IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA23-253

Filed 16 January 2024

Randolph County, Nos. 21 JA 118-22

IN THE MATTERS OF: P.C., L.C., A.C., K.C., S.C.

Appeal by Mother from order entered 30 November 2022 by Judge Scott Etheridge in Randolph County District Court. Heard in the Court of Appeals 29 November 2023.

Chrystal Kay for petitioner-appellee Randolph County Department of Social Service.

Parent Defender Wendy C. Sotolongo, by Assistant Parent Defender J. Lee Gilliam, for respondent-appellant mother.

Poyner Spruill LLP, by Caroline P. Mackie and Andrea M. Liberatore, for guardian ad litem.

MURPHY, Judge.

Although the right to parent one's own children is protected by the U.S. Constitution, a parent forfeits this right when she is unfit to care for her children or when she acts inconsistently with this protected status. The trial court properly concluded, based on findings of fact supported by clear, cogent, and convincing evidence, that Mother acted inconsistently with her protected status as a parent, and

therefore, the trial court did not err by granting guardianship of the minor children to their current care providers. Although Randolph County Department of Social Services ("DSS") failed to consistently deliver the children to visitation with Mother, the trial court's conclusion that further reunification efforts would be futile is also supported by its findings of fact. Finally, we do not disturb the trial court's decision not to award Mother visitation absent an abuse of discretion.

BACKGROUND

Mother appeals from the trial court's order granting guardianship of her minor children—P.C. ("Kenna"), L.C. ("Norbert"), A.C. ("Lowell"), K.C. ("Yolanda"), and S.C. ("Vance")—to their placement providers.[1] DSS first became involved with this family on 9 June 2021, when it received a report alleging that the minor children were being improperly homeschooled.[2] After receiving this report, DSS interviewed the minor children. During these interviews, some of the children reported that Mother had hit them with a closed fist. Specifically, the children stated that Mother had punched both Lowell and Vance, inflicting pain and bruising. At the time that DSS filed its petition, Mother had a sixth minor child, Alma, who has since reached the age of majority.[3] During DSS's investigation, Mother admitted to DSS that Alma had been

[1] We use pseudonyms to protect the juveniles' identities and for ease of reading.
[2] Father is not a party to this appeal.
[3] We use a pseudonym to protect the juveniles' identities and for ease of reading.

inappropriately touched by her adult half-sister, though Mother had not informed law enforcement or sought treatment for Alma after the incident.

DSS's investigation also revealed that Mother slept at her boyfriend's house, away from the children, throughout the week, only coming home on weekends; that the children's older sister, not their Mother, homeschooled them; that the children were not appropriately educated for their individual ages; that there was a history of domestic violence between Mother and Father; that Mother and Father were separated pending divorce; that Father had a sexual relationship with the same half-sister who had inappropriately touched Alma when the half-sister was 17 years old and had fathered her child; that Mother continued to allow the children to have unsupervised overnight visitation with Father, in spite of his previous relationship with a minor; and that Alma struggled with self-harm and eating disorders, but Mother insisted she did not need professional help. On 18 June 2021, DSS filed a petition to adjudicate the children as neglected and dependent, alleging that Mother and Father were unable to provide any proper and willing caregiver as placement for the children outside of the home and that the children "do not receive proper care, supervision, or discipline from [Mother and Father] and live in an injurious environment." That same day, the trial court granted DSS non-secure custody of the children. The trial court scheduled a hearing on need for continued non-secure custody to occur on 21 June 2021 and continued non-secure custody in an order

entered 21 July 2021. The trial court presided over further hearings, during which it continued non-secure custody.

On 12 January 2022, the trial court adjudicated the children neglected and dependent. The trial court further ordered that "[t]he minor children shall remain in the custody of [DSS]," Mother and Father shall comply with their respective case plans, Mother and Father shall have a minimum of one hour of visitation with the children every other week, DSS "shall continue to make reasonable efforts to reunify the minor children with a parent[,]" and a permanency planning hearing shall be held on 30 March 2022.

On 10 June 2022, the trial court ordered the primary permanent plan for the children to be guardianship, with a secondary plan of reunification. In this order, the trial court made the following finding of fact:

> [DSS] has made reasonable efforts to reunify the minor children with a parent and to establish safe and timely permanence for the minor children, to prevent the minor children's ongoing need for foster care placement, and to meet the needs of the minor children. Those efforts have included the following:
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> > d. [DSS] has met with the Mother to receive updates on her case plan.
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> > . . . .
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> > g. [DSS] updates the Mother and Father about the minor children's medical and mental health treatment.

