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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA23-532

Filed 2 April 2024

Wake County, Nos. 22 JA 210-12

IN THE MATTER OF: K.R., E.R., A.A., Jr.

Appeal by Respondent-Mother from Order entered 24 February 2023 by Judge Ashleigh Parker Dunston in Wake County District Court. Heard in the Court of Appeals 4 March 2024.

*Wake County Attorney's Office, by Mary Boyce Wells, for Petitioner-Appellee Wake County Health and Human Services.*

*N.C. Administrative Office of the Courts, Guardian ad Litem Division, by Michelle FormyDuval Lynch, for Guardian ad Litem.*

*Edward Eldred for Respondent-Appellant Mother.*

PER CURIAM.

Respondent-Mother (Respondent)<sup>1</sup> appeals from an Order adjudicating her children Kris, Elle, and Adam<sup>2</sup> as neglected juveniles and adjudicating Elle and Adam as abused juveniles. On appeal, Respondent advances no arguments with respect to

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<sup>1</sup> The respective Respondent-Fathers are not parties to this appeal.

<sup>2</sup> We use pseudonyms for the juveniles as stipulated to by the parties.

the adjudications of Elle and Adam as neglected and abused. We affirm those portions of the trial court's Order. Furthermore, for reasons set forth below, we affirm the adjudication of Kris as a neglected juvenile.

## **II. Background**

Respondent is the mother of: Adam, born in November 2014; Elle, born in January 2019; and Kris, born in August 2022. Respondent's husband, Mr. R, is the father of Elle and Kris. Adam has a different father from a prior relationship.

On 13 October 2022, Wake County Health and Human Services (HHS) obtained nonsecure custody of the children and filed juvenile petitions alleging that Kris was a neglected and dependent juvenile, and that Elle and Adam were abused, neglected, and dependent juveniles.

The petitions alleged that HHS received two reports between 23 and 24 September 2022 alleging that Respondent hit Adam in the eye with a broom causing him to suffer a black eye. Respondent informed the school officials that Adam injured his eye falling off a bed.

During the social worker's initial investigation, Adam told her that he did not fall off the bed, but that his mother had hit him and asked him not to say anything about it. Adam also told the social worker that Respondent had hit both him and Elle in the face on more than one occasion.

The social worker spoke with Mr. R, who "voice[d] his own concerns about [Respondent's] prior abuse of [Adam and Elle]." The petitions alleged that Mr. R

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“specifically described watching [Respondent] kick, drag and beat [Adam and Elle] and voiced concerns about [Respondent’s] rough physical treatment of [Kris].” Mr. R told the social worker that Respondent would physically attack him if he tried to intervene. The petitions also alleged that teachers and school staff reported that both Adam and Elle “have presented with visible bruising and marks on several occasions.”

On 28 September 2022, Respondent was arrested for misdemeanor child abuse in relation to Adam’s black eye. Respondent’s conditions of release prohibited contact with both Adam and Elle and prohibited her presence at any place the children were located.

The petitions alleged that on 12 October 2022, the social worker conducted an unannounced visit at the family’s home where she learned that Mr. R was allowing contact between Respondent and the children in violation of a safety agreement with HHS and Respondent’s pretrial release conditions. Mr. R acknowledged that Respondent had been telling the children not to talk to HHS.

The petitions also alleged a history of domestic violence between Respondent and Mr. R, with Respondent having filed for domestic violence protective orders against Mr. R in November 2020 and April 2021, and a family history with child protective services in Georgia.

The trial court held a hearing on the juvenile petitions on 31 January and 1 February 2023. In an order entered 24 February 2023, the trial court adjudicated

Kris to be a neglected juvenile, and Adam and Elle to be abused and neglected juveniles. Respondent appeals.

## **II. Analysis**

“The role of this Court in reviewing a trial court’s adjudication of neglect . . . is to determine (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 D.S.*, 286 N.C. App. 1, 11, 879 S.E.2d 335, 343 (2022) (citations, brackets, and quotation marks omitted). “If such evidence exists, the findings of the trial court are binding on appeal, even if the evidence would support a finding to the contrary.” *In re T.H.T.*, 185 N.C. App. 337, 343, 648 S.E.2d 519, 523 (2007). “Unchallenged findings of fact are deemed supported by the evidence and are binding on appeal.” *In re K.W.*, 282 N.C. App. 283, 286, 871 S.E.2d 146, 149 (2022) (citation omitted). Moreover, “erroneous findings unnecessary to the determination do not constitute reversible error where an adjudication is supported by sufficient additional findings grounded in competent evidence.” *In re J.R.*, 243 N.C. App. 309, 312, 778 S.E.2d 441, 443 (2015) (quotation marks omitted). “We review a trial court’s conclusions of law *de novo*.” *Id.*

Respondent argues the trial court erred in adjudicating Kris neglected because the trial court’s findings of fact are not supported by the evidence and the remaining findings are insufficient to support the trial court’s conclusion of neglect.

