues concerning [S.L.]'s teeth *which she should have known about*.
>
> . . . .
>
> 68. That *it is clear to the court that [S.L.] is happier in her environment with her father* and her extended family in MA and that she was well-cared for and thriving there, academically and emotionally.

(Emphasis added.)

As to finding forty-two, Holli does not argue that she advised Christian of the severity of S.L.'s dental issues but that the court erred in finding she should have known about the severity of those issues. Because the finding must be considered in its entirety, her argument is misplaced; and, nonetheless, it is meritless, since the challenged portion of the finding was supported by competent evidence.

At the custody hearing, Holli testified that she received two dental reports from S.L.'s school indicating that S.L. needed dental treatment. She received the first report on 15 February 2015, which advised: "[P]ossible problem areas were noted in your child's mouth. These areas should be checked at your child's next dentist visit." She received the second report on 8 June 2015, which advised: "[Y]our child's teeth appear to need care by a dentist. Please make an appointment to visit your dentist as soon as possible." In the comments section of the second dental report, the school dentist noted: "[M]ore areas have developed since February 15." Christian testified that prior to receiving custody of S.L. for the summer of 2015, Holli only "told [him] once" that S.L. had been seen by the school dentist, informed him that S.L. had "maybe one or two cavities," and that "it came to surprise [him] when [he] took [S.L.] to the dentist and she had several issues."

As reflected, Holli knew for at least four months that S.L. needed dental care, and, after discovering "more areas ha[d] developed since February" and S.L.'s dental issues had worsened such that the school dentist recommended that S.L. be treated

"as soon as possible," she failed to inform Christian. Although Holli attempts to challenge only the part of this finding she disagrees with, it must be considered in full. Because the parties' testimony established that Holli failed to inform Christian of the extent of S.L.'s dental issues which she knew about, the challenged portion of this finding was supported by competent evidence.

As to finding sixty-eight, Holli does not challenge the portion of the finding that S.L. "was well-cared for and thriving . . . academically and emotionally" in Christian's custody; rather, Holli contends the court erred in finding that S.L. is happier there because "the testimony showed [S.L.] is happy and well-adjusted in both homes and that she loves both of her parents," yet she points to no record evidence to support this assertion. Holli's argument is misplaced and, nonetheless, is meritless.

Our review is not whether the evidence could sustain contrary findings but whether competent evidence supported the facts found. *Owenby*, 357 N.C. at 147, 579 S.E.2d at 268.

> [I]n custody cases, the trial court sees the parties in person and listens to all the witnesses. With this perspective, the trial court is able to observe the demeanor of the witnesses and determine their credibility, the weight to be given their testimony and the reasonable inferences to be drawn therefrom. This opportunity of observation allows the trial court to detect tenors, tones and flavors that are lost in the bare printed record read months later by appellate judges.

*Weideman v. Shelton*, ___ N.C. App. ___, ___, 787 S.E.2d 412, 416 (2016) (citations and quotation marks omitted), *disc. rev. denied*, 795 S.E.2d 367 (2017).

The trial court here heard extensive testimony from several witnesses. A finding related to S.L.'s relative happiness in two particular environments is one to which reason prescribes we properly defer to the trial court. We note that in addition to the unchallenged portions of the finding that S.L. was thriving academically and emotionally while in Revere, the findings and evidence also established S.L. enjoyed a better home-life, more involved and quality care, and a more robust social life. Since below we list several of those findings in addressing whether the trial court's findings supported its best-interests conclusion, we decline to list them here. After a thorough review of several unchallenged findings and testimonial evidence that might bear on a child's happiness in her environment, we hold the challenged portion of this finding was supported by competent evidence.

**C. Best-Interests Determination**

Next, Holli contends that absent those challenged parts of the two findings, the trial court's remaining findings failed to support its best-interests conclusion. Relatedly, although Holli acknowledges that our General Assembly abolished the antiquated legal presumption favoring mothers in custody disputes, *see* N.C. Gen. Stat. § 50-13.2(a) (2015) ("Between the parents[ ] . . . no presumption shall apply as to who will better promote the best interest and welfare of the child."), she contends

the court erred by failing to consider she was S.L.'s primary caretaker for her entire life. These two alleged errors present the same issue of whether the trial court's findings supported its best-interests conclusion.

