IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA17-1100

Filed: 3 April 2018

Beaufort County, Nos. 15 JA 83, 84

IN THE MATTERS OF: A.S., A.S.

Appeal by Respondent-Mother from order entered 29 June 2017 by Judge Darrell B. Cayton, Jr., in District Court, Beaufort County. Heard in the Court of Appeals 8 March 2018.

Matthew W. Jackson for Beaufort County Department of Health and Human Services, Petitioner-Appellee.

Edward Eldred, Attorney at Law, PLLC, by Edward Eldred, for Respondent-Appellant Mother.

Hedrick, Gardner, Kincheloe & Garofalo, LLP, by Jennifer C. Baril, for Guardian ad Litem.

STROUD, Judge.

Respondent-Mother ("Respondent") appeals from an order adjudicating her daughter, A.S., born 27 October 2012 ("the older child") and another daughter, A.S., born 7 October 2015 ("the younger child"), (together, "the children"), to be neglected juveniles and granting full legal and physical custody of the children to their maternal grandmother and step-grandfather, Ms. and Mr. M. (collectively, "the

grandparents"). We affirm the trial court's adjudication of neglect, reverse the dispositional provision of the order that waives further review hearings, and remand for further proceedings.

I. Factual and Procedural Background

When the older child was born, Respondent was unmarried and did not name the older child's father on the birth certificate. Respondent married Mr. H. in March 2014 and gave birth to the younger child on 7 October 2015, making Mr. H. the younger child's presumptive father. *See Eubanks v. Eubanks*, 273 N.C. 189, 197, 159 S.E.2d 562, 568 (1968). Mr. H. has refused to participate in paternity testing regarding the younger child; and the identity of the older child's father remains unknown.

Within days of the older child's birth in 2012, Beaufort County Department of Social Services ("DSS") began to receive Child Protective Services ("CPS") reports about the family. Initially, the reports focused on Respondent's mental health and substance abuse issues, alleging "numerous suicide attempts" by Respondent and a drug overdose for which Respondent was hospitalized in June 2014. DSS provided services to Respondent but did not otherwise intervene before the younger child was born.

DSS received a CPS report in October 2014 that Respondent had attacked Mr. H. with a "2 x 4." The report also described ongoing substance abuse by Respondent

and Mr. H., and stated that Respondent "drives the children around looking for pills." DSS and Respondent agreed to a safety plan under which the children would reside with the grandparents, who would assist Respondent in caring for the children while Respondent resumed treatment at Dream Provider Care Services. DSS closed the case after the safety plan was implemented.

DSS obtained non-secure custody of the children on 23 November 2015, and filed juvenile petitions alleging the children were neglected. The petitions included alleged testimony made by Respondent during a 20 November 2015 court hearing in which Respondent sought a domestic violence protective order against Mr. H. At the 20 November 2015 hearing, Respondent testified that she had a traumatic brain injury ("TBI") and was taking at least twelve medications, including an anti-epileptic; that she had recently been charged with assault for biting Mr. H.'s girlfriend; and that Mr. H. had assaulted Respondent and threatened to kill her in front of the children. When DSS subsequently attempted to interview Respondent about her testimony, she threatened suicide in front of the children, leading the social worker to call law enforcement to the home. The grandparents confirmed to DSS the existence of domestic violence between Respondent and Mr. H. and advised that Respondent's "mental health and brain injury [are] deteriorating." The petitions further alleged Respondent was "in need of a rule 17 guardian" due to the effects of her TBI. *See* N.C. Gen. Stat. §§ 1A-1, Rule 17, 7B-602(c) (2017).

In its non-secure custody orders, the trial court authorized the children's placement with the grandparents but required that they supervise any contact between Respondent and the children. Respondent continued to reside in the grandparents' home with the children under this arrangement.

The trial court adjudicated the children as neglected juveniles on 29 April 2016. The trial court found that Respondent had sustained a TBI during a car accident in 2003. However, based on the results of a psychological evaluation performed by Rhonda Cardinale, a psychologist to whom Respondent was referred by DSS, the trial court further found as follows:

> 17. [Respondent] has a Full Scale IQ score of 80. The result of [Respondent's] IQ testing does not present substantial evidence of an inability for her to understand and reason. As such, the consideration for the appointing of a Rule 17 guardian [*ad litem*] is not necessary.

