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IN RE NEVAEH G.-M. ET AL.*
(AC 45686)

Prescott, Suarez and Seeley, Js.

Syllabus

The respondent mother appealed to this court from the judgments of the trial court terminating her parental rights with respect to her minor children, N, M, and J. S, the father of N and M, and R, the father of J, both consented to the termination of their respective parental rights. The mother's long history of involvement with the Department of Children and Families began in 2012, following an incident of domestic violence between the mother and S that threatened N's well-being. A safety plan requiring the mother to prioritize N's safety was put into place. In 2016, following a physical altercation between the mother, S and certain other individuals that occurred in the presence of N and M, the mother ended her relationship with S and, shortly thereafter, began a relationship with R. That same year, the mother and R had a violent altercation in her home while N and M were present. In response, a safety plan was put into place and a restraining order was issued against R, which prohibited R from being in the children's presence and from entering the mother's home. In 2017, N and M were adjudicated neglected as a result of violations of the safety plan and restraining order but were permitted to remain in the mother's custody with protective supervision. The department closed their case file after the mother completed the domestic violence programs and mental health counseling that were required of her and convinced the department that she had ended her relationship with R. After J was born, it became clear that the mother was violating the safety plan then in effect by allowing R to be in the presence of the children, and, in 2019, all three children were adjudicated neglected. They were removed from the mother's home and were committed to the care and custody of the petitioner, the Commissioner of Children and Families. After the mother completed additional domestic violence counseling and programs, the children were returned to her under an order of six months of protective supervision, and the department closed its case file following the termination of this period. In 2020, hostilities between S and R increased, resulting in multiple incidents that required police intervention. These culminated with R's stepfather firing shots at S while the mother was dropping off J at R's for visitation. N and M were in a nearby vehicle at the time. Thereafter, the department removed the children from the mother's care. The trial court granted an order of temporary custody, and the petitioner filed neglect petitions on behalf of the three children. Approximately one year later, the petitioner filed petitions to terminate the parental rights of the mother, S and R. The trial court conducted a consolidated trial on the outstanding neglect petitions and the petitions for termination of parental rights. At its conclusion, the trial court adjudicated the children neglected, rendered judgments terminating the respondents' parental rights, and denied a motion filed by the mother seeking posttermination visitation rights. On the mother's appeal to this court, *held*:

1. The respondent mother could not prevail on her claim that the evidence was insufficient to support the trial court's judgments terminating her parental rights on the statutory ground of failure to rehabilitate (§ 17a-112 (j) (3) (B) (i)):

   a. The mother's claims that the trial court improperly determined that the termination of her parental rights was in the best interests of the children, improperly approved the permanency plan, and improperly denied her request for posttermination visitation were inadequately briefed and deemed abandoned, as she failed to provide any analysis in support of such claims.

   b. The cumulative evidence was sufficient to justify the trial court's conclusions that the mother had failed to benefit from the extensive services provided to her by the department and that she had not adequately rehabilitated to the point that she could assume a responsible parenting role for her children, either presently or at some reasonable

future date: the overwhelming evidence before the court established that the mother was either incapable of complying with the safety plans and the protective orders related thereto or chose to ignore them; moreover, the mother repeatedly misled the department regarding her continued relationship with R and failed to take reasonable steps to minimize the risk of her children being exposed to additional acts of domestic violence; furthermore, although the mother had the ability and the motivation to complete the domestic violence programs required by the department, once the services ended she reverted back to the same behaviors that led to the department's involvement, and she chose to ignore the department's repeated warnings and recommendations; additionally, although the trial court was not legally required to consider any postadjudicatory date evidence, the mother's assertion that the court failed to do so was belied by the record.

c. The mother's assertion that the trial court relied on multiple clearly erroneous factual findings in determining that she had failed to rehabilitate was unavailing because the trial court's conclusions and the relevant underlying findings of fact rested on specific evidence, the mother's arguments to the contrary were unpersuasive, and this court was not otherwise left with a definite and firm conviction that a mistake had been made: when examining the mother's testimony as a whole, this court could not conclude that the trial court's finding that the mother testified that she had done "nothing wrong" with respect to the shooting incident was clearly erroneous, because, although those exact words were not in the transcript of her testimony, it could reasonably be inferred from her testimony that she failed to grasp that, although she was aware of S's and R's animosity toward one another, she chose to place her children in a situation that she should have anticipated could result in exposing them to additional violence; moreover, contrary to the mother's claims, there was an abundance of evidence in the record relating to her mental health issues in addition to the opinion of the court-appointed psychological evaluator, and the trial court's decision to terminate the mother's parental rights was not made on the basis of her mental health; furthermore, the existence of evidence that would support findings contrary to the trial court's determinations did not render the court's findings erroneous.

2. The mother's claims regarding the trial court's orders with respect to pretrial discovery and the admission of certain evidence at trial failed because, even if established, such errors were harmless: the claimed evidentiary errors had little bearing on the crux of the trial court's analysis, as there was nothing in that court's decision regarding the mother's failure to rehabilitate that would lead this court to conclude that its decision would have been different in the absence of the admission of the testimony of and the report prepared by the court-appointed psychological evaluator, and the mother failed to demonstrate that the results of her mental health evaluation or any particular mental health diagnosis played a material role in the trial court's decision to terminate her parental rights.

