IN RE MELODY L. ET AL.*

(SC 18085)

(SC 18086)

(SC 18087)

Rogers, C. J., and Norcott, Vertefeuille, Zarella and Schaller, Js.

Argued March 11, 2008—officially released January 20, 2009

Sarah Eagan, with whom was *Martha Stone*, for the appellants in Docket Nos. SC 18085 and SC 18087 (minor child Melody L. et al.).

Raymond J. Rigat, for the appellant in Docket No. SC 18085 (minor child Neri Jasmin R.).

Sue A. Cousineau, for the appellant in Docket No. SC 18085 (minor child Jenira R.).

Marcia McCormack, for the appellant in Docket No. SC 18086 (respondent mother).

Tammy Nguyen-O'Dowd, assistant attorney general, with whom, on the brief, were *Richard Blumenthal*, attorney general, and *Susan T. Pearlman*, assistant attorney general, for the appellee in each case (petitioner).

Mildred Doody, for the appellee in Docket Nos. SC 18085 and SC 18086 (minor child Melinda L.).

Opinion

VERTEFEUILLE, J. These three appeals arise from the termination of the parental rights of the respondent mother, Neri C.,[1] to five[2] of her minor children, Melody L., Melinda L., Jenira R., Jaime R. and Neri Jasmin R. The respondent appeals from the judgments of the trial court terminating her parental rights as to the five children (SC 18086). In the two additional appeals, four of the children[3] appeal from the judgments of the trial court terminating the parental rights of the respondent (SC 18085) and from the court's subsequent denial of their motion for visitation with the respondent pending the appeal of the termination of parental rights (SC 18087).[4] We affirm the judgments in the appeals pertaining to the termination of parental rights, and we dismiss the appeal pertaining to the motion for visitation as moot.

The record reveals the following facts, as found by the trial court, and relevant procedural history. In May, 2002, the department of children and families (department) received an anonymous telephone call reporting that the respondent, the respondent's boyfriend (boyfriend) and her six[5] children recently had moved to Connecticut from New York and were living in a one bedroom apartment in Hartford. The anonymous caller further reported that the children were being exposed to sexual activity between the adults and were being sexually abused by the boyfriend.

The department thereafter conducted a home visit and began an investigation. Through its investigation, the department learned that the respondent and her boyfriend had a history of substance abuse and that the respondent had relapsed. The department also became aware that the respondent had an active case with the New York state office of children and family services, child protective services, " 'for excessive corporal punishment and sexual abuse.' " The New York agency informed the department that the respondent's boyfriend had sexually abused Melody and exposed her to pornography, and as a result, the respondent had been ordered to prevent the boyfriend from having contact with the children. The department was further informed that the respondent had violated that order, and that a New York court had ordered her to turn the children over to New York child protective services. The respondent failed to comply with the court's order and subsequently fled New York with her boyfriend and the children. As a result, in May, 2002, the department removed the four minor children from the home on a ninety-six hour hold pursuant to General Statutes § 17a-101g.[6] The oldest of the four, Melody, was then seven years old.

During its continuing investigation, the department further learned that the respondent had moved to Con-

necticut with her boyfriend and her six children in January, 2002. Once in Connecticut, the respondent failed to enroll any of the children in school. The respondent, her boyfriend and all six children were sleeping together in one bedroom with two beds. During this time, the respondent and her boyfriend engaged in sexual intercourse on numerous occasions in the presence of the children. In addition, both the respondent and her boyfriend physically abused the minor children when disciplining them. In August, 2002, the children were adjudicated neglected and committed to the care and custody of the department. As part of the judgment, the trial court ordered specific steps for the respondent to take to facilitate the return of the children to her, including that she have no further contact with her boyfriend.

In December, 2002, the department received a telephone call reporting that Jenira had informed her foster mother that the boyfriend had touched her inappropriately while she was taking a bath during a supervised visit with the respondent. The report of sexual abuse was confirmed during the department's interview with Jenira. The respondent admitted that she was still cohabiting with the boyfriend at that time, explaining that she needed his assistance during her pregnancy with Neri Jasmin. The boyfriend drove the respondent to the hospital for the birth of Neri Jasmin, who was born on January 25, 2003.

In February, 2003, the department received a telephone call reporting that Melinda had informed her foster mother of a new allegation of abuse, namely, that the boyfriend had sexually abused her while she was in the bathtub, and also had sexually abused Melody and Jenira. Melinda also reported multiple incidents of physical abuse by the boyfriend. Melinda informed the department that she had told the respondent about the abuse and that the respondent had told the children to tell the boyfriend to stop touching them. During an interview with the department, the respondent denied having any knowledge of the sexual abuse and denied that there had been any unsupervised contact between the boyfriend and Neri Jasmin. On the basis of the disclosures and the respondent's continued contact with the boyfriend, the department removed Neri Jasmin from the home on a ninety-six hour hold pursuant to § 17a-101g. In September, 2003, Neri Jasmin was adjudicated neglected and was committed to the custody of the department.

The department interviewed Melody on two occasions in February, 2003. Melody stated that the respondent and her boyfriend had engaged in substance abuse in front of the children when they lived in New York and that they had allowed the oldest child, Malcolm; see footnote 2 of this opinion; to smoke marijuana in the home. Melody also reported multiple prior incidents

of sexual abuse by the boyfriend.

As a result of these disclosures, the department referred Melody to the Aetna Children's Center at Saint Francis Hospital and Medical Center (hospital). During an interview at the hospital, at which a department employee was present, Melody disclosed multiple incidents of sexual abuse by the boyfriend, including penetration and oral sex. Melody further reported that the respondent and the boyfriend would have sexual relations in her presence. Melody also reported that the boyfriend would instruct her teenage brother Marcus; see footnote 2 of this opinion; to "hump her" and put his penis on her buttocks while in the bathtub together. During this interview, Melody stated that she had reported the sexual abuse to the respondent at least four times.

The department interviewed Marcus, who confirmed Melody's reports of sexual abuse. He informed a department employee that the respondent and the boyfriend would have sexual intercourse in the presence of the children and that the boyfriend would talk to him about sex. He also confirmed that the boyfriend would make him get into the bathtub with Melody and direct him to put his penis on her vagina, while the boyfriend watched.

Throughout this period of time from May, 2002, and continuing well into 2005, the department's goal was to reunify the respondent with her children. She regularly visited with the children, who were generally doing well in their foster homes, and she and the children were being provided services intended to assist in the reunification of the family. In April, 2005, Marcus, who had significant behavior problems and previously had been removed by the department from the respondent's home, returned to live with the respondent. In July of that same year, Jaime returned to the respondent's home to live. The respondent thereafter became overwhelmed with her parental responsibilities for Marcus and Jaime at home. She hit one of the boys twice; she allowed Marcus' health insurance to lapse; she failed to pick up prescription medicine for Marcus and he suffered a seizure as a result; and she left Jaime and the other children, when visiting, in Marcus' supervision despite having been warned not to do so. Marcus also frightened the other children by tormenting the family cat in front of them. In December, 2005, Marcus and Jaime again were removed from the respondent's custody. During December, 2005, and January, 2006, the respondent refused to take a test to determine whether she was again abusing drugs, she stopped seeing her psychiatrist and she stopped taking her prescribed medications. As of January, 2006, the older children had been in the department's custody since May, 2002, and Neri Jasmin since February, 2003.

In January, 2006, pursuant to General Statutes § 17a-

112 (j),[7] the commissioner of children and families (commissioner) filed petitions to terminate the parental rights of the respondent to the five youngest children.[8] As grounds for the termination, the commissioner alleged, pursuant to statute, that the children had been adjudicated neglected and committed to the department, that the respondent had been provided specific steps to take to facilitate the children's return and that she had "failed to achieve such degree of personal rehabilitation as would encourage the belief that within a reasonable time, considering the age and needs of the child, [the respondent] could assume a responsible position in the life of the child . . . ." General Statutes § 17a-112 (j) (3) (B) (ii). The commissioner further alleged, pursuant to § 17a-112 (j) (3) (C), that the children had been denied "the care, guidance or control necessary for [their] physical, educational, moral or emotional well-being" by reason of the respondent's acts of commission or omission.

