



February 2014 adjudicating Wendy as abused, neglected, and dependent and Kyle as neglected and dependent. Their mother, respondent herein, appeals from that order. Their father is deceased.

The juvenile petition alleged that the juveniles had been in the custody of DSS earlier in the year and that they had been returned to respondent's custody on 15 August 2013. During the time the children were out of her custody, respondent became engaged to be married to a man (hereinafter referred to as "Mr. K"), who has been convicted of multiple felonies involving violence. On 17 September 2013, Mr. K was involved in an incident of domestic violence which involved respondent and Wendy. Mr. K was arrested and charged with assault on a female and assault on a child under the age of twelve. Both Wendy and respondent sustained injuries for which they received treatment at a local hospital. Respondent disclosed to hospital personnel that there had been a prior incident of domestic violence between herself and Mr. K on 13 August 2013, just two days prior to having the children returned to her custody. After the 17 September 2013 incident, respondent obtained a domestic violence protective order against Mr. K, who was released from jail on 9 October 2013. Mr. K also had a pending court date on charges of

attaining habitual and violent habitual felon status, in addition to the pending charges arising out of the 17 September 2013 incident. Respondent, herself, had a pending court date in Jackson County on 12 November 2013 on a charge of identity theft.

The petition further alleged that despite the documented domestic violence inflicted upon her and Wendy, respondent stated the children did not need domestic violence counseling and she refused to allow the children to be assessed. Since the children have been returned to her custody, respondent has not required Kyle to wear special shoes prescribed by a podiatrist to correct an improper gait, she has not washed the children's school uniforms regularly, and she has budgeting issues. Despite having income over \$2,300 per month, respondent lives in a motel room with the children and continually asks DSS for additional money. The children have no relatives in Mecklenburg County. They have paternal relatives in Jackson County who are licensed foster parents. Their maternal grandmother also resides in Jackson County but she has mental health issues.

"The allegations in a petition alleging that a juvenile is abused, neglected, or dependent shall be proved by clear and convincing evidence." N.C. Gen. Stat. § 7B-805 (2013). An

adjudication order is reviewed on appeal to determine "(1) whether the findings of fact are supported by clear and convincing evidence, and (2) whether the legal conclusions are supported by the findings of fact." *In re Pittman*, 149 N.C. App. 756, 763-64, 561 S.E.2d 560, 566 (2002) (citation and quotation omitted). A disposition order is reviewed to determine whether the trial court abused its discretion in deciding what action is in the juvenile's best interest. *In re C.W.*, 182 N.C. App. 214, 219, 641 S.E.2d 725, 729 (2007).

In the order under review, the trial court made the following finding of fact:

3. The mother . . . caretaker . . . contested the allegations of the petition and a hearing was held. Based upon the testimony presented, the trial court finds that the facts have been proven by clear and convincing evidence, and/or the trial court specifically finds: **The DV Complaint and DV OP, subsequent email and continuing testimony by the mother to the existence of the incident were all considered. The mother and [Wendy] suffered injuries. Despite what the mother indicated occurred, the mother now testified that [Mr. K] was simply not acting as himself. This indicates concerns to the trial court as to if the mother is able to maintain the safety of the children. As to the other allegations of the petition the trial court does not find evidence to support the medical neglect of [Kyle], nor the allegations as to the financial matters.** (Emphasis in original.)

The trial court made no other findings of fact in the adjudication order except to find that (1) it determined it was appropriate for Mr. K to have counsel in this juvenile proceeding and (2) that respondent indicated that she and Mr. K are no longer engaged but that he is still residing with her because he wears an ankle monitor and needs a residence for the pending criminal matter.

Respondent contends the findings of fact are insufficient because they do not specify what facts led the trial court to conclude that Wendy was abused and that both children were neglected and dependent. She notes that the trial court's findings did not (1) state facts concerning what happened during the incident or when it occurred, (2) explain how the "DV Complaint, DV OP, or the subsequent email" impacted its legal conclusions, (3) specify the facts resulting from the mother's testimony, and (4) explain the circumstances in this case to support Mr. K's designation as a caretaker.

"In all actions tried upon the facts without a jury or with an advisory jury, the trial court shall find the facts specially and state separately its conclusions of law thereon and direct the entry of the appropriate judgment." N.C. Gen. Stat. § 1A-1, Rule 52(a)(1) (2013). Accordingly, the Juvenile Code mandates

that an "adjudicatory order shall be in writing and shall contain appropriate findings of fact and conclusions of law." N.C. Gen. Stat. § 7B-807(b) (2013). While "there is no specific statutory criteria which must be stated in the findings of fact or conclusions of law, the trial court's findings must consist of more than a recitation of the allegations." *In re O.W.*, 164 N.C. App. 699, 702, 596 S.E.2d 851, 853 (2004). The order must contain "*specific findings* of the ultimate facts established by the evidence, admissions and stipulations which are determinative of the questions involved in the action and essential to support the conclusions of law reached." *In re Anderson*, 151 N.C. App. 94, 97, 564 S.E.2d 599, 602 (2002) (citation omitted) (alteration in original).

We agree with respondent that the order does not contain sufficient findings of fact. We are compelled to conclude that the findings are so lacking in specificity "it cannot be determined on appeal whether the trial court correctly exercised its function to find the facts and apply the law thereto." *Coble v. Coble*, 300 N.C. 708, 714, 268 S.E.2d 185, 190 (1980). Merely reciting evidence considered, without informing this Court what it actually found as facts based upon this evidence, is insufficient to pass muster. See *In re A.S.*, 190 N.C. App.

679, 693-94, 661 S.E.2d 313, 322-23 (2008). When there is evidence in the record to support proper findings of fact, as here, we may reverse and remand to the trial court for the making of additional findings of fact. See *In re H.J.A.*, \_\_\_ N.C. App. \_\_\_, \_\_\_, 735 S.E.2d 359, 363 (2012).

Accordingly, we reverse and remand for the making of additional findings of fact. Given this disposition, we do not address respondent's remaining arguments concerning the conclusions of law made by the trial court. See *id.*

Reversed and remanded.

Chief Judge McGEE and Judge HUNTER concur.

Report per Rule 30(e).