Argued January 3—officially released March 2, 2023**

Procedural History

Petitions by the Commissioner of Children and Families to terminate the respondents' parental rights as to their respective minor children, brought to the Superior Court in the judicial district of Middlesex, Child Protection Session at Middletown, where the respondent fathers consented to the termination of their respective parental rights; thereafter, the matter was tried to the court, *Hon. Barbara M. Quinn*, judge trial referee; judgments terminating the respondents' parental rights, from which the respondent mother appealed to this court. *Affirmed.*

Robert M. Fitzgerald, for the appellant (respondent mother).

Carolyn Signorelli, assistant attorney general, with

whom, on the brief, were *William Tong*, attorney general, and *Michael Skold*, deputy solicitor general, for the appellee (petitioner).

Joshua Michtom, assistant public defender, with whom, on the brief, was *Heather Kaufmann*, for the minor children.

Opinion

PRESCOTT, J. The respondent Kimberly G. appeals from the judgments of the trial court, rendered in favor of the petitioner, the Commissioner of Children and Families, adjudicating the respondent's three children—Nevaeh G.-M., Melinda G.-M., and Jackson A.-R.—neglected and uncared for and terminating her parental rights as to all three children.[1] On appeal, the respondent claims that (1) there was insufficient evidence to support the court's determination that the petitioner had proven by clear and convincing evidence that the respondent had failed to rehabilitate in accordance with General Statutes § 17a-112 (j) (3) (B) (i),[2] and (2) the court improperly (a) failed to order a court-appointed psychological evaluator to disclose to the respondent certain testing materials on which the evaluator had based her opinion, (b) refused the respondent's request for a *Porter* hearing[3] regarding the evaluator's testing methods, and (c) admitted the evaluator's written report over a hearsay objection.[4] We conclude that the evidence was sufficient to support the court's judgments terminating the parental rights of the respondent on the statutory ground of failure to rehabilitate and that the claimed evidentiary errors, even if established, were harmless. Accordingly, we affirm the judgments of the court.[5]

The following facts, which either were found by the trial court or are undisputed in the record, and procedural history are relevant to our review. The respondent is in her mid-thirties. She has three children, Nevaeh, Melinda and Jackson. At the time of trial, they were, respectively, nine, six, and three years old. The respondent is a high school graduate who performed well academically and has been consistently employed as an adult. She currently works at a fast-food restaurant where she has managerial responsibilities. The respondent and Shawn M., who is the father of Nevaeh and Melinda, met during high school. They have had an on-and-off relationship and lived together from 2011 to 2016, after which time their intimate relationship ended. The respondent thereafter began a relationship with Jose R., who is the father of Jackson.

The respondent has had ongoing problems with intimate partner violence since her teenage years. She had an abusive relationship at nineteen during which her boyfriend ran over her with a car, causing her to develop post-traumatic stress disorder. She suffers from anxiety, panic attacks, rheumatoid arthritis and pain in her back. She receives treatment for high blood pressure and has been diagnosed with a major depressive disorder for which she receives counseling and medication.

As found by the court, the respondent's history of incidents of intimate partner violence is well-documented, "extensive and appalling," and contributive to

"the ongoing trauma [that her] children suffered from their parents' behavior." The incident that first resulted in contact between the respondent, her family, and the Department of Children and Families (department) occurred on December 19, 2012. At that time, Nevaeh was only four months old. The police were called to the respondent's home and, on arrival, observed a shattered plexiglass window on the screen door as well as remnants of a drinking glass that had been smashed on the floor. Nevaeh's crib was nearby and contained pieces of glass inside. The respondent told the police that she and her boyfriend, Shawn, had an argument. He went outside with a bag of his clothes as though he were leaving. He also took the respondent's cell phone. He refused to return her phone when she asked for it, and, in response, the respondent grabbed his bag of clothes and told him she was keeping them until he returned her phone. This angered Shawn, who walked to the edge of the street and threw the respondent's phone to the ground, smashing it into multiple pieces. The respondent threw his clothes onto the front lawn. Shawn then tried to go back inside the home, which the respondent attempted to prevent him from doing because she believed that he would "smash things." At this point, he pushed her down onto the concrete steps outside, causing an abrasion on her knee. The argument escalated further, and Shawn smashed a drinking glass onto the floor, shards from which flew into the crib. Fortunately, although the possibility of significant injury existed, Nevaeh was not hurt. Shawn fled the scene but later was found by the police and arrested.

He was charged and later convicted of risk of injury to a child. The department did not remove Nevaeh from the home at that time but put a safety plan in place that required the respondent to put Nevaeh's safety needs first.

The department became involved with the family a second time in January, 2016, because of a physical altercation between the respondent, Shawn, and two other men who were at the respondent's home. Nevaeh was four years old at the time and observed the incident. Melinda, who was an infant, was also nearby. Shawn was convicted and incarcerated as a result of the fight, which also precipitated the end of the respondent's relationship with him.

The respondent soon began an intimate relationship with Jose, who was only seventeen when the relationship began. Jose had an explosive temper and often lashed out at the respondent physically. In December, 2016, the respondent and Jose got into an argument regarding old love letters written to the respondent by Shawn. During the argument, Jose pushed the respondent, and she slammed the basement door in his face. He then pushed her against a wall and began choking her. The respondent put Jose into a headlock, threw

him to the ground, and tried to get away up the stairs. Jose grabbed her and dragged her down the stairs. She escaped and ran upstairs to protect her two daughters, who were in their rooms. When she threatened to call the police, Jose grabbed her two phones and smashed them. She grabbed the children and ran outside, where she encountered her mother. She told her mother that she needed help. Jose then appeared with a bat and used it to break all the windows of her car. When the police arrived, they took photographs documenting the fight and the respondent's injuries, which included a laceration to her neck. As found by the court, "[t]he level of violence . . . demonstrated by [Jose and the respondent] was considerable and shocking."

