IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA19-1040

Filed: 21 July 2020

Chatham County, Nos. 19 JA 17-20

IN THE MATTER OF A.N.R., K.T.R., J.D.C., II and T.S.C.

Appeal by Respondent-Mother and Respondent-Father from Custody Order-Adjudication Disposition entered 16 July 2019 by Judge Joseph M. Buckner in Chatham County District Court. Heard in the Court of Appeals 10 June 2020.

Surratt Thompson & Ceberio PLLC, by Christopher M. Watford, for appellant Respondent-Mother.

Lisa Anne Wagner, for appellant Respondent-Father.

Angenette Stephenson, for petitioner-appellee Chatham County Department of Social Services.

Michelle F. Lynch, for Guardian ad Litem.

BERGER, Judge.

On June 10, 2019, the trial court adjudicated Amy, Karen, Jerry, and Tabitha neglected pursuant to N.C. Gen. Stat. § 7B-101(15), and adjudicated Amy abused pursuant to N.C. Gen. Stat. § 7B-101(1)(c), (d), and (e).[1] Respondent-Mother is the

[1] Pseudonyms are used to refer to the juveniles pursuant to N.C. R. App. P. 42(b).

mother of all of the juveniles. Respondent-Father is the father of Jerry and Tabitha, and stepfather to Amy and Karen. The trial court's order denied Respondent-Parents visitation with the juveniles. Respondent-Parents appeal.

Respondent-Mother argues that the trial court erred when it (1) admitted certain hearsay statements, and (2) entered an order that denied her visitation. Respondent-Father argues that the trial court erred when it (1) admitted certain hearsay statements, (2) adjudicated Jerry and Tabitha neglected, and (3) entered an order that denied him visitation.

Factual and Procedural Background

On October 30, 2018, Amy was hospitalized for suicidal ideation and superficial cutting. She was later readmitted after overdosing on Ambilify in a suicide attempt. Amy was diagnosed with major depressive disorder, general anxiety disorder, and post-traumatic stress disorder. While at the hospital, Amy disclosed to a nurse that Respondent-Father sexually abused her. The allegations were relayed to Chatham County Department of Social Services ("DSS"), and an investigative assessment was initiated.

Amy disclosed to Stacie Dababnah ("Dababnah"), an investigative social worker with DSS, that she had been sexually abused since summer of 2018. According to Amy, Respondent-Father would slap her bottom and make comments that made her uncomfortable. Amy informed Respondent-Mother about Respondent-

Father's conduct, and at one point, Amy confronted Respondent-Father about his behavior. Respondent-Father told her that she had a pretty bottom, but she shouldn't worry because he was "not going to rape [her]."

In the summer of 2018, Respondent-Mother was taking medication which made her "loopy." Respondent-Father approached Amy in her bedroom and told her that Respondent-Mother said he could engage in sexual intercourse with Amy. Respondent-Father asked Amy if she wanted to engage in sexual intercourse with Respondent-Father and Respondent-Mother. Amy answered all of Respondent-Father's questions with "I don't know."

Respondent-Father rubbed Amy's genital area outside of her clothing and asked her what she would do if he pulled down her pants and began having intercourse with her. Amy continued repeating, "I don't know." Respondent-Father then reached into Amy's pants and digitally penetrated her. Respondent-Father clarified his previous comments saying, "Now you know the truth, and that's — that's what I was meaning." Amy later told Respondent-Mother about the encounter.

Respondent-Father subsequently apologized to Amy. He told her he was drinking on the night of the incident and explained that he had blacked out. Later that same day, Respondent-Parents were acting sexually towards one another, and Respondent-Mother said to Amy, "I know this makes you uncomfortable because you

— you have feelings for him too[.]" Respondent-Mother went so far as to offer to sleep in Amy's bedroom so that Amy could have sex with Respondent-Father.

Amy indicated that as time went on, she became curious and did not resist other encounters. These included incidents during which Respondent-Father performed oral sex on Amy, placed his hands inside her pants while in the car, and an incident where Respondent-Father kissed Amy's breasts and rubbed himself against her. Respondent-Father also asked Amy to perform oral sex on him, which she declined. There were also occasions in which Respondent-Father would sneak glances of Amy while she was bathing, and he would ask Amy to show him her bare chest.