After a lengthy trial, the trial court granted the petitions for termination. In its memorandum of decision, the trial court first determined that "prior to filing its termination petitions, [the department] made reasonable efforts to reunify each of the children with the [respondent] . . . through offers of and provision of services . . . ." The trial court then found that, "by clear and convincing evidence, as to the [respondent] that [the department] has proved [the grounds for termination based on] . . . failure to rehabilitate, and [the grounds for termination based on] . . . acts of commission or omission (except with respect to Neri [Jasmin], who was not born at the time of the [acts of commission or omission] incidents)." The court further found that termination was in the best interests of the five minor children. Accordingly, the trial court granted the department's petitions. These appeals followed. Additional facts will be set forth as necessary.

I

THE RESPONDENT'S APPEAL

The respondent appeals from the judgment of the trial court terminating her parental rights to the five children. On appeal, she claims that: (1) the trial court improperly found that the department had made reasonable efforts to reunite her with her children; (2) the trial court improperly found that she had failed to rehabilitate herself; and (3) the termination of her parental rights violated her rights under the state and federal constitution.[9]

A

The respondent first claims that the trial court improperly found that the department had made reasonable efforts to reunify her with her children. More specifically, she asserts that the trial court improperly found that the department had made reasonable efforts

to reunify her with her children because the department did not provide the respondent and her children with joint or family therapy. In response, the department asserts that there was sufficient evidence for the trial court to determine that the department had made reasonable efforts to reunify the respondent with her children, and that the department had provided family therapy where appropriate. We agree with the department.

We begin by setting forth the standard of review for this claim. "In order to terminate parental rights under § 17a-112 (j), the department is required to prove, by clear and convincing evidence, that it has made reasonable efforts . . . to reunify the child with the parent, unless the court finds . . . that the parent is unable or unwilling to benefit from reunification . . . . General Statutes § 17a-112 (j) (1). The standard for reviewing reasonable efforts has been well established by the Appellate Court. Turning to the statutory scheme encompassing the termination of the parental rights of a child committed to the department, [§ 17a-112] imposes on the department the duty, inter alia, to make reasonable efforts to reunite the child or children with the parents. The word reasonable is the linchpin on which the department's efforts in a particular set of circumstances are to be adjudged, using the clear and convincing standard of proof. Neither the word reasonable nor the word efforts is, however, defined by our legislature or by the federal act from which the requirement was drawn. . . . [R]easonable efforts means doing everything reasonable, not everything possible. . . . The trial court's determination of this issue will not be overturned on appeal unless, in light of all of the evidence in the record, it is clearly erroneous. . . . *In re Daniel C.*, 63 Conn. App. 339, 361, 776 A.2d 487 (2001)." (Internal quotation marks omitted.) *In re Samantha C.*, 268 Conn. 614, 632, 847 A.2d 883 (2004). "A finding is clearly erroneous when either there is no evidence in the record to support it, or the reviewing court is left with the definite and firm conviction that a mistake has been made. . . . On appeal, our function is to determine whether the trial court's conclusion was factually supported and legally correct. . . . In doing so . . . [g]reat weight is given to the judgment of the trial court because of [the court's] opportunity to observe the parties and the evidence. . . . We do not examine the record to determine whether the trier of fact could have reached a conclusion other than the one reached. . . . [Rather] every reasonable presumption is made in favor of the trial court's ruling." (Citations omitted; internal quotation marks omitted.) Id., 627–28.

After a careful review of the record, we conclude that there was adequate evidence supporting the trial court's finding that the department had made reasonable efforts to reunify the family. After the four older

children were placed in the department's custody in May, 2002, and the youngest child was placed in February, 2003, the department offered to the respondent numerous services and programs to aid in their reunification. The trial court found that these services and programs included: a program for nonoffending partner parenting and understanding sexual abuse issues; substance abuse evaluation and treatment; individual and group therapy; random urine screening; a child parenting program; court-ordered evaluations; family therapy; supervised and unsupervised visitation; transportation for the respondent and the children; assistance in obtaining appropriate housing; assistance in obtaining appropriate furniture; intensive family reunification services; in-home services; assistance in obtaining resources for employment; an infant outreach program; parental aide services; and administrative and case management services. The department actually attempted reunification by permitting Jaime to live with the respondent beginning in July, 2005. Until January, 2006, the department's plan for the family had been to reunify the respondent and her children. Jaime was chosen to be the first child returned home, with the expectation that the others would follow.

The respondent nevertheless asserts that the department did not make reasonable efforts for reunification because it did not provide group or family therapy for her and the children. The evidence in the record, however, supports the trial court's finding that the department provided group therapy for the respondent and her children, where appropriate. The department provided family therapy for the respondent and Jaime, which began in June, 2005, and continued throughout his reunification with the respondent. The respondent's family therapy with Jaime continued until December, 2005, when Jaime was removed from her care after the attempted reunification failed. In July, 2005, the department began providing family therapy for the respondent and Melinda. This therapy continued until September, 2005. The department also provided family therapy for the respondent and Jenira beginning in August, 2005.

In her brief, the respondent specifically asserts that the department did not make reasonable efforts at reunification because it did not provide family therapy for her and Melody. The evidence in the record, however, belies this claim. Melody received individual therapy and her personal therapist did not recommend joint therapy until the fall of 2005. When the department scheduled an appointment for Melody and the respondent to begin family therapy at that time, the respondent did not show up for the appointment. Thereafter, Melody began withdrawing from those around her, including her foster mother, therapist and department caseworker. As a result, family therapy with Melody was discontinued.

We conclude that the trial court's finding that the department made reasonable efforts at reunification was not clearly erroneous. Even if the evidence had established that additional family therapy might have been beneficial, such evidence does not render the trial court's finding clearly erroneous. As we previously have noted herein, "[r]easonable efforts means doing everything reasonable, not everything possible." (Internal quotation marks omitted.) *In re Destiny D.*, 86 Conn. App. 77, 82, 859 A.2d 973, cert. denied, 272 Conn. 911, 863 A.2d 702 (2004). The Appellate Court properly has affirmed findings that the department made reasonable efforts for reunification in cases in which the department's efforts were far less comprehensive than those in the present case. See *In re Alexander T.*, 81 Conn. App. 668, 673, 841 A.2d 274 ("[i]n light of the entire record, the failure to provide the referral, while a lapse, does not make the overall efforts of the department fall below the level of what is reasonable"), cert. denied, 268 Conn. 924, 848 A.2d 472 (2004); *In re Ebony H.*, 68 Conn. App. 342, 350, 789 A.2d 1158 (2002) ("[n]otwithstanding the court's finding that the department's response to the [respondent mother's] request for assistance in obtaining housing was shameful and unacceptable, our review of the evidence admitted at the trial does not leave us with a definite and firm conviction that the court mistakenly found that the department had made reasonable efforts to reunify the respondent and the child").

B

The respondent also claims that there was insufficient evidence supporting the trial court's finding that she had failed to achieve sufficient personal rehabilitation pursuant to § 17a-112 (j) (3) (B) (ii). Specifically, the respondent claims that her compliance with the specific steps ordered by the court at the commitment proceedings for the children demonstrates that she achieved sufficient personal rehabilitation to allow her to assume a responsible position in her children's lives. We disagree.

We first turn to the standard of review that governs this claim. "A trial court's finding that a parent has failed to achieve sufficient rehabilitation will not be overturned unless it is clearly erroneous. . . . A finding is clearly erroneous when either there is no evidence in the record to support it, or the reviewing court is left with the definite and firm conviction that a mistake has been made. . . .

