NO. COA14-686
NORTH CAROLINA COURT OF APPEALS

Filed: 2 December 2014

IN THE MATTER OF:

E.V.

Currituck County
Nos. 13 JA 37, 43

Appeal by Respondent-mother from orders entered 17 December 2013 and 13 March 2014 by Judge Eula E. Reid in Currituck County District Court. Heard in the Court of Appeals 10 November 2014.

Courtney S. Hull for Petitioner Currituck County Department of Social Services.

Administrative Office of the Courts, by Appellate Counsel Tawanda N. Foster, for guardian ad litem.

Mercedes O. Chut for Respondent-mother.

STEPHENS, Judge.

Respondent-mother ("Respondent") appeals from orders adjudicating her son Evan[1] a neglected juvenile and continuing

[1] For the purpose of protecting his privacy, in accordance with Rule 3.1 of our Rules of Appellate Procedure, we refer to the juvenile by a pseudonym in this opinion.

him in the nonsecure custody of the Currituck County Department of Social Services. Specifically, Respondent contends that the district court erred by failing to follow the procedures mandated by N.C. Gen. Stat. § 7B-602(c) for the appointment of a parental guardian *ad litem* ("GAL"). Respondent also argues that the district court's findings of fact do not support its conclusion of neglect. After careful review of the record, we hold that Respondent stipulated to facts that support the adjudication of neglect, and that the district court did not abuse its discretion or commit prejudicial error in its appointment of Respondent's GAL.

Facts and Procedural History

Respondent was previously diagnosed with paranoid schizophrenia and adjudicated incompetent in Dare County, North Carolina, on 11 January 2011. The clerk of court appointed Dare County Department of Social Services ("Dare DSS")[2] guardian of the person for Respondent. Although Respondent initially fled and was found in Polk County with her mother, Ms. V.,[3] under the

[2] Although the Department of Social Services is now known as the Department of Health and Human Services, for ease of reading we refer to the agency throughout this opinion as "DSS."

[3] For the purpose of protecting her privacy, in accordance with Rule 3.1 of our Rules of Appellate Procedure, we refer to the juvenile's grandmother by a pseudonym in this opinion.

guardianship of Dare DSS she received treatment during an involuntary commitment at Catawba Valley Medical Center and Cherry Hospital and was restored to competency on 5 August 2011. However, Respondent soon discontinued taking her prescribed medications and ceased communications with her doctor, as she and her mother do not accept her diagnosis of schizophrenia; this has led to a pattern of mental instability, followed by treatment and care to restore Respondent's mental health, followed by discontinuation of treatment and care resulting in further instability.

Respondent gave birth to Evan in May 2013 in her mother's home. Respondent obtained no prenatal care, delivered Evan without medical supervision, and did not seek any pediatric treatment for her son until Dare DSS became involved two weeks after his birth and insisted that he see a doctor.

On 9 August 2013, Respondent saw her physician, Dr. James L. Owens, at Carolina Family Practice. During her appointment, Respondent exhibited confusion as to why she was there, continuously whispered for the nurse to "shhh" in response to questions, was unable to answer yes or no as to whether she was taking her medications, could not comprehend instructions, and displayed signs of paranoia by constantly peeking out of the

door of the patient examination room. Respondent brought Evan to her appointment; when he began crying, Respondent stated that he was in pain and needed an aspirin and an I.V. Based on their interaction, Dr. Owens wrote a letter on 13 August 2013, stating that "[i]t is my opinion that [Respondent] is mentally unstable and suffering from paranoid schizophrenia. I feel [she] would benefit from involuntary commitment for the sake of her child, health and well-being." Respondent was involuntarily committed on 13 August 2013. Law enforcement transported her to Outer Banks Hospital for an evaluation pursuant to N.C. Gen. Stat. § 122C-263 (2013). She was then transferred to Vidant Medical Center. On 14 August 2013, Dare DSS initiated incompetency proceedings against Respondent. On 23 August 2013, Dare DSS was appointed interim guardian of the person for Respondent pursuant to N.C. Gen. Stat. § 35A-1114 (2013).