> h. [DSS] facilitates in-person visitation between the minor children and the Mother.
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> . . . .
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> j. [DSS] has facilitated sibling visits for the minor children.
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> k. [DSS] arranged for the minor children [Yolanda] and [Kenna] to be placed with their brothers in Benson, NC.
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> l. [DSS] has requested medical records for the minor children from primary care physicians, specialists, and dentists.
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> m. [DSS] conducts Permanency Planning Review Meetings every 90 days for the minor children.
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> n. [DSS] meets monthly with the minor children and their placement providers to receive updates.

On 17 November 2022, the trial court entered a permanency planning hearing order, in which it made the following findings:

> 192. The Mother has supervised visitation with the minor children, scheduled for one hour every other week, at [DSS]. The Mother's visitation is scheduled for every other Monday from 4:00-5:00pm.
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> 193. The Mother has had 12 possible visits. She has attended 12 of the 12 visits, however the minor children have not attended visits with the Mother consistently since the last hearing. [DSS] has driven to the minor children's schools to provide transportation for the minor children to attend visitations, but the minor children have often refused to get into the van to come to visitation, stating they do not wish to see the Mother.

194. The Mother had a visitation scheduled at [DSS] . . . [that] took place on [8 June] 2022. The minor child [Kenna] was the only child who attended the visitation . . . . The Mother was appropriate during the visitation with the minor child [Kenna].

195. The Mother had another visitation scheduled at [DSS] on [13 June] 2022. The minor children [Yolanda] and [Kenna] were the only children who attended the visitation. The Mother was appropriate during the visitation and there were no concerns noted by [DSS].

196. The Mother had a visitation scheduled at [DSS] on [27 June] 2022. The minor children all refused the visit with the Mother on this date.

197. The Mother had another visitation scheduled at [DSS] on [11 July] 2022. The minor children all refused the visit with the Mother on the date.

198. The Mother had a visitation scheduled at [DSS] on [25 July] 2022. The minor children [Yolanda] and [Alma] were the only minor children who did not refuse to visit with the Mother on this date . . . .

199. The Mother had a visitation scheduled at [DSS] on [8 August] 2022. The minor children [Alma], [Yolanda], and [Lowell] were the only minor children who did not refuse to visit with the Mother . . . . During the visitation, the Mother was appropriate and there were no concerns noted in the visitation.

200. The Mother had a visitation scheduled at [DSS] on [22 August] 2022. All minor children refused to visit with the Mother . . . .

201. On [14 September] 2022, the Mother had a visit scheduled at [DSS] . . . . All minor children refused to attend the visit on this date.

> 202. The Mother was scheduled for an in-person visit on [19 September] 2022, [and] all minor children refused to visit with the Mother.
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> . . . .
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> 204. The Mother was scheduled for an in-person visitation with the minor children on [3 October] 2022. The minor child [Alma] was the only child who attended the visit with the Mother . . . .
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> 205. The Mother was scheduled for an in-person visitation with the minor children on [17 October] 2022. The minor children all refused to visit with the Mother[,] but the Mother was present for the visit.
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> 206. The Mother is also afforded one hour of virtual visitation, on the weeks that she does not receive in person visitation. Since the last court date, the minor children have each refused to visit with her virtually. The placement providers report that they bring the children the phone to speak with the Mother and each child states they do not wish to speak with her.
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> 207. On [18 August] 2022, [DSS] observed the virtual contact between the minor children and the Mother. The foster father took his phone to each child, stating the Mother was on the phone and wanted to speak with them. Each child stated, "[N]o thank you."
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> . . . .
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> 210. [DSS] has spoken in length, in private, with each minor child about why they refuse to visit with the Mother[.]

The trial court also made findings that each minor child's individual therapist did not recommend involving Mother and Father in their therapy sessions yet, given the fact that they were still in the early stages of processing trauma involving the parents.