"On appeal, our function is to determine whether the trial court's conclusion was factually supported and legally correct. . . . In doing so, however, [g]reat weight is given to the judgment of the trial court because of [the court's] opportunity to observe the parties and the evidence. . . . We do not examine the record to

determine whether the trier of fact could have reached a conclusion other than the one reached. . . . [Rather] every reasonable presumption is made in favor of the trial court's ruling." (Citations omitted; internal quotation marks omitted.) *In re Samantha C.*, supra, 268 Conn. 627–28.

"In order to terminate a parent's parental rights under § 17a-112, the petitioner is required to prove, by clear and convincing evidence, that: (1) the department has made reasonable efforts to reunify the family; General Statutes § 17a-112 (j) (1); (2) termination is in the best interest of the child; General Statutes § 17a-112 (j) (2); and (3) there exists any one of the seven grounds for termination delineated in § 17a-112 (j) (3)." *In re Samantha C.*, supra, 268 Conn. 628.

In the present case, the department alleged in its petition that the respondent had failed to achieve sufficient rehabilitation pursuant to § 17a-112 (j) (3) (B) (ii). That statute provides for the termination of a child where the child "is found to be neglected or uncared for and has been in the custody of the commissioner for at least fifteen months and the parent of such child has been provided specific steps to take to facilitate the return of the child to the parent pursuant to section 46b-129 and has failed to achieve such degree of personal rehabilitation as would encourage the belief that within a reasonable time, considering the age and needs of the child, such parent could assume a responsible position in the life of the child . . . ." General Statutes § 17a-112 (j) (3) (B) (ii).

We previously have concluded that, "[p]ersonal rehabilitation . . . refers to the restoration of a parent to his or her former constructive and useful role as a parent . . . [and] requires the trial court to analyze the [parent's] rehabilitative status as it relates to the needs of the particular child, and further, that such rehabilitation must be foreseeable within a reasonable time. . . . The statute does not require [a parent] to prove precisely when she will be able to assume a responsible position in her child's life. Nor does it require her to prove that she will be able to assume full responsibility for her child, unaided by available support systems. It requires the court to find, by clear and convincing evidence, that the level of rehabilitation she has achieved, if any, falls short of that which would reasonably encourage a belief that at some future date she can assume a responsible position in her child's life." (Citations omitted; internal quotation marks omitted.) *In re Eden F.*, 250 Conn. 674, 706, 741 A.2d 873 (1999).

Our careful review of the record in the present case reveals that the evidence credited by the trial court adequately supported its finding that the respondent had failed to achieve sufficient rehabilitation. First, contrary to the respondent's allegations, the evidence supports the trial court's finding that the plaintiff had not

complied with all of the specific steps ordered by the court. Specifically, the trial court found that although the respondent did participate in individual therapy, she had failed to make progress toward the identified treatment goals. The trial court's finding was based on a report by the respondent's therapist in December, 2005, that the respondent "continued to use poor judgment and her disorganization was troubling." The therapist further reported that the respondent would not be able to keep the younger children safe while Marcus was in the home because of his aggressiveness and bullying. The trial court further concluded that the respondent did not demonstrate that she had complied with the requirement to "[s]ecure and/or maintain adequate housing and legal income" because the evidence at trial demonstrated that she had not obtained full-time employment sufficient to support the children if they were returned to her. She had exhausted her benefits from the department of social services and could not show how she would be able to support herself and the children. The trial court further found that the respondent did not comply with the substance abuse testing requirements and the requirement that she not engage in substance abuse. These findings are supported by the evidence in the record.

"In determining whether a parent has achieved sufficient personal rehabilitation, a court may consider whether the parent has corrected the factors that led to the initial commitment, regardless of whether those factors were included in specific expectations ordered by the court or imposed by the department. . . . Accordingly, successful completion of expressly articulated expectations is not sufficient to defeat a department claim that the parent has not achieved sufficient rehabilitation." (Citations omitted.) *In re Vincent D.*, 65 Conn. App. 658, 670, 783 A.2d 534 (2001).

In the present case, the trial court found that because the respondent "did not actually acknowledge and accept her personal responsibility to prevent such horrific sexual acts committed by her boyfriend against [her] children, [she] has been unable to take the steps necessary for her rehabilitation to the point where she could be viewed as a viable resource for the protection and safety of her children, and thus as a viable parenting resource with whom the children could again reside permanently." The evidence presented at trial supports this finding.

The department presented testimony from Kelly Rogers, a licensed psychologist. Rogers had conducted five evaluations of the respondent and the minor children from March, 2003, through May, 2006. Rogers testified that the respondent's personality was that of "an individual with very limited frustration tolerance, prone to be impulsive, especially in an emotional sense, having propensity to develop dependent relationships that may

alternate with long periods of . . . solitude and isolation." Rogers further testified: that "while [the respondent] had been through a great deal of treatment and is able to articulate an understanding of the difficulties in her family system previously . . . she doesn't address behavioral disturbances on the part of the children in a productive way and that, in my opinion, she is likely to have further impulsive responses to bad behavior from her children; that she may use excessive force or that she may respond in other exaggerated ways that are not productive; that, while there was little indication that she is presently in a romantic relationship, that there exists a significant potential for her becoming involved in further dependent relationships . . . in which she may become involved in . . . an abusive type relationship and expose the children to that kind of dynamic; [and] that as a product of what I've characterized as her limited insight, that she will tend to fail to recognize, ignore or minimize mental health concerns on the part of her children that will lead to inadequate treatment of them."

In addition, in the report of the May, 2006 psychological evaluation completed by Rogers, which was introduced at trial, Rogers concluded that, "[w]hile [the respondent] demonstrates the intellect and understanding necessary to effect productive changes, it is evident that she continues to demonstrate inadequate or inappropriate parenting when given the opportunity to have the children in her care. Such failures are evident despite more than adequate services and an appropriate level of participation in such services. . . . [T]here is little to suggest that the [respondent] will productively improve to the degree that she would consistently parent any of her children in a safe and psychologically healthy manner consistent with their best interests. . . . While she gives the appearance of adequate education in parenting skills, has the intellect to make reasonable decisions regarding their welfare, and has sufficient understanding for self-management, [the respondent] continues to accept little responsibility for the children's maltreatment—at her hands and at the hands of her former partner. Whatever insight she has gained through education and treatment has not translated to consistency in responsible parenting, and the children are in need of permanency now."

The trial court credited Rogers' testimony and report, the accuracy of which was confirmed by what transpired after Marcus and Jaime were returned to the respondent's care in 2005. The respondent then displayed an inability to make appropriate decisions for the care of her children, a lack of candor with the department and other service providers, and a failure to follow through on department directives designed to ensure the safety of the children. The department substantiated two incidents of physical abuse of Marcus by the respondent. In addition, the respondent allowed

Marcus' health insurance to lapse and failed to obtain his anti-seizure medication from the pharmacy, resulting in him suffering an epileptic seizure. A teacher from Jaime's Head Start program also testified that the respondent failed to respond to concerns about Jaime that were raised by teachers at the program while he was in the respondent's care. Both the respondent and her therapist testified at trial that the respondent had failed to disclose these incidents to the department or the therapist.

Although the record reveals that the respondent was attached to her children, visited with them regularly, and attempted to, and did comply, with several specific steps, it also supports the trial court's finding that she had not accepted responsibility for the earlier mistreatment of the children and had not rehabilitated adequately so as to be able to parent them safely. We therefore conclude that there was sufficient evidence in the record supporting the trial court's finding that the respondent had not achieved a sufficient level of personal rehabilitation after almost four years to encourage the belief that she could parent her children safely.

