IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA23-39

Filed 16 April 2024

Wake County, Nos. 22 JA 73–79

IN THE MATTER OF: P.H., A.H., I.H., L.H., N.H., F.H, H.H.

Appeal by respondent-father from order entered 4 October 2022 by Judge V.A. Davidian, III, in Wake County District Court. Heard in the Court of Appeals 4 March 2024.

Mary Boyce Wells for petitioner-appellee Wake County Health and Human Services.

Kathleen Arundell Jackson for guardian ad litem.

Mercedes O. Chut for respondent-appellant father.

PER CURIAM.

Respondent-father appeals from the trial court's adjudication and disposition order which adjudicated his minor children P.H. (Penelope), A.H. (Anna), I.H. (Isaac), L.H. (Luke), N.H. (Nancy), F.H. (Frances), and H.H. (Hannah)[1] as neglected juveniles, continued the children's custody with petitioner Wake County Health and

[1] Pseudonyms are used to protect the identities of the juveniles and for ease of reading.

Human Services (WCHHS), and suspended respondent-father's visitation. After review, we conclude that respondent-father's challenges to the adjudication portion of the order and to the majority of the disposition portion of the order are meritless; however, the trial court did not make sufficient findings to justify removing Penelope and Anna from the care of their paternal aunt. Accordingly, we affirm in part and reverse in part.

I. Background

This case began on 6 May 2022 when WCHHS filed seven juvenile petitions alleging that respondent-father's children were neglected and dependent juveniles. In each petition, WCHHS alleged that it became involved with the family beginning on 26 July 2021, when it received a Child Protective Services (CPS) report alleging improper care and improper supervision of the children. The report claimed that respondent-father constantly smoked marijuana in the presence of the children, that he left them unsupervised in the hallway of the hotel where they lived so that prostitutes could use the room, and that the children were dirty and not provided enough food. On 15 September 2021, WCHHS determined that services were not recommended. However, because of the report, respondent-father voluntarily placed the five oldest children—Isaac, Luke, Nancy, Frances, and Hannah—with their paternal aunt, Ms. A.

WCHHS further alleged that it received additional CPS reports in March and April 2022. One of the reports was received after the Raleigh Police Department

executed a search warrant for the home of respondent-father and Penelope's mother (Ms. R.).[2] The report described the officers' observations during the search as follows: Upon entering the residence, officers found it to be in total disarray and noticed a pungent smell of urine, body odor, and feces. Penelope and Anna were found in an upstairs bedroom. Penelope was in a badly stained "pack and play style crib," and she was wearing an oversized dirty diaper and had dried feces on the back of her shirt. The bedroom contained an open safe with a large quantity of marijuana, marijuana packaging, and a digital scale inside. Officers also found a cutting board "dusted in white powder" which a preliminary test kit showed to be cocaine. Respondent-father was arrested and charged with child abuse and numerous drug crimes. Ms. R. was arrested and charged with similar crimes a few days later.

WCHHS next alleged that, following his arrest, respondent-father agreed to place Penelope and Anna with their paternal aunt, Ms. C., as a safety placement. On 5 May 2022, WCHHS tried to establish visitation between respondent-father and his five oldest children, to be supervised by Ms. A., but respondent-father refused. WCHHS also learned that the older children had been visiting with respondent-father in the home where the drug search warrant had been executed. Based on these facts, WCHHS filed the juvenile petitions.

[2] Ms. R. is the mother of Penelope, and Ms. F. is the mother of all the other children. Neither mother appealed from the trial court's order, and they are not parties to this appeal. Ms. C. is the paternal aunt of Penelope and Anna, and Ms. A. is the aunt of respondent-father.

The juvenile petitions came on for an adjudication and disposition hearing on 22 September 2022. Respondent-father did not attend the hearing, but he was represented by his counsel. On 4 October 2022, the trial court entered an order that adjudicated all of the children neglected,[3] ordered them to be removed from the custody of their paternal aunts, and suspended respondent-father's visitation. Respondent-father appeals.

II. Adjudication

Respondent-father argues that the trial court erred by adjudicating his children as neglected juveniles. He challenges several of the trial court's findings of fact and its conclusion that the children were neglected.