The trial court also made the following findings with regard to Respondent's mental health as it pertained to the children's status as neglected:

> 14. Rhonda Cardinale determined that [Respondent] gives evidence of significant emotional instability, a lack of coping skills, a limited frustration tolerance, impulse control issues, as well as interpersonal difficulties. . . . [Respondent] . . . [exhibits] a pattern of unstable interpersonal relationships, impulsivity in areas that are potentially self-damaging, recurrent suicidal threats or gestures, affective instability, and difficulty controlling her anger (as evidenced by displays of temper and recurrent physical fights).

> 15. Rhonda Cardinale diagnosed [Respondent] with Borderline Personality Disorder, Provisional; Personality Change due to another medical condition, Provisional; PTSD; History of TBI; Seizures versus Pseudoseizures; and Rule Out Substance Abuse Disorder.
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> 16. Rhonda Cardinale determined that [Respondent's] current level of functioning is unacceptable in providing adequate care to her children. [Respondent's] difficulty with her own emotional, behavioral and interpersonal functioning negatively interferes with her ability to parent [the] children.
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> . . . .
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> 30. [Respondent's] [TBI] prevents her from making sound judgments when it comes to herself and protection of [the] children.
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> 31. [Respondent] has received significant damage to her [frontotemporal] lobe . . . which impacts on her ability to make sound decisions for herself and [the] children.

The trial court found that Respondent had a history of assaultive behavior, including criminal convictions, in addition to her domestic violence history with Mr. H. It further found that Respondent had "allowed [Mr. H.] to come to the . . . grandparents' home without their permission."

At disposition, the trial court awarded joint legal and physical custody of the children to Respondent and the grandparents,[1] subject to the following conditions:

> a. [The grandparents] shall discuss all decisions affecting the welfare of the children with

[1] The court found that Mr. H. had acted inconsistently with his status as the younger child's father and relieved DSS of further efforts to reunify him with the younger child.

> [Respondent], but in the event that [Respondent] disagrees with the [grandparents, their] decision shall be given priority to [Respondent's] decision on the particular matter.
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> b. [Respondent] shall not be left unsupervised in the presence of the . . . children.

The trial court waived further review hearings in the cause but advised the parties of their right to "seek a modification of this order by complying with the provisions . . . in N.C.G.S. Chp. 7B." Respondent did not appeal from the adjudication and disposition entered on 29 April 2016.

DSS filed new petitions on 18 May 2017, again alleging that the children were neglected. The petitions summarized the case history leading up to the children's prior adjudications on 29 April 2016 and averred DSS had continued to receive CPS reports thereafter. Although some reports were found to be untrue, DSS substantiated an October 2016 report that Respondent hit Mr. M. and had to be restrained on the floor "to prevent the situation from escalating." DSS verified a second incident in March 2017 in which Respondent "got into an altercation with [the grandparents] which resulted in her hitting [Ms. M.], kicking [Mr. M.], slashing his tires, and throwing things at his vehicle." The petitions described Respondent as "incoherent" during DSS's investigation of the episode. The petitions alleged that Respondent "presents a safety concern" to both the children and the grandparents if allowed to remain in the home.

After a hearing, the trial court again adjudicated the children as neglected by order entered 29 June 2017. The trial court concluded it was in the children's best interests to grant full legal and physical custody to the grandparents and to bar Respondent from the premises of their home. The trial court granted Respondent two eight-hour supervised visits and one four-hour supervised visit with the children per month, plus additional supervised visitation on birthdays and holidays. As in its previous order, the trial court waived further review hearings, subject to the right of any party to "seek a modification of this order by complying with the provisions . . . in N.C.G.S. Chp. 7B." Respondent appeals.

II. Analysis

Respondent raises three arguments on appeal: (1) the trial court abused its discretion by failing to hold a hearing regarding Respondent's competency, (2) the trial court's findings of fact were insufficient to support its finding of neglect, and (3) the trial court erred by waiving further hearings without addressing Respondent's right to further reviews.

A. *Hearing on Respondent's Competency*

Respondent first claims the trial court abused its discretion by failing to hold a hearing on the issue of her competency. She notes the trial court "has a 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*." *In re J.A.A.*, 175 N.C. App. 66, 72, 623 S.E.2d 45, 49 (2005). While Respondent makes no reference to the statute authorizing the appointment of a guardian *ad litem* ("GAL") for a parent in a juvenile neglect proceeding, N.C.G.S. § 7B-602(c), or to the applicable Rule of Civil Procedure, N.C.G.S. § 1A-1, Rule 17, she argues that "[t]he trial court, at a minimum, should have conducted an inquiry into whether [she] was competent, and, at a maximum should have appointed a guardian."