The trial court found that "[DSS] ha[d] made the following reasonable efforts towards" the secondary permanent plan of reunification:

> i. [DSS] has conducted Permanency Planning Review Meetings every 90 days.
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> ii. [DSS] has met monthly with the minor children and placement providers.
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> iii. [DSS] has arranged for visitation between the minor children and the Mother.
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> . . . .
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> v. [DSS] scheduled a Child and Family Team Meeting to discuss visitation between the minor children and the Mother.
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> vi. [DSS] referred the Mother to parenting classes.
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> . . . .
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> xiii. [DSS] has assessed the Mother's home in Liberty.
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> xiv. [DSS] has maintained contact with the Mother's therapists.
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> xv. [DSS] has reviewed the Mother's verifications of income.
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> xvi. [DSS] has verified that the Mother is employed with Orange County Schools.
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> xvii. [DSS] has provided the Mother with contact information for the minor children's therapists.
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> xviii. [DSS] has provided transportation for the minor children to attend visitations with the Mother and Father.

> xix. [DSS] has spoken privately with the minor children to determine why they are unwilling to visit with the Mother and Father.
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> . . . .
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> xxv. [DSS] has had regular contact with the Mother.
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> . . . .
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> xxvii. [DSS] has provided transportation for the minor children to and from visitation.

The trial court also found:

> 301. There is clear, cogent, and convincing evidence the Mother is available to the children, [DSS] and the [trial court]. The Mother attends visitation with the minor children regularly, but the minor children often refuse to visit with the Mother. The Mother is available to communicate with [DSS] to discuss the minor children's needs. The Mother provides updated contact information to [DSS] as needed. The Mother has attended court hearings for the minor children.
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> 302. There is clear, cogent, and convincing evidence the Mother is acting in a manner inconsistent with the health and safety of the children because the Mother refuses to accept responsibility for her actions that led to the minor children entering the care of [DSS]. [Mother's psychological evaluator], who completed the Mother's psychological evaluation in September 2021[,] reported, "[DSS] has concerns that [Mother] physically assaulted her children, exposed them to domestic violence, failed to meet their mental health and educational needs, and failed to act appropriately in response to [Alma's] report of having been molested by her older sister. [Mother] denies culpability regarding any of these concerns. Until these discrepancies are resolved, reunification would not appear appropriate [. . . .] It is highly unlikely that interventions such as therapy or counseling will lead to [Mother] making

significant changes in her parenting or other behaviors unless her perspective changes. However, counseling with an appropriately trained and licensed therapist might be helpful in developing [Mother's] insight regarding maladaptive behaviors." The Mother has been in therapy . . . since May 2022, the Mother continues to not accept responsibility for her actions, so the Mother's perspective about how she has neglected the children has not changed even though she has been engaging in mental health treatment. [Mother's therapist] reported that the Mother stated the minor children came into care due to the minor children being behind grade level in school and due to the minor children's Father having a child with her oldest daughter. [Mother's therapist] reported that the Mother failed to report that the minor children also came into care because of the Mother not providing proper supervision of the minor [children] while staying with her boyfriend in his home, the minor children being significantly behind in school while the Mother reported to homeschool the minor children, exposing the minor children to domestic violence between the Mother and Father, and the Mother not getting the minor child [Alma] mental health treatment for her sexual assault. The Mother has been involved in mental health treatment for multiple months, but has not fully engaged in a therapeutic relationship with her therapist.

303. There is clear, cogent, and convincing evidence, based on the Mother's lack of progress in mental health treatment and the minor children's refusal to visit with the Mother, ongoing reunification efforts will not likely lead to successful reunification in the next six months.

304. There is clear, cogent, and convincing evidence that reunification efforts with the Mother would clearly be unsuccessful and would be inconsistent with the juveniles' health or safety. The minor children have been in [DSS's] custody since June, 2021, over sixteen months, and in that time the Mother's perspective on her culpability in neglecting the minor children and her role in their trauma has not changed and results in it not being possible to

> safely reunify the minor children with the Mother. Therefore, reunification efforts as defined by [N.C.G.S. §] 7B-101 shall be ceased with the Mother.
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> . . . .
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> 311. [DSS] recommends that guardianship of the minor children [Vance], [Lowell], and [Norbert], be granted to the current placement providers in order for permanence to be achieved for the minor children. The [guardian ad litem ("GAL")] program recommends that guardianship of the five children, [Kenna], [Norbert], [Lowell], [Yolanda], and [Vance] be granted to the placement providers.
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> . . . .
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> 313. There is clear, cogent, and convincing evidence that the plans of reunification and adoption would be contrary to the welfare and best interest of the minor children and that granting guardianship to the placement of the provider is in the best interest of the minor children [Kenna], [Norbert], [Lowell], [Yolanda], and [Vance].
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> . . . .
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> 315. There is clear, cogent, and convincing evidence [Mother] has acted in a manner that is contrary to [her] [constitutionally] protected status as parent.
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> 316. There is clear, cogent, and convincing evidence the Mother is not a fit and proper [person] to have the care, custody, and control of the minor children. The Mother has caused or contributed to the minor [children's] neglect and has not taken action to correct the circumstances of the children's neglect. The Mother has not demonstrated that she is ready, willing, and able to provide safe and appropriate care in a basic safe, stable home for the minor children.