As a result of the December, 2016 incident, the respondent obtained a restraining order against Jose and entered into another safety plan with the department, together which required her to comply with the protective order, prohibited Jose from having contact with the children, and required her to call the police if Jose showed up at the respondent's home. She eventually convinced the department that she had ended her relationship with Jose, and the department closed its case. Despite her assertions to the department, however, the respondent, as the court explained, "did not end her relationship with Jose but continued it, in violation of the restraining order which was then . . . in effect. She continued her relationship with him, even when she denied her connection to him to [the department]."

The department received another referral regarding the respondent and her children in April, 2017. A community provider reported that Jose was alone with Nevaeh and Melinda and that an odor of marijuana was emanating from the house.

Later, in June, 2017, the police were again called to the respondent's home because Jose and another male were observed fighting outside. As described by the court, "[d]uring the course of the dispute, apparently Jose took out a knife and slashed the car tires of his assailant and cut his own hand in the process. [The respondent] decided to take her two children to a domestic violence center. . . . [S]he was shortly asked to leave because she had another man pick her and the children up from the shelter, a violation of their rules. About six weeks later, [the respondent] secured a . . . [new] restraining order [that] prohibited Jose from going into her home and also [protected] the children. Despite seeking court assistance, she was seen by [department] workers shortly after the hearing sitting in a car with Jose."

In October, 2017, the petitioner filed the first neglect petitions on behalf of Nevaeh and Melinda because the respondent continued to allow Jose to come to her home while the children were present, which was in

violation of the safety plan and the restraining order and subjected the children to the significant possibility of witnessing further incidents of intimate partner violence. In January, 2018, following a hearing, both girls were adjudicated neglected, but they were permitted to stay in the respondent's home with six months of protective supervision. The respondent was ordered to attend programs for domestic violence as well as mental health counseling. Because the respondent seemed, at the time, to comply with the department's requirements, the protective supervision and the department's involvement with the family ended in May, 2018.

The respondent nevertheless had not ended her relationship with Jose, and, on August 23, 2018, the department received information that the respondent had given birth to Jackson. Upon investigation, the department learned that the respondent had hidden her ongoing relationship with Jose from the department. Nevaeh reported to the department that, in fact, Jose was living in the respondent's home. As the court found: "Jose's explosive anger and physical aggression continued unabated [and] again became apparent in the hospital after Jackson's birth. While [the department] was investigating the situation in the hospital, Jose became very hostile toward the [department] worker and blocked the [worker] from leaving the room. Hospital staff had to be called to defuse the tense situation." Jose refused to comply with the department's recommendations that he receive mental health treatment and receive domestic violence counseling. The department decided to leave the children in the respondent's care because she agreed to a new safety plan with the department that required her to prevent Jose from having physical contact with any of the children, including Jackson.

In September, 2018, the petitioner filed neglect petitions on behalf of all three children. In December, 2018, the department conducted a home visit during which Jose was found hiding in the basement under a cot. Jose had agreed to the safety plan in place and knew that he was not supposed to be present in the home with the children. Despite these clear violations of the then current safety plan, the department continued to permit the children to stay in the home with the respondent.

In February, 2019, however, the department received a referral indicating that Jose had dropped Melinda off at school and that she had reported that her "daddy" had pushed her mother and that her mother was hurt. The department discovered the respondent at a local hospital. The respondent claimed that she fell on ice when putting her children on the bus. The petitioner then sought an order of temporary custody. The children were removed from the respondent's care and placed in a foster home. The children subsequently were

adjudicated neglected following a trial and were committed to the care and custody of the petitioner. Thereafter, the respondent complied with the specific steps issued to her, including making progress in domestic violence counseling and other programs, and the children eventually were returned home under an order of six months of protective supervision. That order of protective supervision expired in March, 2020, at which time the department again closed its case file, although it also sent notice to the respondent indicating that it continued to recommend that Jose not have physical access to the children because he had not completed any of the services the department had offered to him.

Despite the respondent's appearance of compliance, any behavioral changes were not permanent, and, as found by the court, she continued to behave in ways that "consistently put her children at risk . . . ." Both Jose and Shawn continued to meet with the respondent in the children's presence. As the court stated, the two men exhibited a "growing combativeness and animosity toward each other" that often "flared into outright hostility and fights." The police were called on several occasions. The court stated that the worst of the incidents of escalating violence between the two fathers "took place . . . in early May, 2020, when Shawn reported to the police that five individuals had jumped out of a Honda and began to fight with him. The hood of his sweatshirt was pulled over his head and he was hit and kicked by them. . . . [The respondent] was aware of this incident and . . . knew how upset Shawn was and that he wanted to get revenge as a result. Her own mother also had witnessed the incident and the violence against him."