N.C.G.S. § 7B-602(c) provides that, "[o]n motion of any party or on the court's own motion, the court may appoint a [GAL] for a parent who is incompetent in accordance with [N.C.]G.S. 1A-1, Rule 17." North Carolina defines incompetency as an adult person's lack of "sufficient capacity to manage the adult's own affairs or to make or communicate important decisions concerning the adult's person, family, or property whether the lack of capacity is due to mental illness, mental retardation, . . . disease, injury, or similar cause or condition." N.C. Gen. Stat. § 35A-1101(7) (2017).

As our Supreme Court explained in *In re T.L.H.*, 368 N.C. 101, 772 S.E.2d 451 (2015), it is "the trial judge . . . [who] actually interacts with the litigant whose competence is alleged to be in question and has, for that reason, a much better basis for assessing the litigant's mental condition than that available to the members of an appellate court[.]" *Id.* at 108, 772 S.E.2d at 456. Accordingly, "trial court decisions

concerning both the appointment of a [GAL] and the extent to which an inquiry concerning a parent's competence should be conducted are reviewed on appeal using an abuse of discretion standard." *Id.* at 106-07, 772 S.E.2d at 455. "'A ruling committed to a trial court's discretion is to be accorded great deference and will be upset only upon a showing that it was so arbitrary that it could not have been the result of a reasoned decision.'" *In re A.R.D.*, 204 N.C. App. 500, 504, 694 S.E.2d 508, 511 (quoting *White v. White*, 312 N.C. 770, 777, 324 S.E.2d 829, 833 (1985)), *aff'd per curiam*, 364 N.C. 596, 704 S.E.2d 510 (2010).

In *In re T.L.H.*, our Supreme Court specifically rejected "the proposition that a trial court must inquire into the necessity for the appointment of a parental [GAL] solely because the parent has diagnosable mental health problems." *In re T.L.H.*, 368 N.C. at 110, 772 S.E.2d at 457. In lieu of such a rule, the Court provided the following guidance for appellate review:

> Although the nature and extent of such diagnoses is exceedingly important to the proper resolution of a competency determination, the same can also be said of the information that members of the trial judiciary glean from the manner in which the individual behaves in the courtroom, the lucidity with which the litigant is able to express himself or herself, the extent to which the litigant's behavior and comments shed light upon his or her understanding of the situation in which he or she is involved, the extent to which the litigant is able to assist his or her counsel or address other important issues, and numerous other factors. . . . As a result, *when the record contains an appreciable amount of evidence tending to show that the litigant whose mental condition is at issue is not*

> *incompetent, the trial court should not, except in the most extreme instances, be held on appeal to have abused its discretion by failing to inquire into that litigant's competence.*

Id. at 108-09, 772 S.E.2d at 456 (emphasis added).

Respondent relies on the findings made by the trial court in its 29 April 2016 order adjudicating the children neglected.[2] She notes the trial court's finding of fact in that order that the TBI she sustained in 2003 "prevents her from making sound judgments when it comes to herself and protection of her children," as well as the trial court's finding that the grandparents believed Respondent's condition was "deteriorating." Respondent acknowledges the trial court's finding of fact in the 29 April 2016 order that the results of her IQ test "d[id] not present substantial evidence of an inability for her to understand and reason" and thus made "consideration for the appointing of a Rule 17 guardian . . . not necessary." However, she contends "DSS did not present any evidence to support this finding."

To the extent Respondent challenges the trial court's failure to conduct a competency hearing in the prior neglect proceeding initiated by DSS in the petitions filed on 23 November 2015 and culminating in the adjudication of neglect and disposition entered on 29 April 2016, we conclude her argument is not properly before this Court. Respondent did not appeal from the 29 April 2016 order, which was a

[2] Although the trial court quoted its prior findings in the order currently before us on appeal, the trial court presented these findings as historical information – i.e., as what the trial court had found "[a]t the April 29, 2016 [adjudicatory] hearing[.]"

final judgment subject to review under N.C. Gen. Stat. § 7B-1001(a)(3) (2017). Therefore, that order's findings and conclusions became the "law of the case" and may not be collaterally attacked by Respondent in her appeal from the subsequent order entered on 29 June 2017.[3] *Kelly v. Kelly*, 167 N.C. App. 437, 443, 606 S.E.2d 364, 369 (2004) (quoting *Johnson v. Johnson*, 7 N.C. App. 310, 313, 172 S.E.2d 264, 266 (1970)); *see also In re D.R.F.*, 204 N.C. App. 138, 141, 693 S.E.2d 235, 238 (2010) ("declin[ing] to review an adjudication order from which respondent-mother had failed to appeal").