The trial court concluded as a matter of law:

> 2. [DSS] has made reasonable efforts to reunify the minor children with the Mother and Father, to implement safe and timely reunification for the minor children, to eliminate the minor [children's] ongoing need for foster care, and to otherwise meet the needs of the minor children.
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> 3. There is clear, cogent, and convincing evidence the Mother has acted in a manner that is contrary to her constitutionally protected status as a parent and is not a fit and proper person to have the care, custody, and control of the minor children.
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> . . . .
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> 6. There is clear, cogent, and convincing evidence further reunification efforts would be contrary to the minor children's best interests, health, safety, and welfare, and would clearly be unsuccessful and shall therefore be ceased.
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> 7. It is in the best interests of the minor children . . . to be placed into the guardianship of [their current care providers].
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> 8. The plan of guardianship for the minor children . . . has been achieved.

On 30 November 2022, the trial court entered its order granting guardianship to the children's current care providers and ordering that "Mother shall have no [c]ourt ordered visitation with any of the minor children at this time." Mother timely appealed.

ANALYSIS

The U.S. Constitution protects a parent's right to "the companionship, custody, care, and control" of her children. *Boseman v. Jarrell*, 364 N.C. 537, 549 (2010). This

right may only be taken away "upon a showing that the parent is unfit to have custody . . . or where the parent's conduct is inconsistent with his or her constitutionally protected status[.]" *In re A.C.*, 247 N.C. App. 528, 533 (2016) (quoting *Adams v. Tessener*, 354 N.C. 57, 62 (2001)) (alteration and omission in original).

On appeal, Mother argues that the trial court erred by entering its guardianship order because its findings of fact and conclusions of law regarding Mother's actions inconsistent with her constitutionally protected status as a parent were unsupported by competent evidence. Mother also argues that the trial court's finding that DSS had made reasonable efforts to reunify Mother and the children were unsupported by competent evidence. Finally, Mother contends that the trial court abused its discretion in awarding Mother no visitation with the children.

"[Appellate review] of a permanency planning order is limited to whether there is competent evidence in the record to support the findings and whether the findings support the conclusions of law. Questions of statutory interpretation are questions of law, which are reviewed *de novo* by an appellate court." *In re J.T.S.*, 268 N.C. App. 61, 67 (2019) (citation and marks omitted).

A. Constitutionally Protected Status of Parent

Mother first contends that the trial court erred as a matter of law by concluding that she acted inconsistently with her constitutionally protected status as a parent. The trial court concluded

> [t]here is clear, cogent, and convincing evidence the Mother has acted in a manner that is contrary to her constitutionally protected status as a parent and is not a fit and proper person to have the care, custody, and control of the minor children.

Mother claims that the trial court made only "nominal findings" to support this conclusion:

> 315. There is clear, cogent, and convincing evidence [Mother] has acted in a manner that is contrary to [her] [constitutionally] protected status as parent.
>
> 316. There is clear, cogent, and convincing evidence the Mother is not a fit and proper [person] to have the care, custody, and control of the minor children. The Mother has caused or contributed to the minor [children's] neglect and has not taken action to correct the circumstances of the children's neglect. The Mother has not demonstrated that she is ready, willing, and able to provide safe and appropriate care in a basic safe, stable home for the minor children.

Mother argues these findings are inconsistent with the record. She further claims "[t]here was no dispute that [she] had thoroughly engaged in the activities in her case plan." While DSS notes in its brief that "Mother . . . substantially completed or engaged in all of her services," it contends that this "engagement was only technical and not meaningful compliance when it came to mental health and parenting."