### **A. Challenged Findings**

Respondent first challenges the following findings of fact:

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13. Around the same time period, the father found [Elle] outside of the family's apartment on a day that it had been raining wearing only a diaper. The child had been left with the mother and when the father tried to enter the apartment, the door was locked from the inside.

14. At the time of the [Mr. R's] initial interview with social workers in September 2022, he was fearful of speaking in the mother's presence, and he acknowledged that the mother had hit both [Elle] and [Adam]. He described multiple occasions where the mother lost control and hit [Adam] with game controllers, shoes, and other items and yelled at all the children, including the newborn.

15. During his testimony at the hearing, however, [Mr. R] minimized most of the mother's actions. While he still admitted that the mother struck [Adam] and [Elle], he now justifies the mother's assaultive behavior as common discipline used in his Mexican culture. He and the mother continue to reside together despite experiencing ongoing domestic strife and tension.

16. The mother becomes easily frustrated and overwhelmed with the children's behaviors. She maintains that both [Elle] and [Adam] try to harm themselves without her direct physical intervention and that [Adam's] ADHD results in consistently unmanageable behaviors. According to the mother, her sometimes rough physical intervention is required to keep the children safe from themselves. She says that she notifies the children's school caregivers whenever the children have noticeable marks in order to protect herself from false abuse allegations.

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19. The [c]ourt finds that the mother's explanation for [Adam's] September black eye and the children's previous injuries is not credible. While the [c]ourt agrees with the mother that [Adam] and [Elle] can exhibit difficult behaviors, the mother loses her temper and retaliates both verbally and physically against the children. During the

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September 23 incident, the mother struck [Adam] in the eye with the broom, causing the child's black eye.

....

21. The injuries to both [Elle] and [Adam] were nonaccidental and intentionally caused by the mother.

22. The mother publicly degrades and talks down to [Adam]. She has called the child "dumbass," "motherfucker," and "idiot" to his face in front of others. Furthermore, the mother told the child's afterschool teacher, while [Adam] and other classmates were present, that one of her children was the product of rape."

23. [Adam] started to become physically aggressive toward [Elle] at daycare. Both [Elle] and [Adam] have presented at daycare or school with visible bruising and marks on several occasions, including one instance where [Adam] had marks around his throat. According to the mother, she caused those marks by having to grab [Adam] by the neck before he ran in front of a car.

24. Even assuming that the mother's explanations are plausible, it remains clear that she did not ensure that appropriate services or resources were in place to help her manage the children's behaviors and repeated injuries, even though the mother says that she has sought assistance with various agencies. It's equally clear that the children were not receiving appropriate supervision given the alleged severity of the behaviors.

25. Both of the children have been repeatedly asked to lie by their mother.

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31. On October 12, 2022, the social worker visited the home unannounced to ensure the safety of the children. The social worker discovered that [Mr. R] was allowing contact between the mother and the children and acknowledged

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that the mother had been telling the children to stop talking to the agency. The mother refused to enter into a safety agreement with the agency and refused to participate in recommended services that were discussed prior to the filing of the petition.

32. [Adam] and [Elle] have been physically injured and all of the children are exposed to a substantial risk of physical injury and emotional abuse.

Respondent challenges the portion of finding of fact 13 that states the incident with Elle happened “[a]round the same time” as Adam having his black eye in September 2022. Respondent argues the evidence shows the incident happened around October or November 2020. We agree. Mr. R testified that the incident where Elle was left outside in diapers occurred in October or November 2020. Therefore, we disregard the portion of this finding stating that the incident happened around the same time as Adam’s black eye in September 2022. *See In re J.M.*, 373 N.C. 352, 358, 838 S.E.2d 173, 177 (2020) (disregarding factual findings not supported by the record). The finding is otherwise supported.