In deciding a custody dispute between parents and determining what award would promote a child's best interests, "[t]he trial judge is 'entrusted with the delicate and difficult task of choosing an environment which will, in his judgment, best encourage full development of the child's physical, mental, emotional, moral and spiritual faculties[,]' " *Phelps v. Phelps*, 337 N.C. 344, 354–55, 446 S.E.2d 17, 23 (1994) (quoting *In re Peal*, 305 N.C. 640, 645, 290 S.E.2d 664, 667 (1982)), and must "determine by way of comparisons between the two [parents], upon consideration of all relevant factors, which of the two is best fitted to give the child the home-life, care, and supervision that will be most conducive to [the child's] well-being." *Griffith v. Griffith*, 240 N.C. 271, 275, 81 S.E.2d 918, 921 (1954). "Naturally, no hard and fast rule can be laid down for making this determination, but each case must be determined upon its own peculiar facts and circumstances." *Id.* at 275, 81 S.E.2d at 921. "The welfare or best interest of the child, in the light of all the circumstances, is the paramount consideration . . . . It is the polar star by which the discretion of the court is guided." *Phelps*, 337 N.C. at 354, 446 S.E.2d at 23 (citations and quotation marks omitted).

"Trial courts are permitted to consider an array of factors in order to determine what is in the best interest of the child," *id.* at 352, 466 S.E.2d at 22, and findings supporting this conclusion " 'may concern physical, mental, or financial fitness or any other factors brought out by the evidence and relevant to the issue of the welfare of the child.' " *Hall*, 188 N.C. App. at 532, 655 S.E.2d at 905 (quoting *Steele v. Steele*, 36 N.C. App. 601, 604, 244 S.E.2d 466, 468 (1978)). Based on the court's seventy-nine detailed factual findings issued after an extensive hearing, we discern no abuse of discretion in the court's best-interest conclusion. In addition to the finding that "it is clear to the court that [S.L.] is happier in her environment with her father and her extended family in [Revere]" and "is well-cared for and thriving there, academically and emotionally," the findings also established, among other relevant factors, that S.L. would enjoy a better home-life, a more robust social environment, and more involved and quality care in Christian's custody in Revere.

To highlight only a few relevant findings, the trial court found that while in Christian's custody, S.L. "did very well" in school and "developed numerous friends"; and that Christian brought her to and from school every day, "read with her every night" for an hour in order to improve her reading skills, enrolled her "in an afterschool program and had an individual education plan prepared," and regularly brought S.L. to the dentist and followed up with her dental care.

In Christian's custody, S.L. would be residing with Christian on a separate floor of her grandparents' three-story house, living among her extended family, and S.L. was "very close to all of [Christian's] family members in the home." Christian "has a strong support system to support him with raising [S.L.] including his mother, stepfather, and his sixteen-year-old sister"; and S.L. "get[s] along well" with Christian's siblings, including his eight-year-old brother, who attends the same school in Revere. Additionally, Christian's mother "loves [S.L.] very much and happily assists her . . . at all times."

Contrarily, while in Holli's custody in Spring Lake, S.L. was "doing poorly in school," "receiving unacceptable grades for her behavior," "having a difficult time focusing and remaining on task with her assignments," and her school offers "no educational program for homework." During the 2014-2015 school year, S.L. "would see very little of" Holli—either Tabbert, Creagar, or Holli's parents would bear most of the responsibility for S.L.'s care. When Holli was responsible for bringing her to school, S.L. acquired twenty-seven "unexcused tardies" and four "unexcused absences." And although able, Holli declined to pick up S.L. from school and instead "allow[ed] . . . Creagar to pick up [S.L.] since it is on his way home." Holli declined to bring S.L. to the dentist after learning twice that she needed dental treatment. Creagar physically disciplined S.L. by spanking her three times and continued to discipline her, although not physically.