Based on these allegations, Dababnah filed petitions in Chatham County relating to the abuse of Amy and the neglect of Amy, Karen, Jerry, and Tabitha. Amy began residing in a residential treatment center in December 2018. In February 2019, Karen, Jerry, and Tabitha were moved into relative placements.

Dababnah interviewed Karen at school within 24 hours of receiving the investigative report regarding the abuse of Amy. Karen stated there had been some domestic violence and substance abuse with Respondent-Parents but indicated that the situation had improved.

Nancy Berson ("Berson"), a social worker with DSS, also interviewed Karen. Karen informed Berson that Respondent-Mother would whip her "for the tiniest

things," leaving bruises on her upper legs. On one occasion, Respondent-Mother slapped her so hard in the face that her nose bled. Karen also witnessed Jerry and Tabitha being "whooped all the time" with a belt. During the interview, Karen recounted a time when she was grounded for a month and a half during which she was left in a corner for extended periods of time and could only leave the corner to eat, use the restroom, or stretch for five minutes every hour. Further, Karen stated that Respondent-Parents would "dry hump" in the kitchen, and that they would leave their bedroom door open while engaging in sexual acts.

During her investigation, Dababnah became aware that Amy was not the first juvenile who Respondent-Father sexually abused. Respondent-Father was in a long-term relationship with Respondent-Mother's mother, which lasted over twenty years. At age 14, Respondent-Mother began living with her mother and Respondent-Father. In a medical examination in 2000, Respondent-Mother recounted one night around Christmas of 1999 when she vaguely remembered touching Respondent-Father's crotch over his clothes, which he then reciprocated. On January 28, 2000, Respondent-Father put his hand under Respondent-Mother's pants for five to ten minutes, which she did not resist. The following day, Respondent-Father "took [her] virginity." Subsequently, Respondent-Parents engaged in sexual intercourse three to four times per week from January until the middle of July.

DSS filed a notice of intent to admit Amy's hearsay statements pursuant to the Rule 803(24) residual exception to the rule against hearsay on June 6, 2019. On June 10, 2019, an adjudication hearing was held in Chatham County District Court. Immediately prior to the adjudication hearing, the trial court held a pretrial hearing concerning the admission of Amy's hearsay statements, and the trial court entered an order admitting the hearsay statements pursuant to the residual exception. At the adjudication hearing, Respondent-Parents failed to object to the admission of Amy's statements on hearsay grounds.

The trial court adjudicated each of the juveniles as neglected juveniles under N.C. Gen. Stat. § 7B-101(15), and adjudicated Amy an abused juvenile pursuant to N.C. Gen. Stat. § 7B-101(1)(c), (d), and (e). On July 16, 2019, the trial court entered an order which denied Respondent-Parents visitation with the juveniles. Respondent-Parents appeal.

Analysis

I. Petition for Writ of Certiorari

Respondent-Mother first argues that the trial court improperly admitted Amy's hearsay statements.

A party may raise error on appeal only when the error was "presented to the trial court [as] a timely request, objection, or motion[.]" N.C. R. App. P. 10(a)(1). However, Respondent-Mother failed to preserve this argument with such a timely

request, objection, or motion. Respondent-Mother petitions this Court to issue a writ of certiorari to review the trial court's order admitting hearsay evidence under the Rule 803(24) residual exception to the rule against hearsay.

> The writ of certiorari may be issued in appropriate circumstances by either appellate court to permit review of the judgments and orders of trial tribunals when the right to prosecute an appeal has been lost by failure to take timely action, or when no right of appeal from an interlocutory order exists[.]

N.C. R. App. P. 21(a)(1).

"A petition for the writ must show merit or that error was probably committed below." *Topping v. Meyers*, ___ N.C. App. ___, ___, 842 S.E.2d 95, 105 (2020) (citation and quotation marks omitted). The petitioner must also demonstrate "that the ends of justice will be . . . promoted" by the granting of the writ. *King v. Taylor*, 188 N.C. 450, 451, 124 S.E. 751, 751 (1924) (citations omitted). In addition, the decision of "[w]hether to allow a petition and issue the writ of certiorari is not a matter of right and rests within the discretion of this Court." *State v. Biddix*, 244 N.C. App. 482, 486, 780 S.E.2d 863, 866 (2015) (citing N.C. R. App. P. 21(a)(1)).