Dare DSS obtained nonsecure custody of Evan on 14 August 2013, and filed a juvenile petition alleging that he was neglected and dependent on 15 August 2013. The district court held a hearing to determine the need for continued custody of Evan on 23 August 2013. *See* N.C. Gen. Stat. § 7B-506 (2013). Because of her involuntary commitment, Respondent was not present at the hearing. Instead, she was represented by her

provisional appointed counsel, Christin Simmons,[4] and by the GAL appointed to represent Respondent in the incompetency proceeding, Susan Harmon-Scott. *See* N.C. Gen. Stat. § 35A-1107(b) (2013). By order entered 16 August 2013, the court continued Evan in the nonsecure custody of Dare DSS and appointed Harmon-Scott to serve as Respondent's GAL in the juvenile proceeding. *See* N.C. Gen. Stat. § 7B-602(c) (2011).

Citing the conflict of interest created by its appointment as Respondent's interim guardian, Dare DSS moved for a change of venue in Evan's juvenile proceeding. The district court transferred the case to Currituck County on 13 September 2013. The Currituck County Department of Social Services ("Currituck DSS") filed a juvenile petition alleging neglect and dependency on 18 September 2013, and the Currituck County District Court consolidated the two proceedings by order entered 21 October 2013.

On motion of Respondent's GAL to confirm her appointment "as both a substitute for . . . and to assist the Respondent," the district court entered an order on 12 September 2013, finding that Respondent "has been diagnosed with psychosis and

[4] *See* N.C. Gen. Stat. § 7B-602(a) (2013). On 23 September 2013, the court found that Respondent was entitled to appointed counsel and appointed Simmons to represent her.

is not competent or able to handle her legal matters with her counsel." The court decreed that GAL Harmon-Scott "be appointed both to make appearances for . . . and to assist the Respondent."

Effective 1 October 2013, the North Carolina General Assembly amended N.C. Gen. Stat. § 7B-602(c) to eliminate the district court's authority to appoint a GAL to assist a respondent parent with diminished capacity. *See* 2013 N.C. Sess. Laws 129, §§ 17, 32, 41; *see also In re A.Y.*, __ N.C. App. __, __, 737 S.E.2d 160, 165-66 (noting that former N.C. Gen. Stat. § 7B-602(c) provided "for the appointment of a GAL for a parent when the parent is either (1) incompetent, or (2) has diminished capacity and cannot adequately act in his or her own interests"), *disc. review denied*, 367 N.C. 235, 748 S.E.2d 539 (2013). As amended, the statute authorizes only the appointment of a GAL of substitution "for a parent who is incompetent in accordance with G.S. 1A-1, Rule 17." N.C. Gen. Stat. § 7B-602(c) (2013).

On 28 October 2013, Respondent's GAL moved to correct "a clerical error" in the district court's 12 September 2013 order by deleting the "refer[ence] to the [GAL] being appointed for the purposes of assistance[.]" By consent of the parties, the

court modified the order appointing the GAL "to reflect that she was appointed in order to substitute for the Respondent." The consent order included the following findings:

> 1. That th[e 12 September 2013 o]rder was entered prior to October 1, 2013 and that said order contained language referring to both substitution and assistance to the Respondent.
>
> 2. That the Respondent at the time the original order was entered was being treated in Vidant Behavioral Health in a closed ward in Greenville, North Carolina and is not present and has not been able to be present in court.
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> 3. That the Respondent Mother had a previous diagnosis of severe paranoid schizophrenia and was believed to be incompetent as she was under an involuntary commitment order.

The order was signed by Respondent's counsel.

On 29 October 2013, Respondent filed a "Motion to Relieve GAL" seeking to remove GAL Harmon-Scott from representing her in the juvenile proceeding. Citing the 1 October 2013 amendment to N.C. Gen. Stat. § 7B-602(c), Respondent averred she "has not been adjudicated incompetent" and "does not desire the assistance of a GAL" in the juvenile proceeding. Respondent added that she "was not present and did not have an opportunity to be heard" at the hearing that resulted in the appointment of her GAL. The district court considered Respondent's motion at a

nonsecure custody hearing held on 29 October 2013, but found the motion "should be continued until such time as the pending [incompetency] matter in Dare [County] is resolved."