In Holli's custody, S.L. would be residing with Holli, Creagar, and Tabbert, in Tabbert's four-bedroom trailer in a mobile home park. She would be sleeping on an old bunkbed that Tabbert's daughter used when she was a child and would have no dresser in her bedroom. Although S.L. had "one neighborhood friend" that she socializes with, no friends have ever slept over the residence nor has she slept at another friend's house, and "Creagar indicated that [S.L.] was not used to interaction with other children."

In light of these and other extensive findings relevant to S.L.'s interests and welfare, we conclude the trial court's findings adequately supported its best-interests conclusion. "Viewing the trial court's decision through the lens of the abuse of discretion standard, we cannot say that its determination was manifestly unsupported by reason, and we must thus defer to the trial court's judgment. . . ." *In re L.M.T.*, 367 N.C. 165, 172, 752 S.E.2d 453, 458 (2013).

**D. Failure to Consider Domestic Incident**

Last, Holli contends the trial court committed reversible or remandable error by failing to enter findings in its order reflecting that it considered evidence of a domestic incident between the parties in violation of N.C. Gen. Stat. § 50-13.2(a).

"Pursuant to N.C. Gen. Stat. § 50-13.2(a) (2015), the trial court must consider 'acts of domestic violence' when determining the best interest of the child in a custody proceeding." *Mannise v. Harrell*, ___ N.C. App. ___, ___, 791 S.E.2d 653, 660 (2016).

Effective 20 October 2015, the General Assembly amended N.C. Gen. Stat. § 50-13.2(a) (emphasis added) to read as follows:

> An order for custody of a minor child entered pursuant to this section shall award the custody of such child to such person . . . as will best promote the interest and welfare of the child. *In making the determination, the court shall consider all relevant factors including acts of domestic violence between the parties*, the safety of the child, and the safety of either party from domestic violence by the other party. *An order for custody must include written findings of fact that reflect the consideration of each of these factors* and that support the determination of what is in the best interest of the child.

Act of Oct. 20, 2015, ch. 278, sec. 2, 2015 N.C. Sess. Laws 1336, 1336–37. "Domestic violence" is defined by N.C. Gen. Stat. § 50B-1(a) (2015) in relevant part as acts by which one spouse "attempt[s] to cause bodily injury, or intentionally caus[es] bodily injury" on another spouse—but it specifically excludes actions taken in self-defense. *See id.* (providing that domestic violence "does not include acts of self-defense"). Here, the transcript reflects evidence of one isolated domestic incident between the parties in 2012 that Holli argues required the trial court under N.C. Gen. Stat. § 50-13.2(a) to make findings about in its order.

During Christian's testimony, the following relevant exchange occurred:

> A [T]here was one specific incident where the police [were] called and [were] involved.
>
> Q And tell me what happened on that incident.
>
> A On that night, we were drinking a little bit with some

> friends, and *all of a sudden a fight broke out, and next thing I know, I got scratches all over me, and my wife was arrested.*
>
> Q Did you pursue those charges or did you have those charges dropped?
>
> A No, I pleaded with the judge at the time for her hearing to have the charges dropped.
>
> Q Did that happen?
>
> A Yes.

(Emphasis added.) When Holli was asked about this incident, the following exchange occurred:

> A We had been drinking. We had two friends over . . . . I went downstairs. I was having a cigarette . . . and I was talking to [my neighbor] about something, and for the life of me, I don't remember what it was, and I was intoxicated . . . . and [Christian] had hollered down the window, and he [stated], you need to come up here now. . . . And I said no, you can't make me, you know, being belligerent, and he [stated], yeah, I can. And he came downstairs and he grabbed me, and he was, like, pulling my arm up the stairs. We go back in the house, and it causes a fight, and he is yelling and I'm yelling and he is, like, standing in my face . . . and I was like, get out of my face. I just don't want you in my face. And I shoved him out, and I don't . . . really remember how it happened, but *he jumped on me and pinned me down to the ground and, . . . had my arms down . . . and I'm, . . . , trying to wrestle him and I'm, . . . , telling him to get off, and he has got his hands on my head and he is pushing it into the carpet, . . . I guess he is trying to calm me down, like that's going to work or something, put me in a sleeper hold. I don't know what he was doing. And I'm trying to get him off, so I'm, . . . , reaching up, . . . , squirming, . . . , weaseling through, . . . , and I'm, . . . ,*