A. Standard of Review

When this Court reviews an adjudication of neglect, it determines whether the trial court's findings of fact are supported by clear and convincing evidence and whether the court's legal conclusions are supported by its findings of fact. *See In re C.M.*, 198 N.C. App. 53, 59 (2009). Findings of fact which are "supported by clear and convincing competent evidence are deemed conclusive [on appeal], even where some evidence supports contrary findings." *Id.* (quoting *In re Pittman*, 149 N.C. App. 756, 763–64 (2002)). When a finding is not supported by clear and convincing evidence,

[3] Although the trial court did not issue a formal ruling on WCHHS's allegation that the children were dependent juveniles, it noted while orally rending its adjudication decision that "we didn't hear much about the dependency part of this so I guess we'[v]e [] abandoned that."

"the reviewing court 'simply disregards information contained in findings of fact that lack sufficient evidentiary support' and examines whether the remaining findings support the trial court's determination." *In re A.J.L.H.*, 384 N.C. 45, 52 (2023) (quoting *In re A.C.*, 378 N.C. 377, 394 (2021)). The trial court's conclusions of law are reviewed de novo. *In re J.S.L.*, 177 N.C. App. 151, 154 (2006).

B. Neglect

Our Juvenile Code defines a "[n]eglected juvenile" in relevant part as "[a]ny juvenile less than 18 years of age . . . whose parent . . . [d]oes not provide proper care, supervision, or discipline" of the juvenile or "[c]reates or allows to be created a living environment that is injurious to the juvenile's welfare." N.C.G.S. § 7B-101(15)(a), (e) (2023). Further, "[i]n determining whether a juvenile is a neglected juvenile, it is relevant whether the 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)(g) (2023).

"Traditionally, 'there must 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 order to adjudicate a juvenile neglected.'" *In re K.S.*, 380 N.C. 60, 64–65 (2022) (quoting *In re E.P.*, 183 N.C. App. 301, 307, *aff'd per curiam*, 362 N.C. 82 (2007)). However, "there is no requirement of a specific written finding of a substantial risk of impairment." *In re G.C.*, 384 N.C. 62, 69 (2023).

1. Challenged Findings

Respondent-father challenges many of the trial court's findings of fact. We address the challenges to each finding in turn.

a. Finding of Fact 8

Respondent-father first challenges finding of fact 8, which states: "On [19 March 2022], WCHHS received a report alleging that the children were living in a filthy residence and were frequently left unsupervised while the father engaged in human trafficking and substance abuse." Respondent-father argues this finding is unsupported because (1) only two of the seven children were living in the home at issue in the report; (2) there was no evidence regarding the exact date of the report and (3) WCHHS "took no action on the March CPS report" and waited until the third report to file juvenile petitions.

WCHHS Social Worker LaKeita Bell testified that her agency received a report "regarding this family in March of 2022" that included "concerns of human trafficking, previous[] domestic violence and [] the conditions of the home." We agree that there was no evidence of the exact date of the report and therefore disregard the specific date listed in Finding 8. *See In re A.J.L.H.*, 384 N.C. at 52 (disregarding portions of findings of fact that were unsupported by the evidence).

However, Bell's testimony that the report regarded "this family" is enough to support the portion of the finding saying the report concerned "the children," as neither Bell's testimony nor the finding claims the report was about specific children

and there was no evidence that WCHHS knew which children were living with respondent-father when it received the report. Bell testified that WCHHS learned that only two children were residing in the home after they initiated an investigation based on the report.

The last portion of respondent-father's argument is meritless, as it does not challenge the finding as written. Finding 8 does not discuss whether WCHHS took any additional actions, such as filing juvenile petitions, after receiving the report. We thus leave the rest of the finding undisturbed.

b. Finding of fact 9

Finding 9 discusses the state of respondent-father's home at the time it was searched by law enforcement:

> 9. On [8 April 2022], the father and Ms. [R.] were arrested for drug possession and child abuse following execution of a search warrant at their residence by Raleigh Police Department. Law enforcement found over 250 grams of marijuana in the home packaged for sale and white powder later identified as cocaine left on surfaces that were easily accessible by the children. At the time of the incident, [Penelope] and [Anna] were present in the home and the only children living with the father and Ms. [R.].