The district court held Evan's adjudicatory hearing on 18 November 2013. At the beginning of the hearing, counsel for DSS noted Respondent's pending motion to relieve her GAL. The parties and court addressed the motion as follows:

> [COUNSEL FOR RESPONDENT]: Your Honor, I had filed that motion at the last setting and Your Honor had ruled that we were going to toll it until the [incompetency proceeding] had been resolved in Dare County. It's my understanding that the matter has not been resolved and I believe it's set for sometime later this week. November 20th, I believe, is that date.
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> THE COURT: All right. *You're not prepared to hear it until after that matter is resolved in Dare County?*
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> [COUNSEL FOR RESPONDENT]: *Yes, ma'am.*
>
> [COUNSEL FOR DSS]: And, Your Honor, just for clarification, in the last order, that motion was set for today, so there will be an order continuing that until after there's been a determination in Dare County?
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> THE COURT: Yes.

(Emphasis added).

As its evidentiary proffer at adjudication, Currituck DSS tendered a "written adjudicatory stipulation . . . signed by all

the parties." *See* N.C. Gen. Stat. § 7B-807(a) (2013). DSS emphasized that it was not seeking a "consent adjudication order" under N.C. Gen. Stat. § 7B-801(b)(1) (2013), but presenting a written record of the "specific stipulated adjudicatory facts" to which the parties agreed. N.C. Gen. Stat. § 7B-807(a). In addition to signing the stipulation, Respondent affirmed upon inquiry by the court that she had reviewed the document with her counsel, that she understood it, and that she further understood that the court would be "bound by each of these facts in the finding of adjudication with regards to [Evan.]" Social workers from Dare and Currituck County DSS testified that the stipulated facts were consistent with their departments' findings during their investigations.

Based on these stipulated facts, the district court entered an order adjudicating Evan a neglected juvenile on 17 December 2013. The same day, it held a dispositional hearing. The court began the hearing by granting Respondent's motion to relieve her GAL. Respondent's counsel advised the court that the incompetency proceeding against Respondent had been dismissed,[5] and that Respondent was "residing in Manteo" after being

[5] Dare DSS filed a notice of voluntary dismissal on 20 November 2013.

released from her involuntary commitment. Respondent and her counsel both affirmed to the court that Respondent understood the proceedings and was capable of assisting her counsel.

After hearing the evidence at disposition, the district court entered an order continuing Evan in DSS custody. The court ordered Respondent to, *inter alia*, continue her counseling and mental health treatment and follow the recommendations of her providers; sign medical releases sufficient to allow DSS and the GAL for Evan to make recommendations to the court; attend parenting classes; and demonstrate her development of a positive relationship with Evan and an ability to meet his physical and emotional needs during supervised visitation. Respondent filed written notice of appeal but failed to comply with the requirement of N.C.R. App. P. 3.1(a) that her notice of appeal also be signed by her counsel. However, Respondent has petitioned this Court for a writ of *certiorari* pursuant to Rule 21(a)(1) of our Rules of Appellate Procedure. Our prior cases make clear that it is within this Court's discretion to excuse technical violations to review the judgments filed in this case. *See In re I.T.P-L.*, 194 N.C. App. 453, 670 S.E.2d 282 (2008), *disc. review denied*, 363 N.C. 581, 681 S.E.2d 783 (2009). Accordingly, we grant Respondent's petition for *certiorari*

review to reach the merits of her argument.

Appointment of GAL for Respondent

Respondent first challenges the district court's appointment of a GAL to represent her pursuant to N.C. Gen. Stat. § 7B-602(c). For the reasons discussed below, we disagree with Respondent's argument.

At the time the district court appointed Respondent's GAL, the Juvenile Code provided as follows:

> On motion of any party or on the court's own motion, the court may appoint a guardian ad litem for a parent in accordance with G.S. 1A-1, Rule 17, if the court determines that there is a reasonable basis to believe that the parent is incompetent or has diminished capacity and cannot adequately act in his or her own interest.

N.C. Gen. Stat. § 7B-602(c); *see also In re C.G.A.M.*, 193 N.C. App. 386, 390, 671 S.E.2d 1, 4 (2008) (noting district court's "duty to properly inquire into the competency of a litigant in a civil trial or proceeding when circumstances are brought to the judge's attention, which raise a substantial question as to whether the litigant is *non compos mentis*" (citations and internal quotation marks omitted)).

The decision to appoint a GAL for a respondent parent under subsection 7B-602(c) is reviewed only for an abuse of discretion. *See In re M.H.B.*, 192 N.C. App. 258, 261, 664

S.E.2d 583, 585 (2008). An abuse of discretion occurs when a decision is "manifestly unsupported by reason." *Id.* (citation and internal quotation marks omitted).