*clawing at his face, . . . trying to get him off because he is hurting me,* and . . . , I get his neck and then I . . . grab him, . . . and I'm, . . . , scratching at him, . . . , trying to get him off, and then [our friends] walk in, . . . . And they pull him off. . . . And I started throwing shoes, and I threw a bottle at him and I was like, what is wrong with you? And I'm crying and I'm like, you need to leave. . . . [A]nd he is like, I'm not leaving. So I called the police. And I'm sitting down and I'm crying, and as . . . I'm waiting for the police . . . , I fall asleep, and next thing I know, the police are standing above me. . . . And I stand up and they put me in handcuffs and they took me to the car, and I'm sitting there, . . . , telling him, what are you doing? I called the police on him. I want you to remove him. And they are like, he has scratches on him, so that means something happened. I don't know what they told the police. . . . So . . . I got taken in. . . .

. . . .

*Q After this incident, did you have any other domestic incidents like this?*

*A No,* I mean, we got into fights, and we kind of set up that boundary that we're both very temperamental people and we don't like to be handled, so it didn't escalate. Pretty much after that, . . . when [Christian] went to court on my behalf, and he said, I don't want to press charges, just let her go, like he was visibly upset about the situation, the judge . . . said, you two don't need to be drinking, . . . if this is the outcome that's going to happen. . . . And . . . the judge[ ] . . said, if she ever lays a hand on you again, call, and I'll throw the book at her . . . . And . . . [Christian] was like, she is not like that. I mean, he testified on my behalf, and that she is not like that. *This was an isolated incident where we don't normally get like this.* And pretty much after that, we stopped with the really heavy drinking, . . . and he switched to beer, and . . . if I want to have a drink, it would be, . . . just to relax, but we set ourselves that limit and we didn't get to that point again.

(Emphasis added.) During her cross-examination, the following exchange occurred:

> Q . . . [I]n fact, you were extremely intoxicated?
>
> A I don't know how -- I mean, I remember it, so I don't know how intoxicated I really was.
>
> Q Well, you fell asleep at one point when you were sitting there?
>
> A Well, yeah, I had just been trampled on and was crying and tired. It was late. So, yeah.
>
> Q And in fact, you didn't tell the officer that you were trampled on or anything by [Christian]?
>
> A What was I supposed to say? They are putting me in handcuffs. Obviously, they believed [Christian] over me.
>
> Q And in fact, . . . the reason . . . was because you had told [the police] that you had scratched [Christian] and slapped him . . . . That you were the first one that instigated anything.
>
> A No.
>
> Q You don't remember that?
>
> A I know I pushed [Christian] and clawed him. If I slapped him, then it was probably because he was coming at me.
>
> Q And that was before [Christian] ever did anything, before he touched you in any way?
>
> A He was in my face. I asked him to step out. That was all.
>
> Q Okay. . . . [H]e didn't even want you to be arrested?

> A Right, I do know that, yes.
>
> . . . .
>
> A Like I said, he came and testified on my behalf and got the charges dismissed and let go.