Respondent-father challenges most of this finding. As to the first portion, respondent-father correctly argues that the evidence showed Ms. R. was not arrested on 8 April 2022. Detective Monroe testified "[Ms. R.] was arrested at a later date. I told her that . . . there would be charges coming but because the two kids were there that particular day it was decided to leave her with the two children that day and we

later arrested her on those charges." Thus, we disregard the portion of Finding 9 indicating Ms. R. was arrested on 8 April 2022. *Id.*

Respondent-father also contends that the portion of the finding stating he was arrested for "drug possession and child abuse" was unsupported because Detective Monroe's testimony about these charges was prefaced by "[a]s far as I remember," which respondent-father claims does not meet the standard for clear and convincing evidence. However, it is for the trial court, as finder of fact, to decide how much weight to give to Detective Monroe's testimony concerning his search of respondent-father's home. "Our inquiry as a reviewing court is whether the evidence presented is such that a [fact-finder] applying that evidentiary standard could reasonably find the fact in question." *In re A.C.*, 247 N.C. App. 528, 533 (2016) (quotation marks and citations omitted). We find that standard to be met here, based on the details Detective Monroe provided throughout his testimony. Moreover, the police incident report which listed respondent-father's charges was also introduced into evidence, and it provides additional support for this portion of the finding.

Respondent-father next argues the portion of Finding 9 stating that "[l]aw enforcement found over 250 grams of marijuana in the home packaged for sale" is unsupported. Respondent-father notes the incident report received into evidence lists "approximately 256 grams of marijuana" in its narrative portion but claims the

individual packages of marijuana listed in the report only add up to 214.8 grams.[4] Respondent-father also disputes that the marijuana was "packaged for sale."

Detective Monroe did not testify to the exact amount of marijuana found during the execution of the search warrant, but the narrative portion of the incident report specifically listed "approximately 256 grams of marijuana as packaged." This is sufficient to support this portion of the trial court's finding, regardless of any alleged disparity between this number and the sum of the various individual amounts of marijuana listed elsewhere in the report. *See In re C.M.*, 198 N.C. App. at 59.

Respondent-father further argues the "white powder" mentioned in Finding 9 as being "easily accessible by the children" was never "verified . . . at the State lab" to be cocaine or found in an area the children could access. However, Detective Monroe testified that he used a preliminary test kit on "scattered white powder" found at the scene which indicated the substance was cocaine, which is sufficient to support the portion of the finding that the substance was "identified as cocaine." In addition, Detective Monroe testified that "immediately when you walk into the [parents'] bedroom there was a chair in the bedroom that had a knife, cutting board, sitting on top of the chair. On top of that cutting board was scattered white powder." Although Anna and Penelope were not in the parents' bedroom at the time the search was executed, the trial court could properly infer, given the easily accessible nature

[4] The incident report lists 15.65 grams "as packaged," 16.4 grams "as packaged," 9.8 grams "as packaged," 33.6 grams "as packaged," 16.4 grams "as packaged," and 181.2 grams "as packaged."

of the cocaine residue on a chair "immediately when you walk into" that room, that it was accessible by the children. *See In re D.L.W.*, 368 N.C. 835, 843 (2016) (as the trier of fact, the district court determines "the reasonable inferences to be drawn" from the evidence).

Finally, respondent-father argues the marijuana in the home was not accessible to Penelope and Anna because, despite the fact marijuana was found in the room where they were found, there is no evidence Penelope could exit her playpen and no evidence Anna could open any jars of marijuana. This argument is meritless. Detective Monroe testified that when he entered the room where Penelope and Anna were found, a safe located within a few feet of Anna "was ajar and we opened it up and the safe was already ajar and inside the safe was the marijuana." In addition, the incident report stated that "[t]he safe was in a position that the children could walk or crawl right up to it and remove the drugs from the safe." Defective Monroe's testimony and the incident report were sufficient to support the trial court's finding that marijuana was accessible by the children.