Respondent next challenges finding of fact 14 as not fully supported by the evidence because there was no testimony that Mr. R described multiple occasions where Respondent “yelled at all the children, including the newborn[,]” in his initial interview with the social worker. Respondent notes that in Mr. R’s testimony during the adjudication hearing, he specifically denied Respondent yelling *at* Kris and testified that one time when Kris would not stop crying, Respondent got frustrated and “said the F word.”

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We agree there is no evidence Mr. R told the social worker during his initial interview that Respondent yells at Kris. Additionally, during his testimony at the adjudication hearing, Mr. R testified that he had not seen Respondent yell “directly to the baby” but described a time where Kris would not stop crying, and Respondent “got so frustrated that she just said the F word[.]” Based on this evidence, we disregard the specific portion of the finding indicating that Mr. R told the social worker during his initial interview that Respondent yells at Kris.

Respondent challenges finding of fact 15, arguing that the evidence does not support the finding that Mr. R testified Respondent struck Elle. She further argues, even if he did testify as such, recitations of testimony are not proper findings of fact.

Respondent’s contention misconstrues the meaning of the trial court’s finding. Although Respondent is correct that recitations of testimony are not proper findings of fact, *see In re A.E.*, 379 N.C. 177, 185, 864 S.E.2d 487, 495 (2021), finding of fact 15 does not merely recite Mr. R’s testimony. The finding states that “[w]hile [Mr. R] still admitted that [Respondent] struck [Adam] and [Elle], he now justifies [Respondent’s] behavior as common discipline used in his Mexican culture.” Thus, the finding establishes that while Mr. R initially admonished Respondent’s behavior toward the children during his initial interview, five months later at the adjudication hearing, he attempted to excuse her actions. Thus, the finding shows Mr. R refused to acknowledge at the hearing that Respondent’s behavior was not appropriate.



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At the hearing, Mr. R testified that Respondent sometimes “cannot control herself” and “[w]hen she’s angry, she throws things.” He testified he does not like the way Respondent responds when the kids don’t listen and that “sometimes, yeah, – [Adam] – he is slapped or he gets spanking, the kids.” Even disregarding the specific portion of the finding that Respondent still admitted at the hearing that Respondent struck Elle, the meaning of the finding remains the same; Mr. R failed to acknowledge at the hearing that Respondent’s actions were inappropriate and attempted to excuse her behavior due to cultural differences.

Respondent next challenges findings of fact 16, 19, and 24 to the extent the trial court’s use of “the children” in the findings includes Kris. She states finding of fact 16 “patently refers only to Adam and Elle[,]” and argues there was no evidence to support these findings as to Kris. Specifically, Respondent states there was no evidence she was ever verbally or physically inappropriate with Kris, or that Kris had behavior problems or repeated injuries.

Mr. R testified that sometimes Respondent is “out of control[,]” “very explosive[,]” and “mentally unstable[.]” He testified that Respondent can “go up and down. She can be happy and then next minute she’s really mad and she’s angry.” He also testified that Respondent does not “have the patience” and “just gets mad at something, you know, that she don’t like and she starts yelling at the kids[.]” Although Mr. R testified that he did not see Respondent yell “directly to the baby,” he described a time where Respondent “got so frustrated” when Kris would not stop

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crying “that she just said the F word” put the baby in the crib and left the room to go sleep in the living room, leaving Mr. R to care for her. The social worker testified that during Respondent’s initial interview, Respondent told her that “she tried to keep the kids from killing themselves, like killing each other, and she was very overwhelmed with everything.”

This evidence supports the trial court’s finding that Respondent gets frustrated and overwhelmed with the children’s behaviors, including Kris’s, and loses her temper. We agree, however, that there is no evidence Respondent ever “retaliate[d]” physically against Kris. Thus, we disregard finding of fact 19 to the extent it could be read to indicate Respondent has responded in anger physically against Kris. We reject Respondent’s remaining challenges to findings of fact 16, 19, and 24.

Respondent challenges finding of fact 21 as it relates to Elle, arguing that there was no evidence that any injury to Elle was non-accidental. Respondent argues that “it is not entirely clear to which ‘injuries’ the trial court is referring”, but “[a]ssuming the trial court is referring to the black eye”, there was no testimony Respondent or anyone else caused the injury. She contends that “conjecture and surmise” are the only things supporting finding of fact 21 as to Elle. We disagree.