The escalating and violent behavior between Jose and Shawn reached a culminating point on May 15, 2020. As found by the court, on that day, "Jose's stepfather apparently fired [gun]shots in the direction where Shawn was located and his car was parked during the time that [the respondent] had brought Jackson to Jose's apartment for visitation. Shawn was wearing a bulletproof vest and apparently seeking revenge for his treatment by Jose. Two of Shawn's friends were with him. Initially, it was thought that it was Shawn who fired the shots while the two girls, Nevaeh and Melinda, were sitting with their maternal grandmother in a car on the other side of the apartment complex from where the shots were fired. Both their grandmother and [the respondent] told [the girls] it was Shawn. When they returned sometime later, they found that their home had been burglarized. Again, the adults assumed that the violation of their home had been carried out by Shawn since he sometimes walked by their home or was seen outside. It is not clear if the children were ever told the facts ultimately determined by the police on this confused scene as it was sometime into their investigation that they established the actual perpetra-

tor. What is apparent, the court finds, is that neither [the respondent] nor her mother were able to put the children's needs ahead of their own. Their reports to Nevaeh and Melinda that their own father had engaged in this threatening behavior could only have upset the two girls about what took place during the time they perceived themselves to be at risk."[6]

As a result of the shooting incident, the department removed the children from the respondent's care for the second time and sought an order of temporary custody, which was granted. Thereafter, on May 22, 2020, the petitioner filed neglect petitions on behalf of all three children—this was the third such petition for Nevaeh and Melinda and the second for Jackson. The neglect petitions alleged that the children were being denied proper care and attention—physically, educationally, and emotionally—by the respondent and that the children were being permitted to live under conditions and circumstances injurious to their well-being. See General Statutes § 46b-120 (4) and (6). On June 3, 2020, the court granted a motion filed by the attorney for the minor children for a court-ordered psychological evaluation of the children and the respondent, which had been agreed to by all parties.

On August 10, 2021, the petitioner filed petitions to terminate the respondent's parental rights with respect to all three children as well as the parental rights of their respective fathers, Jose and Shawn. As to the respondent, the termination petitions alleged in relevant part, pursuant to § 17a-112 (j) (3) (B) (i), that the three children previously had been adjudicated neglected and that the respondent had failed to achieve the degree of personal rehabilitation that would encourage the belief that, within a reasonable period of time, given the needs of the children, she could assume a responsible position in the lives of the children.

The court conducted a consolidated trial on the outstanding neglect petitions and the petitions for termination of parental rights.[7] With respect to the respondent, the court found that the allegations in the neglect petitions were proven by a preponderance of the evidence. The court also found that the allegations of the termination petitions were proven by clear and convincing evidence in accordance with § 17a-112 (j) in that (1) the department had made reasonable efforts to reunify the family, (2) the children had been adjudicated neglected in a prior proceeding and the respondent had failed to rehabilitate, meaning she had failed "to achieve such degree of personal rehabilitation as would encourage the belief that within a reasonable time, considering the age and needs of [her children], [she] could assume a responsible position in [their lives]," and (3) termination of parental rights was in the best interests of all three children.

Regarding the respondent's failure to rehabilitate, the

court considered the respondent's engagement and progress with the specific steps that had been ordered, which, as noted by the court, "are important measures of rehabilitation and address clearly the issue of whether a parent has rehabilitated adequately from the circumstances which existed at the time of removal . . . ." The court made the following findings: "[S]pecific steps were ordered for [the respondent] on May 22, 2020. . . . There were two main areas of concern: [the respondent's] mental health issues and the intimate partner violence, which had occurred numerous times. In addition to the ordinary requirements of most specific steps, including keeping all appointments set by [the department] and permitting visits by [the department] as well as by the children's court-appointed attorney, [the respondent] was directed to engage in services for parenting and individual counseling, and there were certain service providers listed for her. The goals [that] she was to achieve were also specifically set forth." (Footnote omitted.) Specifically, she was ordered to do the following: "Demonstrate a willingness and ability to protect [your] children from abusive or unsafe environment[s]. Demonstrate an understanding of domestic violence and how it impacts your children and your ability to provide care for [your] children. Demonstrate an ability to provide [your] children with [a] safe and stable environment free of violence. Articulate responsibility for your parenting choices, how they have impacted your child[ren] and demonstrate [an] ability to consistently use good decision making and judgment in regard to parenting your child[ren]."

The court found on the basis of "[t]he clear and convincing evidence as set forth in the exhibits and in the testimony at trial, including the testimony of [the respondent] herself," that "there were established patterns of disregard for the children's well-being and that the adults in their lives had been unable to put the needs and safety of the children first. The children were aware and present for many of the conflicts between the parents. Despite the cautions that [the respondent] had been given and her completion of two rounds of intensive domestic violence programs as well as two rounds of intensive family preservation services at the time of the filing of the petitions, she failed to recognize how her relationship with Jose had created an unstable and unsafe environment for her children."

Additionally, the court found that "many services that [the respondent] has received . . . were carefully tailored to the issues in her life and to assist her to rehabilitate so that she could care for her children in the reasonably foreseeable future. After each and every service that she had received, [the respondent] was able to speak about and demonstrate an understanding of intimate partner violence and how it affected her and the children. But being able to say the words . . . was not enough. It is palpably obvious from the clear and

convincing evidence that [the respondent] was unable to make the personal changes in her life to keep her children safe." (Footnote omitted.)