c. Finding 10

Respondent-father next challenges Finding 10, which states: "A dry erase board located on a wall in the children's bedroom detailed the family's profit from drug deals and prostitution." He argues this statement is unsupported because the only evidence regarding the dry erase board was Detective Monroe's testimony that the board referenced drug profits. We agree that Detective Monroe did not mention

prostitution when testifying about the dry erase board and therefore disregard the portion of Finding 10 that refers to the dry erase board mentioning prostitution profits. *See In re A.J.L.H.*, 384 N.C. at 52.

d. Finding 11

Respondent-father challenges several portions of Finding 11, which states: "The father's home was filthy, littered with urine, feces, body odor and stained surfaces from old food and unidentified liquids. The youngest child was found by police in a soiled pack and play covered in dried feces. Neither child had been bathed for an extended period of time."

Respondent-father first argues there is no evidence to support the portion of the finding referring to the residence as "the father's home." However, on direct examination, Detective Monroe testified that he identified respondent-father and Ms. R. as the residents of the address subject to the search warrant. On cross examination, Detective Monroe confirmed that respondent-father acknowledged that address was his place of residence. Therefore, the evidence supports the portion of Finding 11 that the residence searched was "[t]he father's home."

Respondent-father next contends the evidence does not support the portion of the finding that states the home was littered with feces and urine. However, Detective Monroe testified that he noted a strong odor of urine and feces upon entering the home, and that he found Penelope in a filthy "Pack N Play" with dried feces on the back of her shirt. The incident report included more details about the

home, including that "[t]he toilet for the half bathroom was backed up containing old urine and was inoperative[;]" "[t]he floors/carpets were sticky, stained and littered with trash and food particles[;]" "[t]he room the two small children were in had an overwhelming urine smell[,]" "[t]he carpets were soiled and the room was cluttered[,]" and "[o]ld used diapers were scattered about the room." This evidence was sufficient to support this portion of the trial court's finding.

Respondent-father finally challenges the portion of the finding stating that the children had not bathed for an extended period of time. However, the incident report specifically stated that "[Anna]'s toe nails and finger nails were caked with dirt and grime. It appeared that neither child had been bathed recently as they both had dried filth about their bodies." Additionally, as previously noted, Detective Monroe testified he found Penelope in a filthy "Pack N Play" with dried feces on the back of her shirt. He further testified that it appeared no one in the residence was using the bathtub and might have only been using a sink to bathe. Like the prior portions of Finding 11, this portion was also supported by the evidence.

e. Finding 12

Respondent-father additionally challenges Finding 12, which states: "Following the arrest, the father and Ms. [R.] agreed to place [Penelope] and [Anna]

with the children's paternal aunt, [Ms. C.]. The father's other biological children[5] had been previously voluntarily placed with their paternal aunt, [Ms. A.], pursuant to a safety agreement with WCHHS from a previous case."

Respondent-father argues the latter portion of this finding is unsupported because the evidence shows he voluntarily placed his five older children with their paternal aunt and there was no safety agreement. Respondent-father is correct, as Bell specifically testified that, following a prior allegation of neglect in 2021, respondent-father's older children were voluntarily placed with their paternal aunt, Ms. A. Accordingly, we disregard the portion of Finding 12 stating that the placement was pursuant to a safety agreement. *See Id.* The remainder of the finding is supported by the evidence.

f. Finding 13

Respondent-father next challenges Finding 13, which states: "WCHHS attempted to initiate services with the family. However, the father refused to comply and was no longer willing to consent to the children's placement outside of the home, including the five children who were residing with [Ms. A.]." Respondent-father argues that there was no evidence that he was provided services or unwilling to

[5] Respondent-father also briefly challenges this finding to the extent it refers to his five oldest children as his "biological children;" he also challenges Finding 7, which states respondent-father "is listed as the father on [all children's] birth certificates. However, we decline to address these challenges, as respondent-father admits the findings are "not directly relevant to this appeal." *See In re T.M.*, 180 N.C. App. 539, 547 (2006) (erroneous findings that are unnecessary to support an adjudication of neglect do not constitute reversible error).

consent to the children's placement with their aunts.