The social worker testified at the hearing that during her initial investigation Mr. R asked to speak privately with her and told her that this was not the first time Respondent hit the children, and that Elle had a black eye four months prior. The

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social worker testified that Mr. R told her that Respondent said Elle fell off the bed, but Mr. R did not believe Respondent, and that he believed Respondent had hit Elle.

The parties also stipulated to the admission of Adam and Elle's CME reports at the hearing. The trial court found that "the children's statements to school workers, social workers, and the CME provider are credible." Respondent does not challenge this finding, and it is binding on appeal. *In re K.W.*, 282 N.C. App. at 286, 871 S.E.2d at 149.

Adam's CME report states that he disclosed physical abuse by Respondent to both the social worker and a detective, and that he told the interviewer Respondent "also hits [his] sister when she doesn't listen" and that "this happened more than once." The CME also states that during Elle's initial interview with the social worker, Elle first said the "boo boo on her face . . . was an accident then said quietly, 'mommy hits us.' " The CME states that the social worker interviewed Mr. R's ex-wife who watches the children, and she said "she's witnessed abuse from [Respondent]" and that her children have seen Respondent hit Adam and Elle with a closed fist. The CME also reports that photographs provided by Child Protective Services of Elle's face "demonstrate bruising below the right eye and a small abrasion to the upper cheek" and that while Respondent reported that Elle sustained "this injury" falling off the bed, the CME noted "concern that this injury was actually sustained from [Respondent] hitting [Elle] in the face with her hand." This is clear, cogent, and convincing evidence to support finding of fact 21 as it relates to Elle.

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Respondent next challenges the portion of finding of fact 22 that states she called Adam “dumbass,” “motherfucker,” and “idiot” to his face in front of others. She claims that while Mr. R testified Respondent says “those words,” he also testified that he did not know whether “she just directly says this to [Adam] or she just say when she’s mad.” Respondent further claims that the afterschool worker “merely testified that [Respondent] told Adam ‘he was acting like an idiot’ ” and that “[t]here is a meaningful difference between ‘you are acting like an idiot’ and ‘you are an idiot.’ ”

The afterschool worker testified that Respondent “told [Adam] that he was acting like an idiot like his dad.” The CME states that Adam’s school “said they have witnessed [Respondent] verbally abuse [Adam] and call him an[ ] idiot and a fool.” This is clear and convincing evidence to support the trial court’s finding to the extent it shows she called Adam demeaning names and verbally abused him in front of others. However, we agree there is no evidence Respondent specifically called Adam a “dumbass” and “motherfucker” and disregard the finding as to those specific terms.

Respondent also challenges the portion of finding of fact 22 that states she told the afterschool employee “that one of her children was the product of rape” in front of Adam and his classmates. At the hearing, the employee testified:

Q. . . . Did you also hear [Respondent] possibly say some things about the child’s father around [Adam] . . . such as the circumstances of her being pregnant?

A. Umm, I don’t know who she was talking about, to be honest with you, because I never really kept track of who [Adam’s] father was, who she was – who her partner at the

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time was. That was none of my business. But she did come into the school one day to pick up [Adam], and she told me that she was pregnant. And then she went on to tell me that . . . she was raped by whoever. I don't know if it was by [Adam's] father, by the man she was living with. Like I said, I can't – I don't keep track of the men.

The afterschool worker testified that Respondent's treatment of Adam was concerning because that was "just something [she] witnessed in front of other people." The CME also states that Adam's school said that Respondent "[t]old [Adam] that she only got pregnant because [his] dad raped her." This is clear, cogent, and convincing evidence to support the finding that Respondent stated, while in the presence of Adam, that she had become pregnant as a result of rape.

Respondent next challenges finding of fact 23 as unsupported, arguing that the evidence showed only "that Adam presented at his school on one occasion with a bruised eye" and "that Elle went to daycare once with a bruise on her forehead." She contends the evidence does not support a finding that Adam and Elle "presented *at daycare or school* with visible bruising and marks on *several occasions*, including one instance where [Adam] had marks around his throat[.]" arguing that "[c]lose enough is not good enough in these cases."