C

The respondent also claims that the trial court's termination of her parental rights violated her rights under the federal and state constitutions.[10] Although the respondent failed to raise her constitutional claims before the trial court, we acknowledge that a party may prevail on unpreserved constitutional claims pursuant to *State* v. *Golding*, 213 Conn. 233, 239–40, 567 A.2d 823 (1989). It is well established, however, that parties affirmatively seek to prevail under *Golding*, and bear the burden of establishing that they are entitled to appellate review of their unpreserved constitutional claims. *State* v. *Commins*, 276 Conn. 503, 514–15, 886 A.2d 824 (2005). In the present case, however, the respondent does not seek a review under *Golding*. Her brief makes no mention of, or request for *Golding* review. Consequently, we decline to review the respondent's constitutional claims. *Ghant* v. *Commissioner of Correction*, 255 Conn. 1, 17, 761 A.2d 740 (2000) ("[i]t is not appropriate to engage in a level of review that is not requested" [internal quotation marks omitted]). Moreover, the respondent has inadequately briefed her constitutional claim, which is alleged to be an equal protection claim. She addresses the claim in only one and one-half pages of her brief, without any analysis or explanation. We therefore could not address this claim even if *Golding* review had been sought. See, e.g., *Connecticut Light & Power Co.* v. *Dept. of Public Utility Control*, 266 Conn. 108, 120, 830 A.2d 1121 (2003) ("We repeatedly have stated that [w]e are not required to review issues that have been improperly presented to this court through an inadequate brief. . . . Analy-

sis, rather than mere abstract assertion, is required in order to avoid abandoning an issue by failure to brief the issue properly . . . .'' [Internal quotation marks omitted.]).

II

THE CHILDREN'S APPEAL FROM THE TERMINATION OF PARENTAL RIGHTS

We next turn to the appeal brought by Melody, Jenira, Jaime and Neri Jasmin (children)[11] challenging the judgments of the trial court terminating the parental rights of the respondent. On appeal, the children claim that the trial court improperly: (1) admitted expert opinion testimony by Rogers; and (2) concluded that termination of the parental rights of the respondent was in the best interests of Melody and Jaime.[12] Neri Jasmin also claims that the termination of the respondent's parental rights without a jury trial violated her rights under our state constitution.

A

Our appellate courts have not had the opportunity to determine specifically whether a child may properly appeal from the termination of the parental rights of his or her parent. Accordingly, the threshold issue in the children's appeal is whether the children have standing to bring this appeal.

We begin, therefore, with our well settled principles dictating the nature of that inquiry. ''The issue of standing implicates this court's subject matter jurisdiction. . . . Standing is the legal right to set judicial machinery in motion. One cannot rightfully invoke the jurisdiction of the court unless he [or she] has, in an individual or representative capacity, some real interest in the cause of action, or a legal or equitable right, title or interest in the subject matter of the controversy. . . . When standing is put in issue, the question is whether the person whose standing is challenged is a proper party to request an adjudication of the issue . . . . Standing requires no more than a colorable claim of injury; a [party] ordinarily establishes . . . standing by allegations of injury. Similarly, standing exists to attempt to vindicate arguably protected interests. . . .

''Standing is established by showing that the party claiming it is authorized by statute to bring an action, in other words statutorily aggrieved, or is classically aggrieved. . . . The fundamental test for determining [classical] aggrievement encompasses a well-settled twofold determination: [F]irst, the party claiming aggrievement must successfully demonstrate a specific, personal and legal interest in [the challenged action], as distinguished from a general interest, such as is the concern of all members of the community as a whole. Second, the party claiming aggrievement must successfully establish that this specific personal and legal interest has been specially and injuriously affected by the

[challenged action]. . . . Aggrievement is established if there is a possibility, as distinguished from a certainty, that some legally protected interest . . . has been adversely affected." (Citations omitted; internal quotation marks omitted.) *Eder Bros., Inc.* v. *Wine Merchants of Connecticut, Inc.*, 275 Conn. 363, 368–70, 880 A.2d 138 (2005).

Although this court has not had the opportunity to decide whether a child may bring an appeal from the termination of the rights of his or her parent, we addressed a similar issue in *In re Christina M.*, 280 Conn. 474, 486–87, 908 A.2d 1073 (2006). The issue in that case was "whether parents who are respondents to a termination of parental rights petition have standing to assert the constitutional rights of their children who are the subject of the termination action." Id., 476. We concluded that parents can assert the constitutional rights of their children because "the rights of the [parents] are inextricably intertwined with those of their children." Id., 487. In doing so, we relied on *Wright* v. *Alexandria Division of Social Services*, 16 Va. App. 821, 433 S.E.2d 500 (1993), cert. denied, 513 U.S. 1050, 115 S. Ct. 651, 130 L. Ed. 2d 555 (1994). In that case, the Virginia Court of Appeals, concluded that "[i]n cases involving parental rights, the rights of the child coexist and are intertwined with those of the parent. The legal disposition of the parent's rights with respect to the child necessarily affects and alters the rights of the child with respect to his or her parent. [The child] ha[d] a 'personal stake in the outcome' of the proceeding to terminate her mother's parental rights and, therefore, ha[d] standing to challenge the propriety of the trial judge's decision to terminate those rights." Id., 825.

We find this reasoning to be even more persuasive and directly applicable in the present case, for the issue in *Wright*, as in the present case, was whether the child had standing to appeal from the termination of her mother's parental rights. The rights of the children here are inextricably intertwined with those of the respondent. As we recognized in *In re Christina M.*, supra, 280 Conn. 485, "both the [parents] and the children have a mutual interest in the preservation of family integrity, and the termination of parental status is irretrievably destructive of that most fundamental family relationship." Accordingly, we conclude that the children have established standing to appeal from the judgments terminating the parental rights of the respondent.

B

On appeal, the children first claim that the trial court improperly admitted and relied on expert opinion testimony from Rogers. Specifically, the children claim that Rogers lacked the requisite expertise with sexual abuse to testify as an expert in the present case and that his testimony was based on insufficient information about the parties involved. In addition, the children also assert

that the trial court improperly allowed Rogers to testify as to the ultimate issue in the case. In response, the department claims that the trial court properly admitted testimony from Rogers and did not abuse its discretion in relying on his testimony.

We first set forth the applicable standard of review. "The applicable standard of review for evidentiary challenges is well established. Unless an evidentiary ruling involves a clear misconception of the law, the [t]rial court has broad discretion in ruling on the admissibility . . . of evidence. . . . The trial court's ruling on evidentiary matters will be overturned only upon a showing of a clear abuse of the court's discretion. . . . We will make every reasonable presumption in favor of upholding the trial court's ruling . . . ." (Internal quotation marks omitted.) *State* v. *Grant*, 286 Conn. 499, 532, 944 A.2d 947 (2008).

In the present case, Rogers had conducted five evaluations of the respondent and the children from March, 2003, through May, 2006. At the time the commissioner petitioned for termination of the respondent's parental rights, the parties agreed that Rogers would conduct another evaluation and answer a series of questions, including, inter alia, "[c]onsidering the age and needs of the children . . . whether the [respondent] can achieve such a degree of personal rehabilitation as would encourage the belief that, within a reasonable period of time, [she] could resume a responsible position in the [lives] of the child[ren]."

At trial, the department introduced testimony from Rogers and sought to qualify him as an expert in the areas of clinical psychology, court-ordered evaluations in Juvenile Court and sexual abuse trauma. The respondent and the children objected to Rogers' qualification as an expert in the area of sexual abuse trauma, but did not object to his qualification as an expert in the other two areas. Indeed, the children's attorney acknowledged that Rogers, "obviously, has good qualifications as a clinical psychologist and as a court-ordered evaluator . . . ." Thereafter, the trial court qualified Rogers as an expert in the areas of clinical psychology and court-ordered evaluations in Juvenile Court and denied without prejudice the department's motion to qualify him in the area of sexual abuse trauma, indicating that the parties might not "get to any issue involving expertise in that area."