DSS argues that our Supreme Court has held that a parent's "compliance with a case plan does not preclude a finding of neglect." DSS compares Mother's circumstances with those of the respondent parents in *In re L.L.G.* *See In re L.L.G.*, 379 N.C. 258, 268 (2021). Although *L.L.G.* was an appeal from an order terminating

the parents' parental rights for neglect under N.C.G.S. § 7B-1111(a)(1), not an appeal from a guardianship order, the facts which led the trial court to conclude that the parents' rights may be terminated for neglect are similar to the facts in Mother's case. In *L.L.G.*,

> [a DSS worker] testified that [the] respondents had not fully acknowledged responsibilty for why the children came into DSS's care. [The children's therapist] testified that [the] respondents never acknowledged any kind of responsibility for the children's behavior and that the only event that [the] respondents both acknowledged that could have possibly been negative was the missed dental appointment for [one of the children].

Id. Our Supreme Court found that this testimony "support[ed] the trial court's finding that [the respondent father] continued to lack an appreciation and acceptance of responsibility." *Id.* Ultimately, our Supreme Court held that "the findings [which] establish that [the] respondents failed to accept responsibility for their actions and for the trauma the children experienced" supported the trial court's "conclusion that [the] respondents neglected the children and that there was a high likelihood there would be a repetition of neglect if they were returned to their care." *Id.* at 270-71.

In this case, the trial court made the following finding pertaining to Mother's failure to accept responsibility for her role in the children being removed from the home:

> 302. There is clear, cogent, and convincing evidence the Mother is acting in a manner inconsistent with the health and safety of the children because the Mother refuses to accept responsibility for her actions that led to the minor

> children entering the care of [DSS]. [Mother's psychological evaluator], who completed the Mother's psychological evaluation in September 2021[,] reported, "[DSS] has concerns that [Mother] physically assaulted her children, exposed them to domestic violence, failed to meet their mental health and educational needs, and failed to act appropriately in response to [Alma's] report of having been molested by her older sister. [Mother] denies culpability regarding any of these concerns. Until these discrepancies are resolved, reunification would not appear appropriate . . . . The Mother has been in therapy . . . since May 2022, the Mother continues to not accept responsibility for her actions, so the Mother's perspective about how she has neglected the children has not changed even though she has been engaging in mental health treatment. [Mother's therapist] reported that the Mother stated the minor children came into care due to the minor children being behind grade level in school and due to the minor children's Father having a child with her oldest daughter. [Mother's therapist] reported that the Mother failed to report that the minor children also came into care because of the Mother not providing proper supervision of the minor [children] while staying with her boyfriend in his home, the minor children being significantly behind in school while the Mother reported to homeschool the minor children, exposing the minor children to domestic violence between the Mother and Father, and the Mother not getting the minor child [Alma] mental health treatment for her sexual assault. The Mother has been involved in mental health treatment for multiple months, but has not fully engaged in a therapeutic relationship with her therapist.

This finding is based on clear, cogent, and convincing evidence, including the opinion of Mother's psychological evaluator, the reports given by both DSS and Mother's therapist, and Mother's own testimony during the 2 November 2022 hearing denying the allegations that she physically abused or punished the children, that she did not

attempt to get therapy for Alma after the sexual assault, and that she left the children alone in the home for long periods of time.

Furthermore, the GAL cites our Supreme Court's holding "that any past circumstance or conduct which could impact either the present or the future of a child is relevant, notwithstanding the fact that such circumstance or conduct did not exist or was not being engaged in at the time of the custody proceeding." *Speagle v. Seitz*, 354 N.C. 525, 531 (2001), *cert. denied*, 536 U.S. 923 (2002). The trial court found that the children continue to work towards processing trauma involving their parents in therapy, and that their individual therapists report the children are not yet ready to involve Mother in their sessions. Although Mother complied with the majority of her case plan, reports from the children's therapists as to Mother's involvement in the children's trauma constitute "clear, cogent, and convincing evidence the Mother is acting in a manner inconsistent with the health and safety of the children because the Mother refuses to accept responsibility for her actions that led to the minor children entering the care of [DSS]."

The trial court's finding numbered 302 is supported by clear, cogent, and convicing evidence, and this finding supports the trial court's conclusion that "Mother has acted in a manner that is contrary to her constitutionally protected status as a parent and is not a fit and proper person to have the care, custody, and control of the minor children."