In reaching its conclusion that the respondent had failed to rehabilitate and was not reasonably likely to do so in the future, the court also discussed in part the psychological evaluation of the respondent and the children and the opinion of the court-appointed psychological evaluator, Jessica Biren Caverly, whose report was admitted into evidence along with her testimony at trial. The court indicated that the purpose for ordering the evaluation, which took place in November, 2020, had been "to assist the court in evaluating what further steps should be taken to assist [the respondent] in her recovery and whether or not the children were in a position to be returned to their mother and reunified with her." Biren Caverly's assessment and recommendation to the court at the time of the evaluation in 2020 was that the respondent should "receive ongoing and intensive treatment for her mental health, continue to engage in psychiatric services, continue to discuss domestic violence in individual therapy, and that she should receive parenting education if there was to be reunification with the children. [Biren Caverly] also raised the concern of whether [the respondent] was being authentic in her reports of understanding how domestic violence could impact her children and whether or not she was capable of making changes in her life." Biren Caverly told the court in 2020 that she could not recommend that the children be reunified with the respondent because of "her past history and her inability to keep her children safe." In particular, Biren Caverly was concerned about the respondent's "lack of candor and reports as to her own situation and the fact that she had failed to provide for her children." She gave the court recommendations regarding the children's placement in different foster homes and visitation with the respondent.[8] At trial, Biren Caverly's testimony was consistent with her 2020 report and opined that "[s]he remained very concerned about [the respondent's] performances as a parent . . . [and] did not believe that reunification with [the respondent] was in the best interests of these three children at the time of her testimony in 2022."

In terminating the respondent's parental rights, the court made all of the requisite findings regarding the seven factors delineated in § 17a-112 (k). The court found, inter alia, that the department had been able to locate all the parents and provide services to them; the department had made reasonable efforts to reunite the respondent with her children in this case; and the respondent had received services, including the department's "case management services, parenting training, visitation, therapy, intimate partner violence services, intensive family preservation services and weekly supervised visitation with all the children." The court

concluded that the services the department provided were reasonable and well tailored to assist the respondent but that the respondent "has not been able to sufficiently adjust her circumstances to have her children in her care safely."

Finally, the court considered whether it was in the best interests of the children to terminate the respondent's parental rights. After considering "all the different and individualized factors that might affect a specific child's welfare," the court reached the conclusion that terminating the parents' parental rights was in the best interests of all three children. The court approved the permanency plan for termination and adoption and denied a motion filed by the respondent seeking posttermination visitation rights. This appeal followed.[9] Additional facts and procedural history will be set forth as necessary.

I

Before analyzing the respondent's claims on appeal, we first note that the respondent has raised a number of claims in her appellate brief that we do not address because they either are inadequately briefed, are germane only to a claim that is otherwise inadequately briefed or are not sufficiently articulated to warrant review. As appellate courts repeatedly have cautioned, "[m]ultiplying assignments of error will dilute and weaken a good case and will not save a bad one. . . . The effect of adding weak arguments will be to dilute the force of the stronger ones." (Internal quotation marks omitted.) *Kammili* v. *Kammili*, 197 Conn. App. 656, 657–58 n.1, 232 A.3d 102 (quoting *State* v. *Pelletier*, 209 Conn. 564, 567, 552 A.2d 805 (1989)), cert. denied, 335 Conn. 947, 238 A.3d 18 (2020); see also *LeBlanc* v. *New England Raceway, LLC*, 116 Conn. App. 267, 280 n.4, 976 A.2d 750 (2009) ("a multiplicity of issues can foreclose the appellant's opportunity to provide a fully reasoned discussion of the pivotal issues on appeal"). This case presents a good example of the pitfalls that can ensue from attempting to raise too many claims. In the present appeal, we decline to address three of the respondent's claims because they are inadequately briefed. Specifically, the respondent claims that the court improperly (1) determined that the termination of her parental rights was in the best interests of the children, (2) approved the permanency plan, and (3) denied a request for posttermination visitation. As to these three claims, the respondent devotes, at best, no more than a few sentences and provides no legal analysis. "[W]e are not required to review issues that have been improperly presented to this court through an inadequate brief. . . . Analysis, rather than mere abstract assertion, is required in order to avoid abandoning an issue by failure to brief the issue properly." (Internal quotation marks omitted.) *In re James O.*, 160 Conn. App. 506, 527, 127 A.3d 375 (2015), aff'd, 322

Conn. 636, 142 A.3d 1147 (2016).

The respondent raises an additional claim asserting that the court improperly refused to allow her to introduce certain therapy records of Nevaeh on the ground that they were confidential and privileged. We do not review this claim other than to note that the respondent has failed adequately to explain, beyond mere assertion, how this evidence is germane to anything other than the court's best interests determination, which, as we already have explained, we decline to review because the respondent has abandoned any claim related to the court's best interests determination by virtue of an inadequate brief. Although we acknowledge that a respondent's rehabilitation efforts need to be assessed in light of the particular needs of a child, the respondent has failed adequately to explain or analyze how Nevaeh's therapy records relate to the court's determination in this case that the respondent has not achieved a sufficient degree of rehabilitation. Accordingly, we do not address the respondent's claim regarding whether the court improperly failed to admit Nevaeh's therapy records. We turn then to the relevant law and the remainder of the respondent's claims.

II

The general legal principles applicable to proceedings to terminate parental rights, including our standard of review, are well settled. "Proceedings to terminate parental rights are governed by § 17a-112. . . . Under [that provision], a hearing on a petition to terminate parental rights consists of two phases: the adjudicatory phase and the dispositional phase. During the adjudicatory phase, the trial court must determine whether one or more of the . . . grounds for termination of parental rights set forth in § 17a-112 [(j) (3)] exists by clear and convincing evidence. The [petitioner] . . . in petitioning to terminate those rights, must allege and prove one or more of the statutory grounds. . . . Subdivision (3) of § 17a-112 (j) carefully sets out . . . [the] situations that, in the judgment of the legislature, constitute countervailing interests sufficiently powerful to justify the termination of parental rights in the absence of consent. . . . Because a respondent's fundamental right to parent his or her child is at stake, [t]he statutory criteria must be strictly complied with before termination can be accomplished and adoption proceedings begun." (Internal quotation marks omitted.) *In re Ryder M.*, 211 Conn. App. 793, 806–807, 274 A.3d 218, cert. denied, 343 Conn. 931, 276 A.3d 433 (2022).