The evidence shows that in addition to Adam's black eye, Mr. R also observed scratches and red marks on Adam's neck. The CME states that Adam's teacher reported that on 24 August 2022, Adam came to school with marks around his neck and Respondent explained that she grabbed him by his neck to prevent him from

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running into traffic, and that Respondent told Adam not to say anything about what happened. The CME further states that Adam and Elle “have come to the daycare with marks and bruises and [Respondent] said they came from falling off the bed.” The social worker also testified regarding Respondent’s explanation of Adam running into traffic, stating that Respondent told her she was overwhelmed with the children’s behaviors and described how Adam would dart in front of cars and that Respondent said “she wasn’t concerned about any marks or bruises that occurred from that because she was just trying to keep her children safe.” This is sufficient evidence to support finding of fact 23, and we reject Respondent’s challenge. *See In re T.H.T.*, 185 N.C. App. 337, 343, 648 S.E.2d 519, 523 (2007), *aff’d as modified*, 362 N.C. 446, 665 S.E.2d 54 (2008) (stating that findings supported by clear and convincing evidence “are binding on appeal, even if the evidence would support a finding to the contrary”).

Respondent argues finding of fact 25 is unsupported as it relates to Elle, arguing that there was no evidence she repeatedly asked Elle to lie, or that she asked Elle to lie “even once[.]” According to the CME, during Mr. R’s interview with law enforcement, Mr. R reported that he had witnessed Respondent “coach [Adam] about how he got injuries.” However, we agree there is no evidence Respondent encouraged Elle to lie. Therefore, we disregard the finding as it relates to Elle.

Respondent challenges the portion of finding of fact 31 that states that Respondent “refused to participate in recommended services that were discussed

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prior to the filing of the petition.” Respondent argues the social worker testified that Respondent signed a safety agreement that said she would seek mental help which was the only “service” HHS recommended.

The social worker testified that during her initial investigation at the home, Respondent signed the safety agreement, but wrote that she did not abuse her children. The safety agreement prohibited contact with Adam and Elle and ordered Respondent to obtain mental health treatment. The social worker testified Respondent violated the safety agreement by having contact with Elle. The social worker testified that between the initiation of the safety plan on 23 September and the filing of the juvenile petition on 12 October, she did not receive any information that Respondent engaged in any mental health treatment. This evidence supports the finding that Respondent did not participate in the recommended mental health service prior to the petition being filed.

Respondent challenges finding of fact 32 to the extent it implies “sub silentio” that Elle was physically injured *by* Respondent. She contends “[a]t most, the social worker testified Adam said, ‘[Elle] gets hit as well’ ” and that this testimony “does not clearly and convincingly support a finding” that she physically injured Elle. However, in addition to the social worker’s testimony, Elle’s CME stated that both children have gone to daycare or school with “marks and bruises” and that CPS provided photographs of Elle which showed “bruising under her right eye and a small abrasion to her face” with concerns the injury was sustained from Respondent hitting Elle in

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the face. Additionally, as previously discussed, the trial court made supported findings that both Adam and Elle “have been physically injured[,]” that Respondent’s explanations for the children’s injuries were not credible, and that she did not provide proper supervision to prevent the physical injuries to the children. Therefore, we reject Respondent’s challenge to finding of fact 32.

Respondent also challenges the portion of finding of fact 32 stating that the children are exposed to a substantial risk of physical injury and emotional abuse asserting that the evidence and findings do “not support the determination that Kris” was exposed to such risk. She argues this is an ultimate finding which must be supported by the evidentiary findings. Respondent argues there are no findings Kris was physically injured and no supported findings that Kris – or Adam or Elle – “was ever actually emotionally abused.”

We agree the finding that the children are exposed to a substantial risk of physical injury and emotional abuse is an ultimate finding. *See In re G.W.*, 286 N.C. App. 587, 597, 882 S.E.2d 81, 90 (2022) (determining that the finding that the child was at a substantial risk of future neglect is an ultimate finding). Therefore, we review this challenge below along with her challenge to the trial court’s neglect conclusion.

In sum, we disregard as unsupported the trial court’s findings that Adam’s black eye occurred “around the same time” that Elle was locked outside the home, that Mr. R told the social worker during his initial interview that Respondent yells



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at Kris, that Respondent has responded in anger physically against Kris, that Respondent called Adam “dumbass” and “motherfucker”, and that Respondent repeatedly asked Elle to lie. We reject Respondent’s other challenges to the trial court’s findings.