Rogers thereafter testified as to the results of his evaluation, including his opinion that the respondent had not rehabilitated herself sufficiently to be able to assume a responsible position in the lives of the children. In its memorandum of decision, the trial court credited Rogers' testimony and his report of the May, 2006 evaluation, which was also admitted into evidence, wherein he concluded that the respondent had failed to achieve sufficient personal rehabilitation.

On appeal, the children first claim that the trial court's admission of testimony and documentary evidence from Rogers was improper because he was not qualified as an expert in sexual abuse trauma and did not spend an adequate amount of time with the family. We disagree. As we explained previously herein, Rogers was appointed by the court to conduct evaluations of the family on five separate occasions during the relevant time period. In this capacity, Rogers met with the respondent and each of the children on numerous occasions. In this capacity, Rogers' role was to assess the psychological functioning of the respondent and the children and to answer several questions posed by the court. The undisputed evidence demonstrates that Rogers had conducted approximately 1000 court-ordered evaluations of families in Juvenile Court and had extensive experience in the field of clinical psychology. Throughout this time, the respondent and the children never asserted that Rogers was not qualified or was not adequately conducting these evaluations. To the contrary, Rogers' continuing appointment was by the agreement of the parties.

At trial, the court acted consistent with the children's objection and did not qualify Rogers as an expert in the field of sexual abuse trauma. The children do not point to, and we cannot find, any instance in which Rogers' testified as to issues specifically related to sexual abuse. Instead, Rogers testified as to the findings of his evaluations, an area in which the court had properly recognized him as an expert without objection from the respondent or the children.

The children further claim that the trial court improperly allowed Rogers to testify as to the ultimate issue in the case, namely, whether the respondent had achieved sufficient personal rehabilitation or if more time or services would allow her to assume a responsible position in the lives of the children if they were to return home. The children claim that such expert testimony was improper because it called for legal conclusions and was not necessary to help or to inform the court. In response, the department asserts that Rogers' testimony as to the ultimate issue in the case was consistent with § 7-3 (a) of the Connecticut Code of Evidence and common practice in Juvenile Court proceedings. Furthermore, the department also asserts that, in the present case, all of the parties, including the children's attorney, agreed that a court-appointed evaluator was needed in this case to assist the court in making determinations about the family. We agree with the department.

This court repeatedly has held that, "[e]xperts can . . . sometimes give an opinion on an ultimate issue where the trier, in order to make intelligent findings, needs expert assistance on the precise question on which it must pass." (Internal quotation marks omitted.) *State* v. *Vilalastra*, 207 Conn. 35, 41, 540 A.2d 42 (1988),

cert. denied, 349 U.S. 926, 75 S. Ct. 775, 99 L. Ed. 1257 (1955). This understanding has been codified in § 7-3 (a) of the Connecticut Code of Evidence, which provides in relevant part that "[t]estimony in the form of an opinion is inadmissible if it embraces an ultimate issue to be decided by the trier of fact, except that . . . an expert witness may give an opinion that embraces an ultimate issue where the trier of fact needs expert assistance in deciding the issue."

As the Appellate Court aptly has recognized, "[t]he trial court's exercise of discretion in admitting expert testimony is not to be disturbed unless it has been abused or the error is clear and involves a misconception of the law. . . . Furthermore, [c]ourts are entitled to give great weight to professionals in parental termination cases." (Citation omitted; internal quotation marks omitted.) *In re Tabitha P.*, 39 Conn. App. 353, 364–65 n.8, 664 A.2d 1168 (1995); id. (concluding that trial court had not abused its discretion in admitting into evidence testimony of court-appointed evaluator's conclusions where there was no evidence that court failed to consider any other evidence in rendering its decision).

In the present case, the parties agreed in the order for evaluation that Rogers should evaluate and make a finding as to whether the respondent had achieved sufficient personal rehabilitation, presumably because such information would be useful to the court in making its decision on the termination petition. Moreover, the memorandum of decision demonstrates that the trial court considered other evidence as well, but ultimately concluded that the respondent had failed to achieve sufficient rehabilitation, based in part on her difficulty in reunification with Marcus and her failed attempt at reunification with Jaime in 2005. Accordingly, we conclude that the trial court did not abuse its discretion in admitting Rogers' testimony regarding whether the respondent had achieved sufficient personal rehabilitation.

C

The children also claim that the trial court improperly determined that the termination of the parental rights of the respondent was in the best interests of Melody and Jaime.[13] Specifically, the children assert that the trial court ignored substantial evidence that Melody and Jaime were bonded with the respondent and that the termination of the respondent's parental rights would be detrimental to them.[14] In response, the department asserts that the trial court's determination that the termination of the respondent's parental rights was in the best interests of Melody and Jaime is supported by the record and was not clearly erroneous. We agree with the department.

We first set forth the applicable standard of review. "The legal framework for deciding termination petitions

is well established. [A] hearing on a petition to terminate parental rights consists of two phases: the adjudicatory phase and the dispositional phase. During the adjudicatory phase, the trial court must determine whether one or more of the . . . grounds for termination of parental rights set forth in § 17a-112 [(j) (3)] exists by clear and convincing evidence. . . . If the trial court determines that a statutory ground for termination exists, then it proceeds to the dispositional phase. During the dispositional phase, the trial court must determine whether termination is in the best interests of the child. . . . The best interest determination also must be supported by clear and convincing evidence." (Citations omitted; internal quotation marks omitted.) *In re Davonta V.*, 285 Conn. 483, 487–88, 940 A.2d 733 (2008).

"It is axiomatic that a trial court's factual findings are accorded great deference. Accordingly, an appellate tribunal will not disturb a trial court's finding that termination of parental rights is in a child's best interest unless that finding is clearly erroneous. . . . A finding is clearly erroneous when either there is no evidence in the record to support it, or the reviewing court is left with the definite and firm conviction that a mistake has been made. . . .

"On appeal, our function is to determine whether the trial court's conclusion was factually supported and legally correct. . . . In doing so, however, [g]reat weight is given to the judgment of the trial court because of [the court's] opportunity to observe the parties and the evidence. . . . We do not examine the record to determine whether the trier of fact could have reached a conclusion other than the one reached. . . . [Rather] every reasonable presumption is made in favor of the trial court's ruling." (Citation omitted; internal quotation marks omitted.) Id., 488.

The children assert that the trial court improperly found that the termination of the parental rights of the respondent was in the best interests of Melody and Jaime because the evidence established that those children shared a bond with the respondent. "Our courts consistently have held that even when there is a finding of a bond between parent and a child, it still may be in the child's best interest to terminate parental rights." *In re Rachel J.*, 97 Conn. App. 748, 761, 905 A.2d 1271, cert. denied, 280 Conn. 941, 912 A.2d 476 (2006); see also *In re Tyqwane V.*, 85 Conn. App. 528, 536, 857 A.2d 963 (2004) ("The Appellate Court has concluded that a termination of parental rights is appropriate in circumstances where the children are bonded with their parent if it is in the best interest of the child to do so. . . . This is such a case." [Internal quotation marks omitted.]); *In re Ashley S.*, 61 Conn. App. 658, 667, 769 A.2d 718 ("[A] parent's love and biological connection . . . is simply not enough. [The department] has demonstrated by clear and convincing evidence that [the respondent]

cannot be a competent parent to these children because she cannot provide them a nurturing, safe and structured environment."), cert. denied, 255 Conn. 950, 769 A.2d 61 (2001). In the present case, on the basis of our careful review of the record, we conclude that the trial court's finding that termination of the respondent's parental rights was in the best interests of Melody and Jaime was not clearly erroneous.