To the extent Respondent challenges the trial court's failure to hold a competency hearing for the proceeding that began with the petitions filed by DSS on 18 May 2017 and that resulted in the order entered 29 June 2017, we find no abuse of the trial court's discretion. We recognize that competency – like mental health – is a dynamic phenomenon rather than "a discrete event or one-time occurrence." *In re V.B.*, 239 N.C. App. 340, 344, 768 S.E.2d 867, 870 (2015) (citation and internal quotation marks omitted). Here, however, we find no evidence of facts arising subsequent to the 29 April 2016 order that would compel a hearing into Respondent's

[3] We find no inherent contradiction between the trial court's finding that Respondent was unable to make "sound judgments" with regard to herself and the children and its determination that she was nonetheless competent to proceed within the meaning of N.C.G.S. § 35A-1101(7). *See generally In re J.R.W.*, 237 N.C. App. 229, 234, 765 S.E.2d 116, 120 (2014) (distinguishing between "the circumstances generating [a parent's] incapacity to provide appropriate care and supervision of a juvenile [and] the circumstances that establish a parent's lack of capacity to manage her own affairs or act in her own interest during [juvenile neglect] proceedings" and noting that they are "two separate concepts with their own specific standards"), *disc. review denied*, 367 N.C. 813, 767 S.E.2d 840 (2015).

competency. The new facts alleged in the petitions filed on 18 May 2017 concerned acts of violence by Respondent toward the grandparents. Moreover, unlike the petitions filed in the prior proceeding, the current petitions did not allege that Respondent's mental condition was "deteriorating" or that she was in need of a GAL.

Applying the standard in *In re T.L.H.*, we find "the record contains an appreciable amount of evidence tending to show that the litigant whose mental condition is at issue is not incompetent[.]" *In re T.L.H.*, 368 N.C. at 108-09, 772 S.E.2d at 456. Testifying at the 29 June 2017 hearing, the DSS social worker averred that Respondent had not shown any loss of self-control in their interactions, was compliant with her medication, and was consistently attending her mental health appointments. Throughout the social worker's involvement in the case, Respondent had shown a willingness to "do anything" that was asked of her.

Respondent testified on both direct examination and cross-examination during the adjudicatory stage of the hearing and responded lucidly to a series of questions propounded by the trial court. *Cf. In re J.R.W.*, 237 N.C. App. at 235, 765 S.E.2d at 121 (noting "the trial court [had] ample opportunity to observe and evaluate [the respondent's] capacity to act in her own interests"). Respondent also informed the trial court that the Social Security Administration had denied her repeated claims for disability benefits, finding that she "'does not have severe mental issues; is not mentally disabled.'"

We note that counsel for Respondent did not request a competency hearing or otherwise voice doubts about Respondent's competency. To the contrary, counsel introduced neurologists' reports from a CT scan of Respondent's head performed in September 2004 that showed "[n]o evidence of structural pathology[,]" and a brain MRI performed in 2014, which was deemed "[u]nremarkable[.]" Counsel also proffered a 28 June 2017 treatment record from Dream Provider Care Services reflecting a current diagnosis for Respondent of "generalized anxiety disorder" with "signs of depression[.]"

Based on the evidence in the record, we are unable to place this case among "the most extreme instances" in which the trial court's failure to hold a competency hearing amounts to an abuse of discretion. *In re T.L.H.*, 368 N.C. at 109, 772 S.E.2d at 456. Respondent's argument is without merit.

B. *Findings of Fact to Support Adjudication of Neglect*

Respondent next claims the trial court erred in adjudicating the children neglected without finding that they were exposed to "'some physical, mental, or emotional impairment . . . or a substantial risk of such impairment'" subsequent to the initial adjudication of neglect on 29 April 2016. *In re S.H.*, 217 N.C. App. 140, 142, 719 S.E.2d 157, 159 (2011) (quoting *In re Safriet*, 112 N.C. App. 747, 752, 436 S.E.2d 898, 901-02 (1993)).