While Rule 21 of the North Carolina Rules of Appellate Procedure provides that the writ of certiorari may be issued in appropriate circumstances to permit review of orders of trial tribunals when the right to prosecute an appeal has been lost, "[c]ertiorari is . . . to be issued only for good and sufficient cause shown." *Topping*, ___ N.C. App. at ___, 842 S.E.2d at 105 (citation omitted). Moreover, "[a] party is

entitled to a writ of certiorari when – and only when – the failure to perfect the appeal is due to some error or act of the court or its officers, and not to any fault or neglect of the party or his agent." *In re Snelgrove*, 208 N.C. 670, 672, 182 S.E. 335, 336 (1935) (citation and quotation marks omitted).

Here, Respondent-Mother has failed to establish that the right to appeal was lost due to some error that was not her own. Respondent-Mother's failure to object to the introduction of the evidence at trial could have been trial strategy or negligence on her part. *See State v. Hunt*, 250 N.C. App. 238, 251, 792 S.E.2d 552, 562 (2016). Whatever the reason, Respondent-Mother has not established that her right to appeal was lost by no error of her own.

Thus, in our discretion, we deny her petition for a writ of certiorari.[2]

II. Confrontation Clause

Respondent-Mother contends that admission of Amy's hearsay statements violated the Confrontation Clause. However, Confrontation Clause protections are applicable only to criminal cases. *See In re G.D.H.*, No. COA07-390, 2007 WL 2833286 (N.C. Ct. App. Oct. 2, 2007) (unpublished) (holding that Confrontation Clause protections do not apply to civil cases).

[2] Respondent-Mother argues that the writ should be issued "to ensure [she] receives her right to a full and thorough appellate review." However, she fails to cite any authority for the existence of such a right.

Even if the Confrontation Clause was applicable to this case, Respondent-Mother failed to preserve this issue for appeal when she did not timely object at trial. *See State v. Miller*, 371 N.C. 266, 269, 814 S.E.2d 81, 83 (2018) (holding that constitutional issues that are not preserved at trial will not be reviewed for the first time on appeal).

III. Hearsay

Respondent-Father argues that the trial court erred when it admitted certain hearsay statements over his objection. Specifically, Respondent-Father challenges the trial court's admission of statements from Karen regarding Respondent-Parents' discipline of the juveniles. Respondent-Father also challenges the admission of Amy's statements concerning the abuse by Respondent-Father, the letters Amy wrote to Respondent-Father, and the notes Amy wrote to Berson during the course of the investigation. We address each in turn.

A. Karen's Hearsay Statements

A party must properly preserve an issue for appellate review by a timely objection or motion. N.C. R. App. P. 10(a)(1). The record demonstrates that Respondent-Father failed to object to the admission of Karen's hearsay statements at the adjudication hearing. Thus, Respondent-Father has failed to preserve this issue for review. N.C. R. App. P. 10(a)(1).

B. Amy's Hearsay Statements

At the adjudication hearing, Respondent-Father's only objections to the challenged statements from Amy were related to (1) Amy's letters to Respondent-Father about their relationship and (2) Amy's notes to Berson concerning Respondent-Father's abuse. Respondent-Father objected to the admission of Amy's letters and notes on the grounds that DSS failed to provide the letters and notes to Respondent-Father in discovery. Respondent-Father did not object to admission of the letters and notes on hearsay grounds.

It is well settled that an objection preserves the issue for appeal only on the ground asserted at trial and does not preserve additional grounds for appeal. *Oddo v. Presser*, 158 N.C. App. 360, 364, 581 S.E.2d 123, 127 (2003), *rev'd per curiam on other grounds*, 358 N.C. 128, 592 S.E.2d 195 (2004). However, Respondent-Father does not argue on appeal that the trial court erred in admitting Amy's letters or notes due to a discovery violation, and the "law does not permit parties to swap horses between courts in order to get a better mount[.]" *Weil v. Herring*, 207 N.C. 6, ___, 175 S.E. 836, 838 (1934).

Moreover, although Respondent-Father asserts that his pretrial objection to the admission of Amy's hearsay statements was sufficient to preserve his assignments of error related to her statements, this argument is without merit.