Section 17a-112 (j) provides in relevant part: "The Superior Court, upon notice and hearing as provided in [General Statutes §§] 45a-716 and 45a-717, may grant a petition filed pursuant to this section if it finds by clear and convincing evidence that (1) the [department] has made reasonable efforts to locate the parent and to reunify the child with the parent in accordance with

subsection (a) of [General Statutes §] 17a-111b, unless the court finds in this proceeding that the parent is unable or unwilling to benefit from reunification efforts, except that such finding is not required if the court has determined at a hearing pursuant to [§] 17a-111b, or determines at trial on the petition, that such efforts are not required, (2) termination is in the best interest of the child, and (3) . . . (B) the child (i) has been found by the Superior Court or the Probate Court to have been neglected, abused or uncared for in a prior proceeding . . . and the parent of such child has been provided specific steps to take to facilitate the return of the child to the parent pursuant to [General Statutes §] 46b-129 and has failed to achieve such degree of personal rehabilitation as would encourage the belief that within a reasonable time, considering the age and needs of the child, such parent could assume a responsible position in the life of the child . . . ."[10]

"Although the trial court's subordinate factual findings are reviewable only for clear error, the court's ultimate conclusion that a ground for termination of parental rights has been proven presents a question of evidentiary sufficiency. . . . That conclusion is drawn from both the court's factual findings and its weighing of the facts in considering whether the statutory ground has been satisfied. . . . On review, we must determine whether the trial court could have reasonably concluded, upon the facts established and the reasonable inferences drawn therefrom, that the cumulative effect of the evidence was sufficient to justify its [ultimate conclusion]. . . . When applying this standard, we construe the evidence in a manner most favorable to sustaining the judgment of the trial court." (Citations omitted; internal quotation marks omitted.) *In re Egypt E.*, 327 Conn. 506, 525–26, 175 A.3d 21, cert. denied sub nom. *Morsey E.* v. *Commissioner, Dept. of Children & Families*, U.S. , 139 S. Ct. 88, 202 L. Ed. 2d 27 (2018). Furthermore, in assessing evidentiary sufficiency, a reviewing court considers all of the evidence that was before the trier, including any evidence the admissibility of which is challenged on appeal. See *In re Alizabeth L.-T.*, 213 Conn. App. 541, 604 n.26, 278 A.3d 547 (2022).

III

The respondent claims that there was insufficient evidence to support the court's determination that she had failed to rehabilitate in accordance with § 17a-112 (j) (3) (B) (i), meaning that she had failed to achieve a level of rehabilitation necessary to encourage a belief that now or within a reasonable time she could assume a responsible position in her children's lives. In making this claim, the respondent also challenges some of the court's subordinate factual findings as clearly erroneous. The petitioner contends, to the contrary, that the evidence presented at trial was more than sufficient to

support the court's determination under the clear and convincing standard and that the court's relevant findings of fact were not clearly erroneous. On the basis of our review of the evidentiary record and the findings of the court, we conclude that the cumulative evidence was sufficient to justify the court's conclusion that the respondent had failed to benefit from the extensive services provided to her by the department over the years and that she had not adequately rehabilitated to the point that she could assume a responsible parenting role for her children, either presently or at some reasonable future date.

"Personal rehabilitation as used in [§ 17a-112 (j) (3) (B) (i)] refers to the restoration of a parent to [her] former constructive and useful role as a parent. . . . [I]n assessing rehabilitation, the critical issue is not whether the parent has improved [her] ability to manage [her] own life, but rather whether [she] has gained the ability to care for the particular needs of the [children] at issue." (Internal quotation marks omitted.) *In re Brian P.*, 195 Conn. App. 558, 568, 226 A.3d 159, cert. denied, 335 Conn. 907, 226 A.3d 151 (2020).

Thus, "[t]he trial court is required . . . to analyze the [parent's] rehabilitative status as it relates to the needs of the particular child, and further . . . such rehabilitation must be foreseeable within a reasonable time. . . . The statute does not require [a parent] to prove precisely when [she] will be able to assume a responsible position in [her] child's life. Nor does it require [her] to prove that [she] will be able to assume full responsibility for [her] child, unaided by available support systems. It requires the court to find, by clear and convincing evidence, that the level of rehabilitation [she] has achieved, if any, falls short of that which would reasonably encourage a belief that at some future date [she] can assume a responsible position in [her] child's life. . . . In addition, [i]n determining whether a parent has achieved sufficient personal rehabilitation, a court may consider whether the parent has corrected the factors that led to the initial commitment, regardless of whether those factors were included in specific expectations ordered by the court or imposed by the department." (Citations omitted; internal quotation marks omitted.) *In re Shane M.*, 318 Conn. 569, 585–86, 122 A.3d 1247 (2015). "[The] completion or noncompletion [of the specific steps], however, does not guarantee any outcome. . . . Accordingly, successful completion of expressly articulated expectations is not sufficient to defeat a department claim that the parent has not achieved sufficient rehabilitation." (Citation omitted; internal quotation marks omitted.) Id., 587.

During the adjudicatory phase of a termination proceeding, a court generally is limited to considering only evidence that occurred before the date of the filing of the petition or the latest amendment to the petition,

often referred to as "the adjudicatory date." *In re Brian P.*, supra, 195 Conn. App. 569. Nevertheless, "it *may* rely on events occurring after the [adjudicatory] date . . . [in] considering the issue of whether the degree of rehabilitation is sufficient to foresee that the parent may resume a useful role in the child's life within a reasonable time." (Emphasis added; internal quotation marks omitted.) Id.