At trial, the department introduced an evaluation report prepared by Rogers in May, 2006. In this report, Rogers stated that Melody did not display evidence of an ongoing parent-child relationship with the respondent, but had "positive sentiments regarding [the respondent] . . . as a component of their ongoing visitation . . . ." Rogers also pointed out that "[t]he long period outside [the respondent's] care [approximately four years] has effectively precluded an ongoing parent/child relation for Melody . . . ." Moreover, Rogers further opined that Melody did not see the respondent as her psychological parent.

The evidence further established that Melody, who had been the victim of substantial sexual abuse by the respondent's boyfriend, had negative feelings toward the respondent and that she was afraid of returning to the respondent's custody. Melody's foster mother testified at trial that Melody had told her on several occasions that "she's afraid of going with [the respondent] because she's afraid that whatever happened to her before, if [the respondent] did not believe her, what makes her think [the respondent] will believe her now. And also that [the respondent] had moved from [the home she shared with the boyfriend] but only two blocks away." The testimony at trial also demonstrated that Melody still remained fearful that the boyfriend would return, and began screaming and crying on at least one occasion when she saw a man who resembled him. The foster mother further testified that Melody did not ask for the respondent or talk about her between visits.

The trial court also relied on Rogers' report of his consultation with Ellen Pharr, the coordinator of the safe home program in which Melody had recently stayed before being placed in a foster home and who served as Melody's individual therapist. Pharr reported that Melody shared little about her biological family and spoke of missing her previous foster mother, but made no mention of the respondent. Pharr also reported that she "never had the impression that [Melody] had a strong bond" with the respondent and had never heard Melody speak about wanting to return to live with the respondent. Pharr indicated that although Melody initially had been eager to attend family visits, her enthusiasm for such visits waned when Marcus and Melinda stopped attending. On the basis of this evidence, we cannot conclude that the trial court's determination

that the termination of the parental rights of the respondent was in Melody's best interests was clearly erroneous.

In his May, 2006 report, which was introduced as a full exhibit at trial, Rogers opined that Jaime also did not display evidence of an ongoing parent-child relationship with the respondent, but had "positive sentiments regarding [the respondent] . . . as a component of their ongoing visitation . . . ." Moreover, Rogers further indicated that "Jaime's age, placement apart from [the respondent] and limited contact with her do not support an ongoing mother/son relation." Rogers also reported that "Jaime did not convincingly articulate his allegiances, but his emotional connection to [the respondent] was not compelling."

Moreover, the evidence at trial demonstrated that when Jaime was returned to the respondent's care for several months in 2005, the respondent became overwhelmed, physically abused her older child Marcus and left Jaime in Marcus' supervision against the department's clear instructions, refused to comply with the department's request for drug testing, stopped seeing her psychiatrist and stopped taking her prescription medications. As a result, the department had to halt Jaime's reunification with the respondent and remove him from her care once again. Accordingly, on the basis of all this evidence, we cannot conclude that the trial court's determination that termination of the parental rights of the respondent was in the best interests of Jaime was clearly erroneous.

D

Neri Jasmin claims on appeal that the termination of the respondent's parental rights without a jury trial violated the state constitutional rights of both the respondent and Neri Jasmin. The state correctly points out, and Neri Jasmin seems to concede in her brief, that she failed to raise her constitutional claim in the trial court.

As we acknowledged previously herein, a party may prevail on an unpreserved constitutional claim pursuant to *State* v. *Golding*, supra, 213 Conn. 239–40, "if the party affirmatively requests and adequately briefs [her] entitlement to *Golding* review." *Lebron* v. *Commissioner of Correction*, 274 Conn. 507, 532, 876 A.2d 1178 (2005); see also *State* v. *Waz*, 240 Conn. 365, 371 n.11, 692 A.2d 1217 (1997) (party "who seek[s] consideration of unpreserved constitutional claims [on appeal] . . . bear[s] the burden of establishing their entitlement to such review under the guidelines enumerated in *Golding*").

In the present case, Neri Jasmin claims that her constitutional claim is subject to *Golding* review, but fails in her brief to provide any analysis of her claim under the four-pronged *Golding* test. To the contrary, Neri

Jasmin merely asserts in one sentence that her claim is subject to *Golding* review without providing any analysis of the four prongs. See *Lebron* v. *Commissioner of Correction*, supra, 274 Conn. 532. We conclude therefore, that Neri Jasmin has failed to establish her entitlement to *Golding* review of her constitutional claim.

Moreover, we note that Neri Jasmin has failed to provide an independent analysis of her state constitutional claim under *State* v. *Geisler*, 222 Conn. 672, 684–86, 610 A.2d 1225 (1992). "We have repeatedly apprised litigants that we will not entertain a state constitutional claim unless the defendant has provided an independent analysis under the particular provisions of the state constitution at issue. . . . Without a separately briefed and analyzed state constitutional claim, we deem abandoned the defendant's claim." (Internal quotation marks omitted.) *State* v. *Randolph*, 284 Conn. 328, 375 n.12, 933 A.2d 1158 (2007). Accordingly, we decline to review Neri Jasmin's state constitutional claim.

III

THE CHILDREN'S APPEAL FROM THE DENIAL OF THE MOTION FOR VISITATION

The children also appeal from the trial court's order denying their motion for visitation with the respondent pending these appeals. The children contend that the trial court improperly concluded that there were constitutional implications to the children's motion for visitation and failed to apply properly the best interests of the child standard in denying the children's motion. The department responds that the trial court properly denied the motion for visitation because it properly determined that such visitation was not in the best interests of the children. Furthermore, at oral argument in this court, the department asserted that this appeal would be rendered moot if this court were to affirm the trial court's termination of the respondent's parental rights because the children were seeking visitation only during the pendency of these appeals. We agree with the department that the outcome of the other appeals renders this appeal moot, and, accordingly, we dismiss this appeal as moot.

The following additional facts and procedural history are relevant to our resolution of this appeal. After the trial court rendered the judgments terminating the parental rights of the respondent, the respondent and the children filed notices of appeal. Shortly thereafter, the children filed two motions with the trial court. In one motion, the children moved to continue regular visits with the respondent pursuant to General Statutes §§ 17a-10a[15] and 46b-59,[16] pending the disposition of the appeals. In the other motion, the children moved to stay the execution of the court's order terminating the parental rights of the respondent and to continue visitation pursuant to Practice Book § 61-12,[17] pending the

outcome of the appeals. After a hearing, the trial court denied both motions. Thereafter, the children filed a notice of appeal from the order of the trial court denying both motions. The children also filed a motion for review of the trial court's order denying their motion for a stay. The Appellate Court thereafter granted the children's motion for review, but denied the relief requested therein.

Because mootness implicates the subject matter jurisdiction of this court, we first address whether our resolution of the other appeals relating to the merits of the termination of the parental rights of the respondent renders this appeal moot. "Mootness is a question of justiciability that must be determined as a threshold matter because it implicates [this] court's subject matter jurisdiction . . . . We begin with the four part test for justiciability established in *State* v. *Nardini*, 187 Conn. 109, 445 A.2d 304 (1982). . . . Because courts are established to resolve actual controversies, before a claimed controversy is entitled to a resolution on the merits it must be justiciable. Justiciability requires (1) that there be an actual controversy between or among the parties to the dispute . . . (2) that the interests of the parties be adverse . . . (3) that the matter in controversy be capable of being adjudicated by judicial power . . . and (4) that the determination of the controversy will result in practical relief to the complainant." (Citation omitted; internal quotation marks omitted.) *State* v. *Preston*, 286 Conn. 367, 373–74, 944 A.2d 276 (2008).

"[A]n actual controversy must exist not only at the time the appeal is taken, but also throughout the pendency of the appeal. . . . When, during the pendency of an appeal, events have occurred that preclude an appellate court from granting any practical relief through its disposition of the merits, a case has become moot." (Internal quotation marks omitted.) Id., 374.