In the present case, Respondent makes several claims of error surrounding her GAL's appointment. Specifically, she contends that she was not provided notice of the hearings related to the appointment of her GAL, in violation of the statutory mandate in N.C. Gen. Stat. § 7B-1807 (2013). Moreover, Respondent asserts that she was never "consulted" or provided an opportunity to be heard on the appointment, insofar as she was involuntarily committed and unable to attend the hearings. Further, regarding the 12 September 2013 order that defined the scope of the GAL's appointment, Respondent argues that the district court erroneously assigned the GAL the mutually exclusive roles of substitution and assistance. Finally, Respondent faults the court for failing to rule on her pending motion to relieve her GAL prior to conducting Evan's adjudicatory hearing.

Nevertheless, after careful review of the record, we find no abuse of discretion here. At the time the district court appointed her GAL, Respondent was under an involuntary commitment and subject to a pending incompetency proceeding. She

also had a prior history of incompetence in 2011 based on a diagnosis of paranoid schizophrenia. We concur in the assessment offered by Respondent's counsel at the 17 December 2013 hearing on her motion to remove the GAL:

> I think originally at the beginning of this case everybody wanted to be on the safe side. [Respondent] wasn't here and was under an involuntary commitment and so I think that it was safe for the Court at that point to appoint a guardian *ad litem*.

Counsel's explanation is consistent with the findings included in the consent order clarifying the scope of the GAL's appointment.

We do note, however, that Respondent is correct that the record reveals certain irregularities with regard to the appointment of her GAL. For example, while Respondent traces the appointment of her GAL to the order entered on 12 September 2013, the record reveals that the district court first appointed GAL Harmon-Scott to represent Respondent in this proceeding in the "Order on Need for Continued Nonsecure Custody" entered 16 August 2013. That order fails to "specify the role that the GAL should play, whether one of substitution or assistance[,]" as then required by N.C. Gen. Stat. § 7B-602(c). *In re A.Y.*, __ N.C. App. at __, 737 S.E.2d at 165 (citation and internal quotation marks omitted). The court purported to correct this

omission by its order entered 12 September 2013, but used language suggesting the GAL was appointed "as both a substitute for the Respondent and to assist the Respondent[.]" *But see In re P.D.R.*, __ N.C. App. __, __, 737 S.E.2d 152, 158 (2012) ("[I]f the parent is incompetent[,] the role of the GAL should be one of substitution. On the other hand, if the parent has diminished capacity, . . . the role of the GAL should be one of assistance.") However, given the order's finding of fact that Respondent "is not competent or able to handle her legal matters with her counsel[,]" it is clear the court intended the GAL to serve in a substitutive capacity, as confirmed by the consent order entered on 20 November 2013. *See In re A.Y.*, __ N.C. App. at __, 737 S.E.2d at 166 (discerning the district court's intention to appoint a GAL of assistance from the "findings and the record").

Notwithstanding these issues, in order "to obtain relief on appeal, an appellant must not only show error, but that . . . the error was material and prejudicial, amounting to denial of a substantial right that will likely affect the outcome of an action." *In re B.S.O.*, __ N.C. App. __, __, 760 S.E.2d 59, 65 (2014) (citation and internal quotation marks omitted). Although the *failure* to appoint a GAL for an incompetent parent is

reversible *per se*, an error by the court in appointing a GAL may be deemed harmless. *Compare In re O.C.*, 171 N.C. App. 457, 463, 615 S.E.2d 391, 396 ("If the trial court fails to appoint a required GAL for a parent for the proceedings associated with the order on appeal, such order must be reversed."), *disc. review denied*, 360 N.C. 64, 623 S.E.2d 587 (2005), *with In re P.D.R.*, __ N.C. App. at __, 737 S.E.2d at 159 (remanding to determine whether the failure to designate the respondent's GAL as substitutive or assistive was prejudicial with regard to the respondent's waiver of counsel). We conclude that Respondent has failed to demonstrate any prejudice arising from either the appointment of her GAL or the court's alleged delay[6] in ordering the GAL's removal.