As reflected, evidence was raised about a domestic incident between the parties, and the court here made no related findings in its order. We recognize our General Assembly recently amended N.C. Gen. Stat. § 50-13.2(a) to emphasize the significant harm domestic violence causes a child by imposing a stricter requirement that custody orders "include written findings of fact that reflect the consideration of [acts of domestic violence between the parties]." *Compare* N.C. Gen. Stat. § 50-13.2(a) (2013) ("[T]he court shall consider all relevant factors including acts of domestic violence between the parties, the safety of the child, and the safety of either party from domestic violence by the other party *and shall make findings accordingly*. An order for custody must include findings of fact which support the determination of what is in the best interest of the child." (emphasis added)), *with* N.C. Gen. Stat. § 50-13.2(a) (2015) ("[T]he court shall consider all relevant factors including acts of domestic violence between the parties, the safety of the child, and the safety of either party from domestic violence by the other party. An order for custody must include written findings of fact *that reflect the consideration of each of these factors* and that support the determination of what is in the best interest of the child." (emphasis added)). However, we conclude that under the circumstances of this case, remanding

for entry of such findings is unnecessary, as it would be futile and needlessly waste judicial resources in light of the extensive findings supporting the trial court's best-interests conclusion and its ultimate custody decision to award Christian primary custody of S.L. *Cf. N.C. Dep't of Env't & Natural Res. v. Carroll*, 358 N.C. 649, 674–75, 599 S.E.2d 888, 904 (2004) (declining to remand for entry of a finding to resolve a conflict in the evidence where that finding would be immaterial to the challenged legal conclusion); *State v. Bryant*, 361 N.C. 100, 104, 637 S.E.2d 532, 535 (2006) (declining to remand for entry of a statutorily required finding where record lacked sufficient evidence to support the finding, reasoning "the case should not be remanded in order to conserve judicial resources").

The transcript reflects this incident was described to the court in detail; both parties testified it was isolated and no evidence indicated that S.L. was present during the incident or that it affected her in any way; and neither party affirmatively alleged spousal abuse, sought to press charges, or filed any domestic action. *Cf. In re K.J.B.*, ___ N.C. App. ___, ___, 797 S.E.2d 516, 518 (2016) ("A trial court's failure to make specific findings regarding a child's impairment or risk of harm will not require reversal where the evidence supports such findings." (citing *In re Padgett*, 156 N.C. App. 644, 648, 577 S.E.2d 337, 340 (2003))). The evidence indicates the incident was due in large part to Holli's admitted intoxication and belligerence, and Christian's actions were in response to Holli initiating the incident and were defensive in nature.

Thus, his actions would be properly excluded under N.C. Gen. Stat. § 50B(3) as actions taken in self-defense. To the extent Holli's actions amounted to an act of domestic violence, the trial court's failure to enter a finding on the matter resulted in no prejudice to her. *Cf. Meadows*, ___ N.C. App. at ___, 782 S.E.2d at 567 (distinguishing another case where we remanded for failing to enter findings resolving accusations of parental abuse, in part, on the ground that in that case the district court *awarded custody* to the parent accused of abuse).

In light of the testimonial evidence describing the incident and the extensive findings supporting the trial court's conclusion that S.L.'s best interests would be served by awarding Christian permanent primary custody and Holli secondary custody, we conclude the court's making these findings would have no practical impact on its best-interests conclusion. Therefore, the trial court's inaction here resulted in no prejudice to Holli nor, most importantly, to S.L. Accordingly, we hold that under the circumstances of this case, the trial court's failure to make findings under N.C. Gen. Stat. § 50-13.2(a) does not require remand for entry of such findings.

## *III. Conclusion*

The challenged portions of factual findings forty-two and sixty-eight were supported by competent evidence. The trial court's findings adequately supported its best-interests conclusion. Although the trial court never made findings in its custody order reflecting that it considered the isolated domestic incident between the parties,

we hold that remand for entry of such findings is unnecessary. The record reflects that the incident was fully described to the judge, that it was isolated, that it never affected S.L., and that Christian's actions were taken in self-defense. To the extent that Holli's actions constituted domestic violence under N.C. Gen. Stat. § 50B-1(a), neither she, nor, most importantly, S.L., were prejudiced by the court's failure to make findings on the matter in light of its extensive findings supporting its best-interests conclusion and ultimate determination awarding Christian primary custody and Holli secondary custody of S.L. We thus hold that remanding this case for entry of such findings would be futile and wasteful, and therefore affirm the court's order.

AFFIRMED.

Judges DIETZ and ARROWOOD concur.

Report per Rule 30(e).