In the present case, the children appeal from the trial court's order denying their motion to continue visitation with the respondent pending the appeals from the termination of the respondent's parental rights. We have now concluded that the trial court's judgments terminating those rights should be affirmed. These appeals therefore are at an end and we can grant no practical relief to the children in their appeal from the denial of visitation. In their motion, the children sought continued visitation while the two appeals were pending. Our resolution of those appeals, therefore, makes it impossible to grant the children the relief they sought.

We recognize that "an otherwise moot question may qualify for review under the capable of repetition, yet evading review exception [to the mootness doctrine]. To do so, however, it must meet three requirements. First, the challenged action, or the effect of the challenged action, by its very nature must be of a limited

duration so that there is a strong likelihood that the substantial majority of cases raising a question about its validity will become moot before appellate litigation can be concluded. Second, there must be a reasonable likelihood that the question presented in the pending case will arise again in the future, and that it will affect either the same complaining party or a reasonably identifiable group for whom that party can be said to act as surrogate. Third, the question must have some public importance. Unless all three requirements are met, the appeal must be dismissed as moot. . . . The basis for the first requirement derives from the nature of the exception. If an action or its effects is not of inherently limited duration, the action can be reviewed the next time it arises, when it will present an ongoing live controversy. Moreover, if the question presented is not strongly likely to become moot in the substantial majority of cases in which it arises, the urgency of deciding the pending case is significantly reduced. Thus, there is no reason to reach out to decide the issue as between parties who, by hypothesis, no longer have any present interest in the outcome." (Citation omitted; internal quotation marks omitted.) *State* v. *Boyle*, 287 Conn. 478, 487 n.3, 949 A.2d 460 (2008).

In the present case, we acknowledge that it is possible for an appeal from a motion for continued visitation pending appeal to be decided along with any appeals from the termination judgment in the majority of cases. We are, however, unpersuaded that this possibility makes it likely that "the substantial majority of cases" raising a question about continued visitation pending appeal will evade review. *Sweeney* v. *Sweeney*, 271 Conn. 193, 201–202, 856 A.2d 997 (2004). To the contrary, as the children did in this appeal, any child seeking continued visitation pending appeal may seek a motion for stay of the termination pursuant to Practice Book § 61-12. If the motion is denied, a child may seek to have that denial reviewed by filing a motion for review pursuant to Practice Book § 66-6,[18] as the children did in this case. Indeed, it appears that the children's appeal from their motion for continued visitation pending appeal is merely an attempt for further review of the same issues decided in the motion for review. Because there is another, more appropriate, avenue for reaching the issue presented by their appeal—namely, a motion to stay—the issue can be reviewed the next time it is presented and is, therefore, not of limited duration. We conclude, therefore, that the children's appeal does not satisfy the first prong of the capable of repetition, yet evading review doctrine. See, e.g., *In re Amy H.*, 56 Conn. App. 55, 61, 742 A.2d 372 (1999) (declining to review challenge to visitation order because respondent parent did not move for stay of execution); *In re Clifton B.*, 15 Conn. App. 367, 368 n.1, 544 A.2d 666 (1988) (declining to review whether parents had rights to continued visitation where respondents did not file motion

for review of denial of motion for stay and continued visitation). We therefore conclude that the children's appeal from the trial court's denial of their motion for visitation is moot and, accordingly, we dismiss this appeal.

The judgments of the trial court terminating the parental rights of the respondent as to the children are affirmed; the appeal from the order of the trial court denying the children's motion for visitation is dismissed as moot.

In this opinion ROGERS, C. J., and NORCOTT and ZARELLA, Js., concurred.

* In accordance with the spirit and intent of General Statutes § 46b-142 (b) and Practice Book § 79-3, the names of the parties involved in this appeal are not disclosed. The records and papers of this case shall be open for inspection only to persons having a proper interest therein and upon order of the Appellate Court.

[1] Default judgments were rendered against the fathers of the five minor children, and they have not appealed. We refer in this opinion to the mother as the respondent.

[2] The respondent has a total of seven children. Her two oldest sons, Malcolm and Marcus, are not involved in these appeals but are mentioned in various discussions of the facts in this opinion.

[3] We note that one of the minor children, Melinda, originally was an appellant in the children's two appeals (SC 18085 and SC 18087), but subsequently withdrew from both. She subsequently filed briefs as an appellee in the two appeals pertaining to the termination of the respondent's parental rights seeking to affirm the trial court's judgments.

[4] The respondent and the children appealed from the judgments of the trial court to the Appellate Court, and we transferred the appeals to this court pursuant to General Statutes § 51-199 (c) and Practice Book § 65-1.

[5] The respondent's youngest child, Neri Jasmin, had not been born at the time the department received the telephone call. She was born in January, 2003.

[6] General Statutes § 17a-101g provides in relevant part: "(e) If the Commissioner of Children and Families, or the commissioner's designee, has probable cause to believe that the child or any other child in the household is in imminent risk of physical harm from the child's surroundings and that immediate removal from such surroundings is necessary to ensure the child's safety, the commissioner, or the commissioner's designee, shall authorize any employee of the department or any law enforcement officer to remove the child and any other child similarly situated from such surroundings without the consent of the child's parent or guardian. The commissioner shall record in writing the reasons for such removal and include such record with the report of the investigation conducted under subsection (b) of this section.

"(f) The removal of a child pursuant to subsection (e) of this section shall not exceed ninety-six hours. During the period of such removal, the commissioner, or the commissioner's designee, shall provide the child with all necessary care, including medical care, which may include an examination by a physician or mental health professional with or without the consent of the child's parents, guardian or other person responsible for the child's care, provided reasonable attempts have been made to obtain consent of the child's parents or guardian or other person responsible for the care of such child. During the course of a medical examination, a physician may perform diagnostic tests and procedures necessary for the detection of child abuse or neglect. If the child is not returned home within such ninety-six-hour period, with or without protective services, the department shall proceed in accordance with section 46b-129."

We note that § 17a-101g was amended subsequent to the time of the department's action in this case by, inter alia, the addition of new subsections and the redesignation of certain previously existing subsections. See Public Acts 2005, No. 05-207, § 2. Subsections currently designated as (e) and (f) were designated as (c) and (d) in 2002. For purposes of clarity, we refer to the present revision of the statute.

[7] General Statutes § 17a-112 (j) provides: "The Superior Court, upon notice and hearing as provided in sections 45a-716 and 45a-717, may grant a petition

filed pursuant to this section if it finds by clear and convincing evidence that (1) the Department of Children and Families has made reasonable efforts to locate the parent and to reunify the child with the parent in accordance with subsection (a) of section 17a-111b, unless the court finds in this proceeding that the parent is unable or unwilling to benefit from reunification efforts, except that such finding is not required if the court has determined at a hearing pursuant to section 17a-111b, or determines at trial on the petition, that such efforts are not required, (2) termination is in the best interest of the child, and (3) (A) the child has been abandoned by the parent in the sense that the parent has failed to maintain a reasonable degree of interest, concern or responsibility as to the welfare of the child; (B) the child (i) has been found by the Superior Court or the Probate Court to have been neglected or uncared for in a prior proceeding, or (ii) is found to be neglected or uncared for and has been in the custody of the commissioner for at least fifteen months and the parent of such child has been provided specific steps to take to facilitate the return of the child to the parent pursuant to section 46b-129 and has failed to achieve such degree of personal rehabilitation as would encourage the belief that within a reasonable time, considering the age and needs of the child, such parent could assume a responsible position in the life of the child; (C) the child has been denied, by reason of an act or acts of parental commission or omission including, but not limited to, sexual molestation or exploitation, severe physical abuse or a pattern of abuse, the care, guidance or control necessary for the child's physical, educational, moral or emotional well-being, except that nonaccidental or inadequately explained serious physical injury to a child shall constitute prima facie evidence of acts of parental commission or omission sufficient for the termination of parental rights; (D) there is no ongoing parent-child relationship, which means the relationship that ordinarily develops as a result of a parent having met on a day-to-day basis the physical, emotional, moral and educational needs of the child and to allow further time for the establishment or reestablishment of such parent-child relationship would be detrimental to the best interest of the child; (E) the parent of a child under the age of seven years who is neglected or uncared for, has failed, is unable or is unwilling to achieve such degree of personal rehabilitation as would encourage the belief that within a reasonable period of time, considering the age and needs of the child, such parent could assume a responsible position in the life of the child and such parent's parental rights of another child were previously terminated pursuant to a petition filed by the Commissioner of Children and Families; (F) the parent has killed through deliberate, nonaccidental act another child of the parent or has requested, commanded, importuned, attempted, conspired or solicited such killing or has committed an assault, through deliberate, nonaccidental act that resulted in serious bodily injury of another child of the parent; or (G) the parent was convicted as an adult or a delinquent by a court of competent jurisdiction of a sexual assault resulting in the conception of the child, except a conviction for a violation of section 53a-71 or 53a-73a, provided the court may terminate such parent's parental rights to such child at any time after such conviction."