> A motion in limine is insufficient to preserve for appeal the question of the admissibility of evidence. Rulings on these motions . . . are merely preliminary and subject to change during the course of the trial, depending

> upon the actual evidence offered at trial and thus an objection to an order granting or denying the motion is insufficient to preserve for appeal the question of the admissibility of the evidence. A party objecting to an order granting or denying a motion in limine, in order to preserve the evidentiary issue for appeal, is required to object to the evidence at the time it is offered at the trial (where the motion was denied) or attempt to introduce the evidence at the trial (where the motion was granted).

Heatherly v. Indus. Health Council, 130 N.C. App. 616, 620, 504 S.E.2d 102, 105 (1998) (*purgandum*). Respondent-Father's objection to the motion in limine admitting Amy's hearsay statements is insufficient to preserve this matter for appeal. Thus, Respondent-Father has failed to properly preserve his arguments related to the admission of Amy's hearsay statements.

IV. Prejudice

Respondent-Parents allege that they were prejudiced by the trial court's admission of hearsay statements. Although we have dismissed Respondent-Parents' respective assignments of error relating to the admission of hearsay evidence, assuming, *arguendo,* that the trial court erred in admitting hearsay statements, when a "judge is sitting both as judge and as the finder of the facts, it is presumed that he disregarded incompetent evidence in making his findings of fact." *Matter of Ashby*, 37 N.C. App. 436, 438-39, 246 S.E.2d 31, 33 (1978). Thus, even if we assume Respondent-Parents' arguments are preserved and that the trial court erred, Respondent-Parents cannot establish that they were prejudiced by the trial court's admission of hearsay. Further, there was sufficient competent evidence on the record

from which the trial court could have adjudicated Amy abused and each of the juveniles neglected.

V. Sufficiency of the Evidence

Respondent-Father next argues that the evidence before the trial court was insufficient to support the adjudication of Jerry and Tabitha as neglected. We disagree.

"A proper review of a trial court's finding of neglect entails a determination of (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 A.S.*, 190 N.C. App. 679, 689, 661 S.E.2d 313, 320 (2008) (citation and quotation marks omitted).

An appellate court's review of the sufficiency of the evidence is limited to those findings of fact specifically assigned as error. *See Wade v. Wade*, 72 N.C. App. 372, 375-76, 325 S.E.2d 260, 266 (1985) ("A single assignment [of error] generally challenging the sufficiency of the evidence to support numerous findings of fact . . . is broadside and ineffective" under N.C. R. App. P. 10. (citation omitted)). Here, Respondent-Father does not challenge the trial court's findings of fact but merely alleges that the findings of fact are insufficient to support the conclusion that Jerry and Tabitha are neglected. As such, the trial court's findings of fact are binding on appeal, and we review only whether the trial court's findings of fact supported the

conclusion that Jerry and Tabitha are neglected juveniles. *See In re P.M.*, 169 N.C. App. 423, 424, 610 S.E.2d 403, 404 (2005).

A neglected juvenile is one whose

> parent, guardian, custodian, or caretaker does not provide proper care, supervision, or discipline; or who has been abandoned; or who is not provided necessary medical care; or who is not provided necessary remedial care; or who lives in an environment injurious to the juvenile's welfare . . . . In 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. Gen. Stat. § 7B-101(15) (2019).

In its order, the trial court found:

> 51. Respondent mother and Respondent father frequently used physical, punitive, fear-based and developmentally inappropriate discipline strategies in the home.
>
> . . .
>
> 58. Respondent mother and Respondent father [] disciplined [Karen] by putting her in a corner for weeks, only allowed to get up to go to the bathroom, eat, and stretch for five minutes every hour. They took away her toys and put them in the laundry room, sometimes throwing away or destroying her stuffed animals.
>
> 59. Respondent mother and Respondent father [] expected [Amy] to discipline the two younger children [Jerry and Tabitha]. They told her to "hit [Jerry] really bad next time . . . ."

> 60. [Karen] observed [Jerry and Tabitha] being "whooped all the time," with a belt and hand. The belt strap would leave marks.
>
> 61. The juveniles were also disciplined by slapping them in the face with fly swatters.
>
> 62. [Karen] observed Respondent father [] slapping [Jerry's] butt, disciplining him with a belt, shaking him, and yelling at him, "[s]top it, you little m____ f_____."
>
> . . .
>
> 66. Respondent mother and Respondent father [] exposed the children to sexual behavior such as "dry humping" in the kitchen and leaving the door open while engaging in sex acts in the bedroom.