B. Reasonable Efforts

Next, Mother argues that the trial court erred by determining that DSS engaged in reasonable efforts towards reunifying her with the children and that further reunification efforts would likely be unsuccessful. Chapter 7B defines "reasonable efforts" as

> [t]he diligent use of preventive or reunification services by a department of social services when a juvenile's remaining at home or returning home is consistent with achieving a safe, permanent home for the juvenile within a reasonable period of time. If a court of competent jurisdiction determines that the juvenile is not to be returned home, then reasonable efforts means the diligent and timely use of permanency planning services by a department of social services to develop and implement a permanent plan for the juvenile.

N.C.G.S. § 7B-101(18) (2021).

Mother argues that DSS did not make reasonable efforts towards reunification between Mother and the minor children because "it took DSS almost six months to get the boys into therapy" and "nine months for the girls[;]" "in the summer between the two permanency planning hearings, the children were moved to different therapists and basically started over with trauma processing, indefinitely delaying the possible start to any therapy involving [Mother;]" and "[b]y [DSS's] own account, the children were not consistently brought to visitation, even though [Mother] was there and available." Mother contends that "[a] diligent effort to reunify would have been to recommend increased visits early on and let the children become more

comfortable with [Mother] after not having seen her for some time, and actually bring them to visits."

Our Supreme Court recently reviewed a parent's argument "that DSS failed to provide reasonable efforts to implement the child's permanent plan by not providing [the mother] with any visits with [her minor child] between late September 2019 and February 2020." *In re C.C.G.*, 380 N.C. 23, 35 (2022). In *In re C.C.G.*, the mother "contend[ed] that because visitation is an essential part of reunification, there can be no reasonable efforts toward reunification or preventing foster care when DSS is not providing visitation with the child's mother, even though it is still in the child's best interests." *Id.* Our Supreme Court disagreed, holding:

> [The respondent] thus challenges the trial court's determination "[t]hat Ashe County DSS has made reasonable efforts to finalize the permanent plan to timely achieve permanence for the juvenile and eliminate placement in foster care, reunify this family, and implement a permanent plan for the child." The trial court's other findings and the DSS report incorporated by reference into its order support this determination. The trial court found that reunification efforts were made to finalize permanency, including contacting respondent, attempting to contact [the] respondent, maintaining contact with [the minor child] and the placement providers, and facilitating an updated psychological evaluation for [the minor child]. The social worker also went to meet [the] respondent in jail in January 2020 to discuss her family service agreement. [The] [r]espondent, however, refused to meet with her. The DSS report further shows that, among other things, DSS had coordinated supervised visits between [the] respondent and [the minor child] prior to late September 2019, scheduled a supervised visitation in late September that [the] respondent cancelled, offered to

> provide [the] respondent transportation assistance that [the] respondent rejected, held Child and Family Team Meetings, and made multiple attempts to meet with and contact [the] respondent, through phone calls and home and jail visits. Collectively, these findings show that DSS was diligently using and providing preventive or reunification services. Therefore, [the] respondent's argument is overruled.

Id. at 35–36 (first alteration in original). While it is clear that a lack of visitation does not inherently render DSS's efforts unreasonable, the respondent's actions in *C.C.G.* differ greatly from those undertaken by Mother. In its finding numbered 301, the trial court found that Mother "is available to the children, [DSS] and the [trial court;]" "attends visitation with the minor children regularly, but the minor children often refuse to visit with the Mother[;]" "is available to communicate with [DSS] to discuss the minor children's needs[;]" "provides updated contact information to [DSS] as needed[;]" and "has attended court hearings for the minor children."

Although the trial court found that DSS provided transportation from the children's school to visitation, it also found that the children often expressed they did not wish to visit Mother and would not be transported to visitation, based on their refusal to enter the DSS van. Our Supreme Court's holding in *C.C.G.* should not be misconstrued as to eliminate visitation from DSS's duty to provide reasonable efforts towards reunification in all situations; rather, it serves to demonstrate that in some factual instances, providing visitation may not be necessary to support the trial court's finding that DSS made reasonable efforts towards reunification. We do not

accept Mother's contention that "[a] diligent effort to reunify" would require DSS "to recommend increased visits early on and let the children become more comfortable with [Mother] after not having seen her for some time[.]" Here, however, the trial court ordered that "Mother shall have a minimum of one hour every other week of in-person visitation, supervised by an agent of [DSS] at [DSS]." We do not condone DSS's failure to consistently deliver the children to this court-ordered visitation. Nevertheless, we hold that the trial court did not err in concluding that "[t]here is clear, cogent, and convicing evidence further reunification efforts would be contrary to the minor children's best interests, health, safety, and welfare, and would clearly be unsuccessful[,]" because this conclusion is supported by the trial court's findings of fact.