Bell testified regarding the events leading to the filing of the juvenile petitions:

> Q. What changed through the course of your assessment that required Wake County to file a petition on not just [Penelope] and [Anna] but on all of the children?
>
> A. Once we received the call from a family member looking for the other two children because from their understanding [respondent-father] had been arrested and they didn't know where the children were and they couldn't get in contact with [Ms. R.]. We contacted the Wake County Detention Center to see if [respondent-father] was indeed, you know, incarcerated. He had been released by that time, but we couldn't find him so I went to the home and discussed the matter with him. By the time I got there he was coming -- he had been released from jail and he was walking up to the residence and we wanted to put a TSP in place, a temporary safety provider.
>
> Q. Thank you.
>
> A. In place for the children just to ensure their safety.
>
> Q. Were you able to speak to [respondent-father] about a TSP for all the children?
>
> A. Originally we did it for [Penelope] and [Anna]. He was fine with it. The other five, like I said, we didn't have to do anything because they were already in -- the family had already planned for them to stay somewhere else. That was before we got involved. But throughout the assessment [respondent-father], he no longer wanted to participate and he started to become combative and he was making threats of taking the children and leaving, so at that point we no longer felt that it was safe for the children to stay there because due to just a family agreement, there was no custody that, you know, the aunt had no paperwork saying that she could keep them, we felt that it was better to file a petition.

> Q. Okay. So at that point you couldn't ensure the safety of any of the kids because Ms. [A.], that's the aunt, didn't have any legal authority to stop the father from going to get the kids, and that's what he was threatening; is that right?
>
> A. Correct. And the father told us do what you have to do.

This testimony, which reflects that WCHHS attempted to initiate a safety plan but was unable to do so due to respondent-father's resistance and threats to remove the children, provides the necessary support for Finding 13.

g. Finding 15

Finally, respondent-father challenges Finding 15:

> 15. [Ms. F.] alleges that she was at one time employed by the father and [Ms. R.] and that they frequently left the state for prostitution and drug deals. [Ms. F.] described at least one instance when she, [Ms. R.], [respondent-father] and [Ms. A.] traveled by car to Baltimore, Maryland to conduct illegal activity. Both [respondent-father] and [Ms. R.] have physically threatened and harassed [Ms. F.] since she left, resulting in [Ms. F.] receiving a valid domestic violence protective order against both from a Wake County district court judge.

Respondent-father contends the first two sentences of Finding 15 should be stricken, as they are merely recitations of Ms. F.'s testimony, rather than findings of fact. We agree. While "[t]here is nothing impermissible about describing testimony, so long as the court ultimately makes its own findings, resolving any material disputes," *In re A.E.*, 379 N.C. 177, 185 (2021) (citations omitted), here, the trial court merely described Ms. F.'s testimony without determining whether this testimony was true. Accordingly, we disregard the first two sentences of this finding.

Respondent-father also argues the last sentence of Finding 15 is unsupported because the evidence only established that Ms. F. obtained a protective order against Ms. R., and there was no evidence she obtained a protective order against respondent-father. However, Ms. F. testified that she obtained orders of protection against both individuals, and thus, there was sufficient evidence to support the last sentence of Finding 15.

2. Adjudication of Neglect – Penelope and Anna

Respondent-father next challenges the adjudication of Penelope and Anna as neglected juveniles. He argues that the trial court's findings only establish that he "lived in a dirty, cluttered house with one inoperable, clogged toilet" on a specific date, and "[t]he conditions of the home on *one* day *one month* before the petition was filed do not establish neglect." Respondent-father further contends that, "other than being dirty, Anna and Penelope were not harmed. They did not ingest drugs."

However, much of respondent-father's argument relies on assuming his challenges to the trial court's findings were all successful. Although we disregarded some portions of the trial court's findings of fact, the remainder of the trial court's findings support its conclusion that the children were neglected juveniles. *See In re Beck*, 109 N.C. App. 539, 548 (1993) (holding that, where no evidence supported a finding, its inclusion was not reversible error because "[i]f the erroneous finding [was] deleted, there remain[ed] an abundance of clear, cogent, and convincing evidence" to support the conclusion of law). Specifically, the trial court's findings established the

truly deplorable conditions in respondent-father's home, which had clearly existed for an extended period. The home was "filthy, littered with urine, feces, body odor and stained surfaces from old food and unidentified liquids" and had drugs and drug paraphernalia scattered throughout and accessible to the children. Neither Anna nor Penelope had bathed recently, and Penelope was in a soiled pack and play and covered in feces. In light of these findings, we conclude the trial court did not err by adjudicating Anna and Penelope as neglected juveniles because they did not receive proper care and supervision and lived in an injurious environment.