Based upon these findings, the trial court concluded that

> 2. The above-named juveniles [including Jerry and Tabitha] are neglected juveniles within the meaning and scope of N.C.G.S. 7B-101(15) in that they are juveniles who do not receive proper care, supervision, or discipline from their parents, guardian, custodian, or caretaker; or who have been abandoned; or who are not provided necessary medical care or other remedial care recognized under State law, or who live in an environment injurious to their welfare, or the custody of whom has been unlawfully transferred under G.S. 14-321.2; or who have been placed for care or adoption in violation of law. In determining whether a juvenile is a neglected juvenile, it is relevant whether that juvenile lives in a home where another juvenile has died as a result of suspected abuse or neglect or lives in a home where another juvenile has been subjected to abuse or neglect by an adult who regularly lives in the home.

To support a finding of neglect "this Court has consistently required that there be 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 Safriet*, 112 N.C. App. 747, 752, 436 S.E.2d 899, 901-02 (1993) (citations and quotation marks omitted). However, "[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) (citation omitted). *See also In re Safriet*, 112 N.C. App. at 753, 436 S.E.2d at 902 ("Although the trial court failed to make any findings of fact concerning the detrimental effect of [the parent's] improper care on [the juvenile's] physical, mental, or emotional well-being, all the evidence supports such a finding.").

While the trial court did not expressly make a finding that Jerry and Tabitha suffered a physical, mental, or emotional impairment or risk of such impairment, sufficient evidence was presented at the adjudication that Jerry and Tabitha suffered such an impairment, or risk thereof. The evidence tended to show that Respondent-Father inappropriately disciplined the children using "physical, punitive, fear-based and developmentally inappropriate methods." Respondent-Father hit Jerry and Tabitha in their faces with fly swatters, hit them with belts that left marks, shook Jerry, and called him derogatory terms. Further, Respondent-Parents engaged in sexual acts in plain view of the children.

The trial court also concluded that "[a]ggravated circumstances exist because the respondent-parents have committed and encouraged the commission of and allowed the continuation of actions, practices, and conduct by Respondent-father [] and Respondent[-M]other toward the juveniles, which increased the enormity and added to the injurious consequence of the abuse and neglect[.]" Based on the aforementioned evidence, these findings support the conclusion that Jerry and Tabitha suffered "some physical, mental, or emotional impairment . . . or a substantial risk of such impairment as a consequence of the failure to provide proper care, supervision, or discipline." *In re Safriet*, 112 N.C. App. at 752, 436 S.E.2d at 902.

While Respondent-Father correctly notes that the trial court was not required to conclude that Jerry and Tabitha were neglected juveniles solely based upon the trial court's conclusion that Amy was abused, the record reflects that the abuse of Amy was not the trial court's sole basis for adjudicating Jerry and Tabitha neglected.

N.C. Gen. Stat. § 7B-101(15) "affords the trial judge some discretion in determining the weight to be given [] evidence" of prior abuse or neglect. *In re McLean*, 135 N.C. App. 387, 395, 521 S.E.2d 121, 126 (1999) (citation and quotation marks omitted). However, "the fact of prior abuse, standing alone, is not sufficient to support an adjudication of neglect." *In re N.G.*, 186 N.C. App. 1, 9, 650 S.E.2d 45, 51 (2007). "Instead, this Court has generally required the presence of other factors to

suggest that the neglect or abuse will be repeated." *In re J.C.B.*, 233 N.C. App. 641, 644, 757 S.E.2d 487, 489 (2014). Here, the trial court's findings of fact indicate that the abuse and neglect of Amy was not the trial court's sole basis for concluding that Jerry and Tabitha were neglected juveniles. Rather, the abuse of Amy contributed to the trial court's conclusion that Jerry and Tabitha were neglected, along with the other evidence presented.

Respondent-Father further argues that the abuse of Amy could not support a finding of neglect of Jerry and Tabitha because the circumstances surrounding his abuse of Amy are factually distinct from the circumstances of Jerry and Tabitha. Specifically, he asserts that the trial court could not adjudicate Jerry and Tabitha neglected based upon his sexual assaults against Amy because Jerry and Tabitha are biologically related to him and they are not adolescents. However, Respondent-Father fails to cite any authority supporting his argument that sexual abuse of a child living in the home is not a sufficient basis to support a finding of neglect of other children living in the home, regardless of factually distinct circumstances. *But see In re A.S.*, 190 N.C. App. at 690, 661 S.E.2d at 320; *In re McLean*, 135 N.C. App. at 396, 521 S.E.2d at 127.