It is true as a general matter that "[a]ppointment of a GAL under Rule 17 for an incompetent person will divest the parent of their fundamental right to conduct his or her litigation according to their own judgment and inclination." *In re P.D.R.*,

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[6] We find no evidence that Respondent objected to the court's decision to continue the hearing on her motion to remove her GAL pending the outcome of the Dare County incompetency proceeding. *See* N.C.R. App. P. 10(a)(1). Respondent has not provided a transcript of the 29 October 2013 hearing when the court ordered the continuance, and her counsel raised no objection at the 18 November 2013 adjudicatory hearing, and instead confirmed to the court that she was "not prepared to hear [the motion] until after that matter is resolved in Dare County[.]"

__ N.C. App. at __, 737 S.E.2d at 157 (citation and internal quotation marks omitted). Here, however, Respondent attended the 18 November 2013 adjudicatory hearing and participated as a principal. As required by statute, Respondent signed the written stipulation and provided an "oral statement of agreement" affirming to the court that she understood the facts to which she was stipulating and the legal effects thereof. *See* N.C. Gen. Stat. § 7B-807(a). The court did not similarly address Respondent's GAL regarding the stipulation under N.C. Gen. Stat. § 7B-807(a), nor did the GAL purport to make any decision with regard to the adjudication on Respondent's behalf. Accepting Respondent's position that she was fully competent, the record reveals the GAL's involvement in the adjudicatory hearing to be superfluous or redundant[7] but not in any way prejudicial to Respondent. We therefore find any procedural irregularities or errors related to the appointment of Respondent's GAL to be completely harmless.

Citing our ruling in *In re Z.T.B.*, 170 N.C. App. 564, 613 S.E.2d 298 (2005), Respondent argues that the district court's failure to provide her with at least five days' notice of the hearing that resulted in the appointment of her GAL constitutes

[7] We note that Respondent did not object to the GAL's presence at the hearing or signing of the stipulation.

reversible error *per se*, because it involves the violation of the statutory mandate in N.C. Gen. Stat. § 7B-1807. However, given that section 7B-1807 applies only to hearings in delinquency or undisciplined proceedings under Subchapter II of the Juvenile Code, rather than to abuse, neglect, and dependency proceedings under Subchapter I, we are not persuaded. Further, we note that whereas the issue in *In re Z.T.B.* was the jurisdictional sufficiency of the petitioner's pleading under N.C. Gen. Stat. § 7B-1104, *see id.* at 570, 613 S.E.2d at 301, no such jurisdictional issues are raised in the present case. Moreover, this Court's subsequent decisions interpreting *In re Z.T.B.* clarified that a petitioner's violation of the statutory mandate in section 7B-1104 does *not* constitute reversible error where the parent "is unable to demonstrate any prejudice whatsoever" arising from the violation. *See, e.g.*, *In re H.L.A.D.*, 184 N.C. App. 381, 392, 646 S.E.2d 425, 433 (2007), *affirmed per curiam*, 362 N.C. 170, 655 S.E.2d 712 (2008); *In re W.L.M.*, 181 N.C. App. 518, 526, 640 S.E.2d 439, 444 (2007). These holdings are consistent with this Court's jurisprudence requiring appellants to show prejudice from the district court's violation of a statutory mandate in juvenile proceedings. *See, e.g.*, *In re D.J.G.*, 183 N.C. App. 137, 140, 643 S.E.2d 672, 674

(2007) (violation of statutory time limits); *In re Clark*, 159 N.C. App. 75, 80, 582 S.E.2d 657, 660 (2003) (non-compliance with recordation requirement in N.C. Gen. Stat. § 7B-806).

Respondent also invokes the "fundamental" principle, articulated by this Court in *In re Robinson*, that "one accused of incompetency is entitled to notice of the proceedings and a reasonable opportunity to rebut the allegations of the petition." 26 N.C. App. 341, 342, 215 S.E.2d 631, 631-32 (1975) (reversing "adjudication of lunacy" where the respondent was not given notice of the hearing or represented by counsel). While Respondent appears to claim the right to personal notice of the hearing to appoint a GAL under N.C. Gen. Stat. § 7B-602(c), it is generally held that notice to a party's attorney of record "is notice to the party." *Griffith v. Griffith*, 38 N.C. App. 25, 29, 247 S.E.2d 30, 33 (addressing service under N.C.R. Civ. P. 5), *disc. review denied*, 296 N.C. 106, 249 S.E.2d 804 (1978). In the present case, Respondent's counsel appeared at the 16 August 2013 hearing that resulted in the appointment of respondent's GAL and at each hearing thereafter, and there is no indication that counsel objected to a lack of notice to Respondent or requested a continuance based thereon. *See generally* N.C. Gen. Stat. § 7B-803 (2013) (authorizing