Under N.C.G.S. § 7B-906.2(d), at each permanency planning hearing the trial court is required to make written findings of fact as to "the degree of success or failure toward reunification[.]" These written findings must include:

> (1) Whether the parent is making adequate progress within a reasonable period of time under the plan.
>
> (2) Whether the parent is actively participating in or cooperating with the plan, [DSS], and the [GAL] for the juvenile[s].
>
> (3) Whether the parent remains available to the court, [DSS], and the [GAL] for the juvenile[s].
>
> (4) Whether the parent is acting in a manner inconsistent with the health or safety of the juvenile[s].

N.C.G.S. § 7B-906.2(d) (2021).

Mother asserts that "[t]he trial court erred in finding that further reunification efforts were highly unlikely to succeed and were inconsistent with the children's health and safety[]" because "[o]ther than the issue of accepting blame for the children's removal . . . all of the factors in [N.C.G.S. §] 7B-906.2(d) are in [Mother's] favor, as acknowledged by DSS in its May 2022 report." However, the trial court made written findings about each of the factors in N.C.G.S. § 7B-906.2(d). "The trial [court's] decisions as to the weight and credibility of the evidence, and the inferences drawn from the evidence are not subject to appellate review[,]" so long as its findings of fact are supported by competent evidence. *In re D.W.P.*, 373 N.C. 327, 330 (2020). Even if, as Mother contends, each of the other factors weighs in her favor, the trial court could properly weigh the evidence and conclude that Mother's failure to accept blame for the children's removal rendered further reunification efforts "clearly unsuccessful." The trial court's findings related to lack of future success were supported by clear, cogent, and convincing evidence and are binding on appeal. *Id.* ("Findings of fact supported by competent evidence are binding on appeal, despite evidence in the record that may support a contrary finding."). The trial court's decision to eliminate reunification with Mother from the permanent plan is reviewed for abuse of discretion. *In re J.M.*, 384 N.C. 584, 591 (2023). "Abuse of discretion results where the court's ruling is manifestly unsupported by reason or is so arbitrary that it could not have been the result of a reasoned decision." *Id.* The trial court

made numerous findings of fact regarding the failure to reunify the children with Mother and the futility of future reunification efforts. Based on these findings, the trial court's decision to eliminate reunification with Mother from the permanent plan for the children cannot be said to be "so arbitrary that it could not have been the result of a reasoned decision." *Id.*

C. Visitation

Under N.C.G.S. § 7B-905.1(a), "[a]n order that removes custody of a juvenile from a parent, guardian, or custodian . . . shall provide for visitation that is in the best interests of the juvenile consistent with the juvenile's health and safety, including no visitation." N.C.G.S. § 7B-905.1(a) (2021). "If the juvenile is placed or continued in the custody or guardianship of a relative or other suitable person, any order providing for visitation shall specify the minimum frequency and length of the visits and whether the visits shall be supervised." N.C.G.S. § 7B-905.1(c) (2021). We review an order awarding the parent no visitation for abuse of discretion. *In re C.M.*, 183 N.C. App. 207, 215 (2007). We may only reverse the trial court's visitation order if its determination of the children's best interests is arbitrary or unreasonable. *Id.* Mother argues that the trial court's decision not to award her visitation was arbitrary and unreasonable, because the trial court awarded Father supervised visitation for a minimum of one hour each month despite his failure to consistently engage in his case plan. We do not find this argument convincing. Whether the trial court awarded Father visitation has no bearing on whether it should have awarded Mother

visitation. Furthermore, the children reported that they have a "positive relationship" with Father and wish to maintain that relationship, whereas the children repeatedly refused to see Mother and each independently reported that they do not like to visit with her. Based on Mother's past actions towards the children, the children's lack of desire to see Mother, and Mother's failure to accept responsibility for the conditions which led to the children's removal from the home, the trial court's decision to not award Mother any visitation at this time is not so arbitrary or unreasonable to constitute abuse of discretion.

CONCLUSION

The trial court did not err by granting guardianship to the minor children's current care providers, and it did not abuse its discretion in awarding Mother no visitation with the children.

AFFIRMED.

Chief Judge DILLON and Judge GORE concur.

Report per Rule 30(e).