In the present case, as found by the court and as evidenced in the record, between 2012 and 2020, the respondent had been the victim of multiple incidents of serious intimate partner violence involving the fathers of her children. As a result of these various incidents, several different safety plans and protective orders were put in place. A common purpose underlying these plans and orders was to assist the respondent in protecting her children from the dangers of being exposed to incidents of domestic violence and the potential resulting psychological and physical harm.

The overwhelming evidence before the court, however, established that the respondent either was incapable of complying with the safety plans and related protective orders or, worse, chose to ignore them. Moreover, the respondent repeatedly misled the department and others about her continued relationship with Jose. Most significantly, despite her awareness of the potential physical and psychological harm to the children that might result from their presence during an incident of intimate partner violence, she repeatedly failed to take reasonable steps to minimize the risk of her children being exposed to additional acts of domestic violence.

The department, on multiple occasions, provided the respondent with services intended to address the harms, both personal and to her children, stemming from repeated exposure to intimate partner violence. Although the respondent completed the required programs and convinced the department and the court, on more than one occasion, that she had gained some understanding of the issues involved, the record demonstrates that, once the services ended, she promptly reverted to the exact same behaviors that led to her involvement with the department. Not only did her behavior result in multiple neglect adjudications of her children, but she was provided explicit warnings by the department that further incidents likely would result in the permanent removal of her children. In other words, although the record shows that the respondent had the ability and the apparent motivation to complete the programs offered to her, she has been unable to demonstrate that she truly benefitted from them or learned how to put the safety of her children first with respect to her intimate relationships. She was involved in numerous and serious incidents of intimate partner violence throughout the course of her children's lives, and

her inability to protect her children from exposure to such violence, despite repeated opportunities to do so, supports the court's finding that she is unlikely to change her behavior such that she could, within a reasonable time, assume a responsible position in her children's lives.

The respondent, as evidenced by her actions, chose to disregard the department's repeated warnings and recommendations, including the department's recommendation that someone other than herself should facilitate future visitations between Jackson and Jose. Instead, the respondent chose to be present during the exchanges with Jose, which put her children into the situation that resulted in the very dangerous shooting incident that led to their final removal. Furthermore, although the respondent made repeated representations to the department that she no longer had any relationship with Jose, she acknowledged to the police following the shooting incident that Jose was her boyfriend, that she frequently visited his house with the children, and that Nevaeh and Melinda referred to Jose as "daddy," even though he is not their father.

The foregoing evidence alone was legally sufficient to support the court's conclusions that the respondent actively "hid her continued intimate connection to Jose from [the department]" and is "unable to benefit from the many comprehensive services provided to help her address her propensity to remain in toxic and violent relationships" or to "change and gain the knowledge [needed] to protect" her children. As our Supreme Court has stated, a "failure to acknowledge the underlying personal issues that form the basis for the department's concerns indicates a failure to achieve a sufficient degree of personal rehabilitation." (Internal quotation marks omitted.) *In re Shane M.*, supra, 318 Conn. 589.

The respondent argues on appeal that the court reached its conclusion regarding the respondent's failure to rehabilitate without considering any postadjudicatory date evidence. Although there is no legal requirement that the court consider such evidence, the respondent's assertion that the court failed to do so in the present case is belied by the record. "[T]he relevant date for considering whether [a respondent] failed to rehabilitate is the date on which the termination of parental rights petition was filed . . . . Although a court *may* rely on events occurring after the date of the filing of the petition to terminate parental rights when considering the issue of whether the degree of rehabilitation is sufficient to foresee that the parent may resume a useful role in the child's life within a reasonable time . . . *it is not required to do so*." (Citations omitted; emphasis altered; internal quotation marks omitted.) *In re Karter F.*, 207 Conn. App. 1, 22, 262 A.3d 195, cert. denied, 339 Conn. 912, 261 A.3d 745 (2021).

Here, although the court was not obligated to consider postadjudicatory date evidence of the respondent's ability to rehabilitate—particularly in light of the preadjudicatory date evidence that tended to show that she had failed to rehabilitate despite the significant efforts of the department—the court nonetheless did so. In particular, as noted by the petitioner, the court considered the respondent's trial testimony, including her argument that, postfiling, she had completed the court-ordered specific steps and otherwise tried to improve her life to better look after her children. The fact that the court did not rely on or discuss in detail the respondent's testimony does not mean the court did not consider it in reaching its decision. Similarly, there is nothing in the record to suggest that the court ignored the trial testimony of the social worker, Amy Gauthier, who also opined on the respondent's postfiling efforts to rehabilitate. Although the court acknowledged this postadjudicatory date evidence, it was not bound to credit it or to find it dispositive of the respondent's rehabilitation, particularly in light of the other evidence presented. It was the assessment of the court that the respondent had failed to rehabilitate "*despite* her completion of the services required to be addressed in her specific steps." (Emphasis added.) It is axiomatic that it is not the function of this court to reweigh the evidence presented or to pass upon the credibility of witnesses, and we decline the respondent's implicit invitation to do so in this case, particularly in the context of this claim. See *In re Aubrey K.*, 216 Conn. App. 632, 658, 285 A.3d 1153 (2022), cert. denied, 345 Conn. 972, 286 A.3d 907 (2023); *In re Lillyanne D.*, 215 Conn. App. 61, 98, 281 A.3d 521, cert. denied, 345 Conn. 913, 283 A.3d 981 (2022).