continuances). We further note that "the denial of a motion to continue . . . is sufficient grounds for the granting of a new trial only when the [appellant] is able to show that the denial was erroneous and that he suffered prejudice as a result of the error." *In re D.W.*, 202 N.C. App. 624, 627, 693 S.E.2d 357, 359 (2010) (citation and internal quotation marks omitted). Here, absent any indication of prejudice to Respondent, we decline to find the alleged lack of personal notice to be reversible error.

Finally, insofar as Respondent separately asserts an absolute right to attend the hearing on appointment of her GAL under N.C. Gen. Stat. § 7B-602(c), we again find no merit to her claim. Respondent relies on *In re Robinson* in support of her claim, but that case involved an incompetency proceeding under the predecessor statute to N.C. Gen. Stat. § 35A, art. 1 (2013), not the appointment of a GAL for a parent in a juvenile proceeding. 26 N.C. App. at 342, 215 S.E.2d at 632. Unlike an adjudication of incompetency under Chapter 35A, no future collateral consequences adhere to the court's temporary appointment of a GAL for Respondent under N.C. Gen. Stat. § 7B-602(c). *See generally In re Allison*, 216 N.C. App. 297, 299, 715 S.E.2d 912, 914 (2011) (noting that involuntary commitment order "may form the basis for future commitment or may cause other

collateral legal consequences for the respondent") (citations and internal quotation marks omitted). Indeed, we note that the Juvenile Code provides no right of appeal from an order appointing a GAL for a respondent parent in an abuse, neglect, or dependency proceeding. *See* N.C. Gen. Stat. § 7B-1001(a) (2013).

Respondent cites no authority barring the district court from appointing a GAL for a parent in circumstances where the parent is unable to attend the hearing due to an involuntary commitment. *Cf. generally In re D.W.*, 202 N.C. App. at 627, 693 S.E.2d at 359. (declining to find that "parental absence, without more, constitutes extraordinary circumstances necessitating a continuance"). We decline to extend our holding in *In re Robinson* to impose such a bar. Had Respondent been denied the opportunity to participate in Evan's adjudicatory hearing, or if she had otherwise suffered a loss of personal agency as a result of her GAL's appointment in this cause, we might consider *In re Robinson* instructive, but the record reflects that no such deprivation occurred here. Accordingly, Respondent's argument is overruled.

Adjudication of Neglect

Respondent next claims the district court's findings of fact do not support its adjudication of Evan as neglected within the meaning of N.C. Gen. Stat. § 7B-101(15) (2013). We disagree.

The determination that a juvenile is neglected is a conclusion of law that this Court reviews *de novo*. *See In re Helms*, 127 N.C. App. 505, 510, 491 S.E.2d 672, 675-76 (1997). A neglected juvenile is one "who does not receive proper care, supervision, or discipline . . .; or who is not provided necessary remedial care; or who lives in an environment injurious to the juvenile's welfare[.]" N.C. Gen. Stat. § 7B-101(15). To support an adjudication of neglect, the facts must show "some physical, mental, or emotional impairment of the juvenile or a substantial risk of such impairment as a consequence of the failure to provide proper care, supervision, or discipline." *In re Stumbo*, 357 N.C. 279, 283, 582 S.E.2d 255, 258 (2003) (citation and internal quotation marks omitted). Although "not every act of negligence on the part of parents or other care givers constitutes 'neglect' under the law[,]" *id.*, this Court has repeatedly recognized that, "[i]t is well-established that the trial court need not wait for actual harm to occur to the child if there is a substantial risk of harm to the child in the home." *In re T.S.*, 178 N.C. App. 110, 113, 631

S.E.2d 19, 22 (2006), *affirmed per curiam*, 361 N.C. 231, 641 S.E.2d 302 (2007).