**B. Neglect Conclusion**

Respondent argues the trial court erred in adjudicating Kris a neglected juvenile because the supported findings of fact do not support the trial court’s conclusion. Respondent argues that the neglect conclusion “depends almost entirely on the finding that [Respondent] once hit Adam on the eye with a broom[,]” and there are no findings Kris was at a substantial risk of physical injury or emotional abuse. It is true there are no findings independently addressing the neglect of Kris individually. However, the trial court expressly and ultimately found—based on its evidentiary findings—“all of the children are exposed to a substantial risk of physical injury and emotional abuse.”

A neglected juvenile is one “whose parent, guardian, custodian, or caretaker . . . [d]oes not provide proper care, supervision, or discipline[;] . . . [or c]reates or allows to be created a living environment that is injurious to the juvenile’s welfare.” N.C. Gen. Stat. § 7B-101(15) (2023). “[I]n order to adjudicate a child to be neglected, the failure to provide proper care, supervision, or discipline must result in some type of physical, mental, or emotional impairment or a substantial risk of such impairment.” *In re C.M.*, 183 N.C. App. 207, 210, 644 S.E.2d 588, 592 (2007). “In

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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).

“Although a trial court cannot rely solely on abuse of another child in the home as a basis for a neglect adjudication, . . . a trial court ‘need not wait for actual harm to occur to the child if there is a substantial risk of harm to the child in the home.’” *In re A.J.L.H.*, 384 N.C. 45, 55, 884 S.E.2d 687, 694 (2023) (citing *In re T.S., III*, 178 N.C. App. 110, 113, 631 S.E.2d 19, 22 (2006)). In neglect cases involving very young children, “‘the decision of the trial court must of necessity be predictive in nature, as the trial court must assess whether there is a substantial risk of future abuse or neglect of a child based on the historical facts of the case.’” *In re J.A.M.*, 372 N.C. 1, 9, 822 S.E.2d 693,698–99 (2019) (quoting *In re McLean*, 135 N.C. App. 387, 396, 521 S.E.2d 121, 127 (1999)).

The fact of prior abuse, standing alone, however, is not sufficient to support an adjudication of neglect. Instead, this Court has generally required the presence of other factors to suggest that the neglect or abuse will be repeated. These factors include the presence of domestic violence in the home and current and ongoing substance abuse issues, unwillingness to engage in recommended services or work with or communicate with DSS regarding prior abuse and neglect, and failing to accept responsibility for prior adjudications[.]

*In re J.C.*, 283 N.C. App. 486, 494–95, 873 S.E.2d 757, 763–64 (2022) (internal citations and quotation marks omitted).

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“When determining the weight to be given to a finding of abuse of another child in the home, a critical factor is whether the respondent indicates a willingness to remedy the injurious environment that existed with respect to the older child.” *A.J.L.H.*, 384 N.C. at 56, 884 S.E.2d at 694–95 (2023) (internal quotation marks omitted). “Facts that can demonstrate a parent’s unwillingness to remedy the injurious environment include failing to acknowledge the older child’s abuse or insisting that the parent did nothing wrong when the facts show the parent is responsible for the abuse.” *Id.* at 56, 884 S.E.2d at 695. Additionally, the trial court is afforded “some discretion in determining whether children are at risk for a particular kind of harm given their age and the environment in which they reside.” *In re E.P.-L.M.*, 272 N.C. App. 585, 596, 847 S.E.2d 427, 436 (2020) (quoting *In re N.G.*, 186 N.C. App. 1, 8–9, 650 S.E.2d 45, 50 (2007)).

Here, Kris’s neglect adjudication did not rely “almost entirely” on Respondent’s causing Adam to have a black eye. The unchallenged and supported findings show that although the trial court considered Respondent’s abuse of Adam and Elle, this was not the sole basis for the trial court’s conclusion that Kris was neglected. Respondent refused to acknowledge how her behaviors and actions have resulted in harm to the children, did not engage in the recommended mental health services, and encouraged Adam to lie during the investigation and to not cooperate with the social worker. The findings also show a history of domestic violence in the home between Respondent and Mr. R, with Respondent previously filing for DVPOs against Mr. R

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alleging he assaulted her in the presence of the children on numerous occasions and frequently argued in front of the children. However, Respondent continued to reside with Mr. R at the time of the hearing. Moreover, Mr. R. minimized most of Respondent-Mother's actions as nothing more than common discipline— notwithstanding their own domestic violence and indicative of the environment in which the children were residing. These findings support the trial court's determination that Kris was at a substantial risk of harm. Therefore, the trial court did not err in adjudicating Kris to be a neglected juvenile. *See A.J.L.H.*, 384 N.C. at 56, 884 S.E.2d at 695 (affirming the trial court's neglect adjudication of the two younger siblings based on the abuse of the older sibling and the parents' inability to recognize their "cruel and inappropriate disciplinary measures" was abuse and to commit to never repeating it).