The Juvenile Code defines a neglected juvenile, *inter alia*, as one "who does not receive proper care, supervision, or discipline from the juvenile's parent . . . or who lives in an environment injurious to the juvenile's welfare[.]" N.C. Gen. Stat. § 7B-101(15) (2017). In order to sustain an adjudication of neglect, our case law requires some "physical, mental, or emotional impairment or a substantial risk of such impairment" to the juvenile. *In re C.M.*, 183 N.C. App. 207, 212, 644 S.E.2d 588, 593 (2007). The requirement that a petitioner demonstrate actual harm or a substantial risk of harm to the juvenile "is consistent with the authority of the State to regulate the parent's constitutional right to rear their children only when 'it appears that parental decisions will jeopardize the health or safety of the child.'" *In re Safriet*, 112 N.C. App. at 753, 436 S.E.2d at 902 (quoting *Wisconsin v. Yoder*, 406 U.S. 205, 233-34, 32 L.Ed.2d 15, 35 (1972); additional citation omitted).

The trial court made the following findings of fact in its 29 June 2017 order in support of the current neglect adjudication:

> 21. Since entry of the April 29, 2016 order, [DSS] has continued to receive [CPS] reports regarding these children. Primarily, [Respondent] is a destabilizing factor in the children's home.
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> . . . .
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> 23. On October 20, 2016, [DSS] received a [CPS] report alleging that:
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> a. [Mr. M.] inappropriately disciplined [the younger child] . . . . It was reported that [Respondent]

tried to intervene and he slapped her causing her to hit her back across a chair and [Mr. M.] had threatened [Respondent] after slapping her.

b. After interviewing all the parties, [DSS] found that [Respondent] had hit [Mr. M.] and he had put his hands on her to restrain her on the floor to prevent the situation from escalating.

c. [Respondent's] mental health issues affects [sic] her interactions between [the maternal grandparents].

. . . .

25. On March 29, 2017, another report came in alleging that [Respondent] got into an altercation with [the grandparents] which resulted in her hitting [Ms. M.], kicking [Mr. M.], slashing his tires, and throwing things at his vehicle. This incident did occur.

. . . .

28. [Respondent's] behaviors continued to be bizarre, unstable, and dysregulated.

29. The [children] are neglected within the meaning of N.C.G.S. § 7B-101 in that the [children's] parents are unable to provide proper care, supervision or discipline for the children; the parent[s'] homes are an injurious environment for [the] children; and, no parent has made a substantial commitment to raise the[] children.

30. [Respondent] is unfit to make parenting decisions for the . . . children and *it presents a safety concern to allow her to live in the same home with the children*.

(Emphasis added). We note that Finding 29 is in the nature of a conclusion of law rather than a finding of fact and is reviewed by this Court *de novo*. *See In re V.B.*, 239 N.C. App. 340, 341, 768 S.E.2d 867, 868 (2015); *In re McLean*, 135 N.C. App. 387, 390, 521 S.E.2d 121, 123 (1999) ("Whether a child is 'neglected' is a conclusion of law which must be supported by adequate findings of fact."). The remaining findings are unchallenged by Respondent and are therefore binding on appeal. *Koufman v. Koufman*, 330 N.C. 93, 97, 408 S.E.2d 729, 731 (1991).

As Respondent observes, the trial court made no explicit adjudicatory finding that the children experienced either a physical, mental, or emotional impairment or a substantial risk of such impairment due to conditions in the grandparent's home.[4] However, the court did find that Respondent's presence in the home "presents a safety concern" to the children.

Assuming *arguendo* that a "safety concern" is not tantamount to a substantial risk of harm, this Court has long held that, "[w]here there is no finding that the juvenile has been impaired or is at substantial risk of impairment, there is no error if all the evidence supports such a finding." *In re Padgett*, 156 N.C. App. 644, 648, 577 S.E.2d 337, 340 (2003).

[4] We note that such findings do appear in the dispositional portion of the trial court's order but are taken from the written "court summary" submitted by DSS after the adjudicatory stage of the hearing had concluded.

We conclude that all the evidence in this case supports a finding of a substantial risk of impairment to the children. As reflected in the trial court's fact-finding, the evidence shows at least two violent episodes occurring in the home between Respondent and the grandparents in October 2016 and March 2017. The March 2017 incident led to criminal charges against Respondent for assaulting the grandparents. Both the DSS social worker and Respondent testified that the violence occurred in the presence of the children. We have repeatedly cited exposure to domestic violence in the home as a condition supporting a juvenile's status as neglected. *See, e.g.*, *In re J.W.*, 241 N.C. App. 44, 50, 772 S.E.2d 249, 254 ("In determining whether a child is neglected, domestic violence in the home contributes to an injurious environment."), *disc. review denied*, 368 N.C. 290, 776 S.E.2d 202 (2015); *In re D.B.J.*, 197 N.C. App. 752, 755, 678 S.E.2d 778, 781 (2009) ("Other conduct that supports a conclusion that a child is neglected includes exposing the child to acts of domestic violence[.]").