In the present case, Respondent and Currituck DSS stipulated to the following adjudicatory facts found by the district court:

> 23. [Respondent] gave birth to [Evan] in her mother's home on May 8, 2013. Neither she nor [Evan] received any medical care. . . . [Evan] was seen at Surf Pediatrics for the first time on May 24, 2013, after [Dare DSS] urged [Respondent's mother, Ms. V.] to make an appointment.
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> 24. . . . [Respondent] was adjudicated incompetent by Dare County Courts on January 11, 2011 and Dare County DSS was appointed guardian. On that date, [Ms. V.] fled Dare County with [Respondent] and was later found in Polk County. On January 17, 2011, [Respondent] was diagnosed with schizophrenia, paranoid type, and was prescribed Ambien, Trazodone and Risperdal. Under the Department's guardianship, [Respondent] stabilized while living independently of [Ms. V.] and her competency was restored on August 5, 2011. Shortly thereafter, [Respondent] returned to the home of [Ms. V.] and discontinued taking any medications.
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> 25. On July 16, 2013, Dare County Adult Protective Services filed an affidavit to obtain an administrative inspection warrant for particular condition or activity. Social [w]orker[s] . . . were able to meet with [Respondent] for the first time on this date and during their conversation, [Respondent] declared that she wanted to care for her child but was unable to due to [Ms. V.],

that she did not want [Ms. V.] to care for the child, and that if anything happened to her, she would like her cousin . . . to care for the child.

26. On August 9, 2013, [Respondent] was seen by Dr. Owens at Carolina Family Practice and had [Evan] with her at this doctor visit. While [Evan] was crying, [Respondent] declared that he was in pain and needed an aspirin and [an I.V.]. [Respondent] is unable to ascertain the needs of her child.

27. [Respondent] decompensated and became psychiatrically unstable resulting in her involuntary commitment. . . . [She] was transferred to Behavioral Health at Vidant Medical Center.

28. On August 14, 2013, [s]ocial [w]orker[s] . . . talked with [Respondent] at Outer Banks Hospital. [Respondent] indicated that [Ms. V.] was very possessive of herself and the baby, was physically abusive to her, and isolated her. . . .

. . . .

32. . . . Although [Ms. V.] maintains that she is a caretaker to [Evan], she failed to provide remedial and medical care to this child. [Evan] was born at home, unattended, and no help was summoned during labor or afterwards for [Respondent] nor for [Evan]. [Ms. V.] never sought a pediatric exam for [Evan] until required to do so by Dare DSS, over two weeks after the birth of the child.

33. [Respondent] has a history of untreated mental illness, namely schizophrenia. She has not been under the care of a doctor. There is an Adult Protective Services Report open at this time. The child requires more

> adequate care and supervision than can be provided in the parent's home. [Respondent] is not capable of making an alternative appropriate child care arrangement. Due to the fact that [Evan] is of a tender age, he is unable to protect himself and is isolated from the community.
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> 34. [Ms. V.] has not demonstrated appropriate protective capacities for [Evan]. [She] has informed Dare DSS that she does not want [Evan] to be immunized and has failed to do so to date.
>
> . . . .
>
> 36. There is a substantial risk of physical, mental or emotional impairment of the juvenile as a consequence of the failure by the parent and/or caretaker to provide proper care, supervision or discipline as set forth herein.

The court made the additional ultimate findings that Evan "is a neglected child pursuant to North Carolina General Statute § 7B-101(15) in that he does not receive proper care or supervision . . ., is not provided necessary medical care . . ., and lives in an environment injurious to the juvenile's welfare as supported by the findings of fact set forth herein."

We conclude that these uncontested findings are sufficient to show a substantial risk of impairment to Evan arising from a lack of proper care and supervision. At the time Dare DSS filed its petition, Respondent was subject to an involuntary commitment due to an apparent active psychosis consistent with

her prior adjudication of incompetency in 2011. Her statements to her physician on 9 August 2013 indicated that she was "unable to ascertain the needs of her child." Moreover, Ms. V.'s conduct toward Respondent and Evan tended to show that the child would not receive adequate medical care in her home. Considered collectively, and in light of Respondent's mental health history, these facts created a "risk of substantial harm" to Evan supporting his adjudication as a neglected juvenile. *See In re T.R.T.*, __ N.C. App. __, __, 737 S.E.2d 823, 827 (2013). Accordingly, we affirm the district court's orders.

AFFIRMED.

Judges GEER and MCCULLOUGH concur.

Report per Rule 30(e).