Respondent argues this case is similar to *In re K.L.*, 272 N.C. App. 30, 845 S.E.2d 182 (2020), and *In re J.C.B.*, 233 N.C. App. 641, 757 S.E.2d 487 (2014), in which this Court reversed neglect adjudications because the parents' abuse of one child in the home did not support the neglect adjudication of the other children in the home. We disagree.

In *In re K.L.*, the trial court adjudicated an infant abused based on unexplained injuries and adjudicated his older sibling neglected. 272 N.C. App. at 34–35, 845 S.E.2d at 188. On appeal, this Court reversed the older child's neglect adjudication because it was predicated on the younger sibling's abuse adjudication and "the trial

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court did not make any findings regarding ‘other factors’ that would show [the older child] faced a ‘substantial risk’ of neglect.” *Id.* at 53, 845 S.E.2d at 199. This Court determined that the only finding that attempted to establish a connection between the infant’s injuries and any risk to the older child was a finding that the parents lacked knowledge of what could have caused the six fractures in the infant, and that finding was insufficient to support the neglect adjudication. *Id.*

In *In re J.C.B.*, the trial court concluded the respondent-father sexually abused his niece and adjudicated the niece to be an abused juvenile. 233 N.C. App. at 642, 757 S.E.2d at 488. The trial court adjudicated the respondent-father’s three children to be neglected juveniles because they resided in the home at the time the respondent-father abused the niece. *Id.*

On appeal, this Court reversed the neglect adjudications because the fact that his own male children were in the home when he sexually abused his niece did not alone support a conclusion that his children were neglected. *Id.* at 644–45, 757 S.E.2d at 489–90. This Court stated that the trial court “failed to make any findings of fact regarding other factors that would support a conclusion that the abuse would be repeated” and as a result, the findings did “not support a conclusion that [the] respondent-father’s conduct created a ‘substantial risk’ that abuse or neglect of [his own children] might occur.” *Id.*

Respondent argues that “[i]f in *J.C.B.* a respondent’s sexual abuse of one child was not enough to show a ‘substantial risk’ to the other children, a finding that

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[Respondent] once hit Adam on the eye with a broom is not enough to show a ‘substantial risk’ ” to Kris. However, the present case is distinguishable.

In *In re J.C.B.*, the trial court failed to make any findings that the respondent-father’s children were abused themselves or were aware of the respondent-father’s inappropriate relationship with his niece and failed to make any findings regarding other factors to support a conclusion that the respondent-father’s sexual abuse of his niece created a substantial risk that his children would be abused or neglected. In *In re K.L.*, the infant had unexplained fractures, and the court relied on the parents’ “lack of knowledge” of what caused the injuries to adjudicate the other child neglected. *K.L.*, 272 N.C. App. at 54, 845 S.E.2d at 199.

Here, the trial court specifically found that Respondent intentionally caused the injuries to Adam and Elle and that Respondent refused to acknowledge how her actions have resulted in harm to her children, and as discussed above, it made sufficient findings regarding other factors that support a conclusion that Kris was at a substantial risk of physical injury and emotional abuse. Unlike in *K.L.* and *J.C.B.*, the evidence of Kris’s age and circumstances supported the trial court’s determination Kris was at a substantial risk of harm.

Therefore, the trial court’s findings of fact, which are supported by the evidence, support its ultimate finding that Kris was at substantial risk of harm. Thus, the trial court’s findings, in turn, support its conclusion that Kris was a

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neglected juvenile. Consequently, the trial court did not err in entering its Order adjudicating Kris as a neglected juvenile.

**III. Conclusion**

Accordingly, for the foregoing reasons we affirm the portion of the Order adjudicating Kris as a neglected juvenile. Respondent has not challenged the adjudications of Elle and Adam as neglected and abused and we also affirm those portions of the trial court's Order.

AFFIRMED.

Panel consisting of Judges MURPHY, COLLINS, and HAMPSON.

Report per Rule 30(e).