3. Adjudication of Isaac, Luke, Nancy, Frances, and Hannah

Respondent-father additionally argues the trial court erred in concluding his five older children—Isaac, Luke, Nancy, Frances, and Hannah—were neglected juveniles because they did not live with respondent-father, and, thus, any neglect of Penelope and Anna that occurred in respondent-father's home is irrelevant to whether the five older children are neglected. He relies on *In re J.A.M.*, which states that "[a] court may not adjudicate a juvenile neglected solely based upon previous Department of Social Services involvement relating to other children," to support this argument. *In re J.A.M.*, 372 N.C. 1, 9 (2019). "Rather, in concluding that a juvenile 'lives in an environment injurious to the juvenile's welfare,' N.C.G.S. § 7B-101(15), the clear and convincing evidence in the record must show current circumstances that present a risk to the juvenile." *Id.*

Here, the trial court made findings reflecting the unsafe conditions of

respondent-father's home, including the lack of sufficient sanitation and the presence of drugs and drug paraphernalia, as well as a finding that at the time WCHHS filed its juvenile petition, respondent-father had threatened to remove the five older children from their aunt's care to bring them back into these same living conditions. WCHHS was not required to wait until the five older children were actually returned to respondent-father's home and living in the same unsafe conditions as Penelope and Anna before it filed its petition. *See In re T.S.*, 178 N.C. App. 110, 113 (2006), *aff'd*, 361 N.C. 231 (2007) ("It is well-established that the trial court need not wait for actual harm to occur to the child if there is a substantial risk of harm to the child in the home."). The trial court's findings were sufficient to support its adjudication of Isaac, Luke, Nancy, Frances, and Hannah as neglected juveniles.

III. Disposition

Respondent-father raises multiple challenges to the dispositional portion of the trial court's order. He contends that the trial court erred by finding he acted inconsistently with his constitutionally protected status as a parent, by removing his children from the care of their paternal aunts, and by suspending his visitation.

A. Constitutionally Protected Parental Status

Respondent-father argues the trial court erred in concluding he acted in a manner inconsistent with his constitutionally protected parental status. However, this argument is premised on respondent-father successfully challenging the trial court's adjudication of his children as neglected juveniles. As we have upheld that

adjudication, we also uphold the trial court's conclusion that respondent-father acted in a manner inconsistent with his constitutionally protected parental status. *See In re B.R.W.*, 381 N.C. 61, 82 (2022) ("As we have already discussed, '[u]nfitness, neglect, and abandonment clearly constitute conduct inconsistent with the protected status parents may enjoy[.]'" (citation omitted)).

B. Removal from Paternal Aunts' Care

Respondent-father additionally contends the trial court erred in removing the children from the paternal aunts' care.

Our Juvenile Code includes a preference for placing children with their relatives:

> (a1) In placing a juvenile in out-of-home care under this section, the court shall first consider whether a relative of the juvenile is willing and able to provide proper care and supervision of the juvenile in a safe home. If the court finds that the relative is willing and able to provide proper care and supervision in a safe home, then the court shall order placement of the juvenile with the relative unless the court finds that the placement is contrary to the best interests of the juvenile.

N.C.G.S. § 7B-903(a1) (2023). In its order, the trial court made these findings about the children's placement:

> 17. [Ms. A.] and [Ms. C.], the children's paternal aunts, are willing and able to provide the children with proper care and supervision in a safe home. However, the Court finds that it is not in the children's best interests to remain in the care of paternal relatives because of poor boundaries between the relatives and the children's father. For example, [Ms. A.] had care of the children for almost a year

> but continued to allow the children to spend extended time with the father in an environment that she knew to be dangerous. [Ms. A.] also had knowledge of the prostitution and drug sales by the parties and acquiesced to the conduct.
>
> 18. Despite the concerns about the aunts' participation in the family's lifestyle and failure to take appropriate protective action, WCHHS has recommended continued placement of the children with the paternal relatives. The Court has taken bonafide consideration of the agency's recommendations but has concluded that the children's best interests would be better served by placement in a neutral environment.