The evidence shows that Respondent-Father repeatedly abused adolescent children that were in his care. Our case law permits trial courts, in their discretion, to consider past abuse when adjudicating juveniles neglected when such actions are

suggestive of a pattern of abuse that is likely to be repeated, as was the case here. *In re J.C.B.*, 233 N.C. App. at 644, 757 S.E.2d at 489; *In re McLean*, 135 N.C. App. at 396, 521 S.E.2d at 127. Thus, the trial court did not err when it adjudicated Jerry and Tabitha neglected juveniles based upon the sexual abuse of Amy by Respondent-Father along with the other evidence presented.

In a separate argument, Respondent-Father contends that the evidence presented does not support a finding of physical, mental, or emotional impairment or a substantial risk of such impairment because the evidence was conflicting. Respondent-Father argues one of the social worker's observations conflict with Amy's and Karen's statements recorded as a part of the Child and Family Planning Evaluation.[3] This argument is similarly without merit.

In a child custody case "where the trial judge sits as the finder of fact the trial judge has the authority to believe all, any, or none of the testimony [because] the trial court was present to see and hear the inflections, tone, and temperament of the witnesses." *Wornstaff v. Wornstaff*, 179 N.C. App. 516, 519, 634 S.E.2d 567, 569 (2006) (*purgandum*). Thus, "we must defer to the trial judge's determination of which reasonable inferences should have been drawn," and we conclude that there was

[3] Although Respondent-Father contends that the evidence conflicts, he fails to argue how the evidence conflicts, what legal significance this Court should attribute to such a supposed contradiction, or even which social worker's observations are alleged to have conflicted with the girls' statements.

competent evidence to support the trial judge's finding that Jerry and Tabitha were neglected. *See id.* at 519, 634 S.E.2d at 569.

Because the evidence before the trial court supports the conclusion that Jerry and Tabitha had a physical, mental, or emotional impairment or a substantial risk of such impairment, the trial court did not err in adjudicating Jerry and Tabitha neglected.

VI. Visitation

Respondent-Parents argue that the trial court erred when it denied them visitation with the juveniles. Respondent-Mother appeals the denial of visitation as it relates to Amy, Karen, Jerry, and Tabitha. Respondent-Father appeals the denial of visitation as it relates to Jerry and Tabitha.

"This Court reviews the trial court's dispositional orders of visitation for an abuse of discretion." *In re C.M.*, 183 N.C. App. 207, 215, 644 S.E.2d 588, 595 (2007) (citations omitted).

> An order that removes custody of a juvenile from a parent, guardian, or custodian or that continues the juvenile's placement outside the home shall provide for visitation that is in the best interests of the juvenile consistent with the juvenile's health and safety, including no visitation. The court may specify in the order conditions under which visitation may be suspended.

N.C. Gen. Stat. § 7B-905.1(a) (2019).

> In the absence of findings that the parent has forfeited their right to visitation or that it is in the child's best interest to deny visitation the court should safeguard the

> parent's visitation rights by a provision in the order defining and establishing the time, place, and conditions under which such visitation rights may be exercised.

In re E.C., 174 N.C. App. 517, 522, 621 S.E.2d 647, 652 (2005) (*purgandum*).

Here, the trial court did not make a finding of fact that it was in the best interests of the juveniles to deny visitation with Respondent-Parents or that Respondent-Parents had forfeited their rights to visitation. Therefore, we remand to the trial court for entry of appropriate findings regarding visitation.

Conclusion

Accordingly, Respondent-Mother's petition for writ of certiorari is denied, and Respondent-Parents' assignments of error relating to the admission of hearsay statements are dismissed. Further, the trial court did not err when it adjudicated Jerry and Tabitha neglected juveniles. However, we remand to the trial court for additional findings of fact on the issue of visitation.

NO ERROR IN PART, REMANDED IN PART, DENIED IN PART.

Judges ZACHARY and BROOK concur.

Report per Rule 30(e).