Furthermore, "[i]n determining whether a juvenile is a neglected juvenile, it is relevant whether that juvenile . . . lives in a home where another juvenile has been subjected to abuse or neglect by an adult who regularly lives in the home." N.C.G.S. § 7B-101(15). Under N.C.G.S. § 7B-101(15), the trial court was obliged to consider Respondent's prior neglect of either child in assessing whether the other child was currently neglected. *Cf. In re C.G.R.*, 216 N.C. App. 351, 361, 717 S.E.2d 50, 56 (2011)

(noting the trial court's discretion in assigning weight to this evidence), *disc. review denied*, 365 N.C. 573, 724 S.E.2d 533 (2012). Here, the circumstances that resulted in the children's prior adjudications as neglected were the basis for DSS's current concerns about Respondent's violent and disruptive behavior in the grandparents' home. *Cf. In re T.R.T.*, 225 N.C. App. 567, 571-72, 737 S.E.2d 823, 827 (2013) (assessing risk of harm "in light of [the juvenile's] past adjudication of neglect and the social workers' knowledge of respondent-mother's history of mental health issues"). Therefore, we hold the trial court's failure to make an explicit finding of a substantial risk of harm to the children was harmless error.

C. *Findings of Fact to Support Cessation of Hearings*

In her final argument, Respondent claims the trial court erred by waiving further review hearings in its order entered 29 June 2017 without making the findings of fact required by N.C. Gen. Stat. § 7B-906.1(n)(1)-(5) (2017). N.C.G.S. § 7B-906.1 prescribes a schedule for review and permanency planning hearings to be held following an initial dispositional hearing under N.C. Gen. Stat. §7B-901 (2017). At the time the trial court entered its order, the provisions of N.C.G.S. §7B-906.1 applied "[i]n any case where custody is removed from a parent, guardian, or

custodian[.]"[5] N.C.G.S. § 7B-906.1(a) (2017). Because the order divests Respondent of legal and physical custody of the children, the statute is clearly applicable here.

Under N.C.G.S. § 7B-906.1(n), the trial court "may waive the holding of hearings required by this section" if it finds the following facts by clear, cogent, and convincing evidence:

> (1) The juvenile has resided in the placement for a period of at least one year.
>
> (2) The placement is stable and continuation of the placement is in the juvenile's best interests.
>
> (3) Neither the juvenile's best interests nor the rights of any party require that review hearings be held every six months.
>
> (4) All parties are aware that the matter may be brought before the court for review at any time by the filing of a motion for review or on the court's own motion.
>
> (5) The court order has designated the relative or other suitable person as the juvenile's permanent custodian or guardian of the person.

Id. "The trial court must make written findings of fact satisfying each of the enumerated criteria . . ., and its failure to do so constitutes reversible error." *In re P.A.*, 241 N.C. App. 53, 66, 772 S.E.2d 240, 249 (2015).

[5] Effective 1 October 2017, the hearing schedule in N.C.G.S. § 7B-906.1 pertains regardless of whether "custody is removed from a parent, guardian, or custodian[.]" *See* N.C. Sess. Laws 2017-161, §§ 8, 15 (deleting relevant clause in N.C.G.S. § 7B-906.1(a)).

We agree with Respondent that the trial court failed to make all of the necessary findings of fact. A review of the order entered 29 June 2017 reveals findings that the children have resided with the grandparents "since November 2015," that continuation of this placement is in the children's best interests, and that the grandparents are the children's maternal grandparents and permanent custodians. *See In re L.B.*, 184 N.C. App. 442, 447-49, 646 S.E.2d 411, 414-15 (2007) (finding partial compliance). However, the court did not find that the current placement is "stable" as required by N.C.G.S. § 7B-906.1(n)(2), or make either of the findings required by N.C.G.S. § 7B-906.1(n)(3)-(4). Therefore, we "reverse on this issue and remand the case to the trial court to issue a new order with written findings of fact consistent with this opinion and the requirements of" N.C.G.S. §7B-906.1(n). *In re L.B.*, 184 N.C. App. at 449, 646 S.E.2d at 415.

AFFIRMED IN PART; REVERSED AND REMANDED IN PART.

Chief Judge McGEE and Judge BRYANT concur.

Report per Rule 30(e).