Section 17a-112 (j) was amended by No. 06-102, § 7, of the 2006 Public Acts, which made several technical changes to the statute that are not relevant to this appeal. For purposes of clarity, we refer to the present revision of the statute.

[8] The department also petitioned for the termination of the parental rights of the children's fathers. See footnote 1 of this opinion.

[9] The respondent further claims that the trial court improperly found that the children, other than Neri Jasmin, had been denied the care, guidance or control necessary for each child's physical, educational, moral or emotional well-being by reason of the respondent's acts of commission or omission. Because we conclude that the evidence was sufficient to support the trial court's finding that the respondent had failed to achieve sufficient personal rehabilitation pursuant to § 17a-112 (j) (3) (B) (ii), we do not reach this claim by the respondent. See *In re Eden F.*, 250 Conn. 674, 688, 741 A.2d 873 (1999) ("[d]uring the adjudicatory phase, the trial court must determine whether one or more of the four grounds for termination of parental rights set forth in § 17a-112 [b] exists by clear and convincing evidence").

[10] The respondent invokes both the federal and state constitutions in support of her claim. She has failed, however, to provide us with an independent analysis of her claim under the state constitution. "We have repeatedly apprised litigants that we will not entertain a state constitutional claim unless the defendant has provided an independent analysis under the particular

provisions of the state constitution at issue." (Internal quotation marks omitted.) *State* v. *Canales*, 281 Conn. 572, 592 n.12, 916 A.2d 767 (2007).

[11] See footnote 3 of this opinion.

[12] The children also claim that there was insufficient evidence to support the trial court's findings that the respondent had failed to achieve sufficient personal rehabilitation pursuant to § 17a-112 (j) (3) (B) (ii) and that Melody, Melinda, Jenira and Jaime had been denied the care, guidance or control necessary for each child's physical, educational, moral or emotional well-being by reason of the respondent's acts of commission or omission. Because these two claims are identical to claims made by the respondent in her appeal, our consideration and resolution of the respondent's claims in part I of this opinion are dispositive of the children's identical claims. It would serve no useful purpose to repeat our discussion or analysis here.

[13] Although Jenira and Neri Jasmin stipulated to and joined the brief of Melody and Jaime, that brief asserts only that the trial court improperly determined that the termination of the respondent's parental rights was in the best interests of Melody and Jaime; it does not address the best interests of Jenira or Neri Jasmin. Moreover, in her brief, Neri Jasmin asserted that if the adjudicatory determinations of the trial court were affirmed, the termination of the respondent's parental rights was in the best interests of Neri Jasmin. We therefore do not address whether the trial court properly determined that termination was in the best interests of Jenira or Neri Jasmin.

[14] The children also claim that the trial court improperly failed to consider and make the requisite findings as to Melody and Jaime's wishes. In its memorandum of decision, the trial court did make the requisite findings regarding Melody and Jaime's wishes, a fact that the children seem to acknowledge in their briefs. We therefore interpret the children's argument to be that the trial court should have given Melody and Jaime's wishes more weight in its determination. We disagree with that claim. Accordingly, we conclude that the trial court properly considered the wishes of Melody and Jaime.

[15] General Statutes § 17a-10a provides in relevant part: "(a) The Commissioner of Children and Families shall ensure that a child placed in the care and custody of the commissioner pursuant to an order of temporary custody or an order of commitment is provided visitation with such child's parents and siblings, unless otherwise ordered by the court.

"(b) The commissioner shall ensure that such child's visits with his or her parents shall occur as frequently as reasonably possible, based upon consideration of the best interests of the child, including the age and developmental level of the child, and shall be sufficient in number and duration to ensure continuation of the relationship. . . .

"(d) The commissioner shall include in each child's plan of treatment information relating to the factors considered in making visitation determinations pursuant to this section. If the commissioner determines that such visits are not in the best interests of the child or that the number, frequency or duration of the visits requested by the child's attorney or guardian ad litem is not in the best interests of the child, the commissioner shall include the reasons for such determination in the child's plan of treatment."

[16] General Statutes § 46b-59 provides: "The Superior Court may grant the right of visitation with respect to any minor child or children to any person, upon an application of such person. Such order shall be according to the court's best judgment upon the facts of the case and subject to such conditions and limitations as it deems equitable, provided the grant of such visitation rights shall not be contingent upon any order of financial support by the court. In making, modifying or terminating such an order, the court shall be guided by the best interest of the child, giving consideration to the wishes of such child if he is of sufficient age and capable of forming an intelligent opinion. Visitation rights granted in accordance with this section shall not be deemed to have created parental rights in the person or persons to whom such visitation rights are granted. The grant of such visitation rights shall not prevent any court of competent jurisdiction from thereafter acting upon the custody of such child, the parental rights with respect to such child or the adoption of such child and any such court may include in its decree an order terminating such visitation rights."

[17] Practice Book § 61-12 provides: "In noncriminal matters in which the automatic stay provisions of Section 61-11 are not applicable and in which there are no statutory stay provisions, any motion for a stay of the judgment or order of the superior court pending appeal shall be made to the judge who tried the case unless that judge is unavailable, in which case the motion

may be made to any judge of the superior court. Such a motion may also be filed before judgment and may be ruled upon at the time judgment is rendered unless the court concludes that a further hearing or consideration of such motion is necessary. A temporary stay may be ordered sua sponte or on written or oral motion, ex parte or otherwise, pending the filing or consideration of a motion for stay pending appeal. The motion shall be considered on an expedited basis and the granting of a stay of an order for the payment of money may be conditional on the posting of suitable security.

"In the absence of a motion filed under this section, the trial court may order, sua sponte, that proceedings to enforce or carry out the judgment or order be stayed until the time to take an appeal has expired or, if an appeal has been filed, until the final determination of the cause. A party may file a motion to terminate such a stay pursuant to Section 61-11."

[18] Practice Book § 66-6 provides in relevant part: "The court may, on written motion for review stating the grounds for the relief sought, modify or vacate any order made by the trial court under Section 66-1 (a); any action by the appellate clerk under Section 66-1 (c) (2); any order made by the trial court, or by the workers' compensation commissioner in cases arising under General Statutes § 31-290a (b), relating to the perfecting of the record for an appeal or the procedure of prosecuting or defending against an appeal; any order made by the trial court concerning a stay of execution in a case on appeal; any order made by the trial court concerning the waiver of fees, costs and security under Section 63-6 or 63-7; or any order concerning the withdrawal of appointed appellate counsel pursuant to Section 62-9 (d). Motions for review shall be filed within ten days from the issuance of notice of the order sought to be reviewed. Motions for review of the clerk's taxation of costs under judgments of the court having appellate jurisdiction shall be governed by Section 71-3. . . ."