Respondent-father challenges Finding 18, arguing that there was no evidence to support the finding. However, he does not challenge Finding 17, which explains that Ms. A. had knowledge of respondent-father's illegal activities but continued to allow the five older children to spend time with him. Moreover, Ms. F. testified that Ms. A. knew respondent-father was involved in human trafficking and would watch the children while he did so in exchange for cash and marijuana. Based on these allegations made during Ms. F.'s testimony, Social Work Supervisor LaShaun Benjamin subsequently testified that, "in light of the new information that we received, we definitely are going to have a conversation to assess the appropriateness of the placement, ensuring that, you know, the children are safe and that Ms. [A.] is (inaudible)." Nonetheless, Social Worker Kendra Martin testified that she considered Ms. A. a good placement for the five older children because they were "doing very well in her home[,]" "doing very well in school[,]" and "thriving." This evidence supports

Finding 18 with respect to Ms. A.

Through Findings 17 and 18, the trial court expressly followed the statutory directive of N.C.G.S. § 7B-903(a1) by first considering whether to continue the children's placement with Ms. A. Based on its assessment of the evidence, the court then made a finding that the placement with Ms. A. would be contrary to the best interests of the children, as required by statute. Further, the trial court also ordered WCHHS to investigate other relatives. Under these circumstances, the trial court did not err by removing the five older children from Ms. A.'s care.

However, the trial court's findings do not show that it properly followed N.C.G.S. § 7B-903(a1) with respect to Ms. C. Unlike with Ms. A., there was no testimony or other evidence showing—and the court did not find—that Ms. C. was aware of or sanctioned respondent-father's participation in illegal activities. Ms. F. did not offer any negative testimony regarding Ms. C., and Social Work Supervisor Benjamin testified that the agency had no concerns with Ms. C. Since there were no findings or evidence to support the trial court's decision to remove Penelope and Anna from Ms. C.'s care, we reverse that portion of the trial court's disposition.

C. Visitation

Finally, respondent-father argues the trial court erred in suspending his visitation. Under our Juvenile Code, "[a]n 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." N.C.G.S. § 7B-905.1(a) (2023). "The order must establish a visitation plan for parents unless the trial court finds 'that the parent has forfeited their right to visitation or that it is in the child's best interest to deny visitation.'" *In re N.L.M.*, 283 N.C. App. 356, 372 (2022) (quoting *In re T.H.*, 232 N.C. App. 16, 34 (2014) (quotation marks and citation omitted)). "[T]he court must make appropriate findings to support an order denying visitation." *In re N.K.*, 274 N.C. App. 5, 11 (2020).

As part of this argument, respondent-father challenges Finding 19, which states: "The father's whereabouts are currently unknown. After the petition was filed, he has resided in Michigan, South Carolina, and North Carolina. WCHHS believes that he is currently in Raleigh, but he has neither engaged in services nor requested visits with the children." However, this finding is supported by Social Work Supervisor Benjamin's testimony that respondent-father was living in and visiting the listed states. We conclude that the circumstances described by the finding support the trial court's determination that visitation with respondent-father was not in the children's best interests. Thus, the trial court did not abuse its discretion in denying visitation.

IV. Conclusion

Based on the foregoing, we affirm the trial court's adjudication of the children as neglected, its determination that respondent-father acted contrary to his constitutionally protected status, its removal of the five older children from Ms. A.,

and its denial of visitation to respondent-father. However, since there was no evidence and no findings to support the removal of Penelope and Anna from Ms. C., we reverse that portion of the trial court's disposition.

AFFIRMED IN PART AND REVERSED IN PART.

Panel consisting of: Judges MURPHY, COLLINS, and HAMPSON.

Report per Rule 30(e).