Next, the respondent argues that the court made its decision to terminate her parental rights on the ground that she failed to rehabilitate on the basis of a number of clearly erroneous factual findings. "Our law concerning the application of the clear error doctrine is well established. A finding of fact is clearly erroneous when there is no evidence in the record to support it . . . or when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed. . . . Because it is the trial court's function to weigh the evidence and determine credibility, we give great deference to its findings. . . . In reviewing factual findings, [w]e do not examine the record to determine whether the [court] could have reached a conclusion other than the one reached. . . . Instead, we make every reasonable presumption . . . in favor of the trial court's ruling." (Internal quotation marks omitted.) *In re Severina D.*, 137 Conn. App. 283, 292, 48 A.3d 86 (2012).[11]

Relevant to the court's determination that the respon-

dent had failed to rehabilitate, the respondent contends that the court relied on a number of clearly erroneous factual findings. We are not convinced.

First, the respondent points to the court's language in the opening paragraph of its memorandum of decision stating that the respondent had failed to take full responsibility for her actions in the eyes of the court and directs our attention to a specific finding by the court that the respondent had testified regarding the May 15, 2020 shooting event, " 'But I did nothing wrong.' " We agree with the respondent that the court's statement that she testified, " 'But I did nothing wrong,' " could be viewed as a misstatement by the court because we cannot find that quote anywhere in the respondent's testimony. The flaw in the respondent's argument, however, is that it is also reasonable to interpret the court's statement as the court having paraphrased what it viewed to be the respondent's position generally. Certainly, examining the respondent's testimony as a whole, we cannot conclude that the thrust of the court's finding was clearly erroneous. It can reasonably be inferred from the respondent's testimony that she failed to grasp that, although she did not shoot a gun that day or become involved directly in a domestic dispute with one of the children's fathers, she was aware of the fathers' animosity toward one another and yet chose to place her children into a situation that she should have anticipated, and was warned, could result in exposing them to additional violence, domestic or otherwise. There is certainly evidence in the record from which the court could have drawn the conclusion that the respondent failed fully to grasp or admit the significance of her own role in the harm to her children from repeated exposures to intimate partner violence. Although the respondent in her testimony did acknowledge mistakes she made in the past and that she has worked to improve herself, the existence of evidence that contradicts the finding of the court does not compel a conclusion that the court's finding is clearly erroneous, provided the record also contains evidence that supports the court's finding or from which that finding reasonably may be inferred. See *In re Severina D.*, supra, 137 Conn. App. 292.

The respondent next takes issue with the court's statement, again found in the court's introductory paragraph of its decision, that the respondent had "unresolved . . . mental health difficulties." The respondent argues that the "only evidence in the record about her mental health problems were the opinions of . . . Biren Caverly . . . ." (Citations omitted.) This is not accurate as there was an abundance of other evidence documenting the respondent's various mental health issues, including her own testimony in which she acknowledged her diagnoses of post-traumatic stress disorder, anxiety and depression. Moreover, as we discuss in part IV of this opinion, the court's decision to

terminate the respondent's parental rights was not made on the basis of her mental health, and the court's singular reference to whether those issues remained unresolved certainly was not clearly erroneous.

Finally, the respondent challenges the court's findings that the respondent had "been unable to benefit from the many comprehensive services provided" and had a "propensity for inappropriate and violent intimate relationships . . . ." In support of her argument, the respondent does not claim that there was no evidence in the record to support the court's finding, which she credibly could not do given the evidence before the court. For example, the respondent had been provided services with respect to both the present proceedings as well as the prior neglect proceedings. She nevertheless continued to expose her children to the threat of intimate partner violence. Moreover, she had multiple relationships involving intimate partner violence. The respondent directs our attention to other evidence that she claims would support contrary findings. The existence of such evidence does not render the court's findings clearly erroneous. Having reviewed the evidentiary record before the court, as set forth previously in this opinion, we conclude that there was evidence in the record to support the challenged findings and we are not otherwise left with a definite and firm conviction that a mistake has been made.

In sum, we conclude that the court's conclusions regarding the respondent's failure to rehabilitate and the relevant underlying findings of fact do not rest on speculation but on sufficient evidence. We find unpersuasive all of the respondent's arguments to the contrary.

IV

The respondent raises a number of additional claims regarding the court's orders with respect to pretrial discovery and the admission of certain evidence at trial. Specifically, the respondent claims that the court improperly (1) failed to order Biren Caverly to disclose to the respondent the testing materials on which the court-appointed psychological evaluator based her opinion, (2) refused the respondent's request for a *Porter* hearing regarding Biren Caverly's testing methods, and (3) admitted Biren Caverly's written report over a hearsay objection. The petitioner argues that, even if the respondent could prevail on these evidentiary claims, none of which the petitioner concedes amounted to error, the evidence at issue was not germane to the court's analysis regarding the termination petitions and, therefore, any errors were harmless. Although we have significant concerns regarding the propriety of the trial court's rulings relating to discovery, we agree with the petitioner that the claimed errors have little bearing on the crux of the court's analysis, and, thus, even if established, the claimed errors would

be harmless. Accordingly, we conclude that these additional claims of the respondent also fail.

"To evaluate the respondent's evidentiary challenges to the court's rulings, we begin with the applicable standard of review common to them. . . . [I]t is well settled that even if [an evidentiary error is proven], the [party challenging the ruling] must also establish that the ruling was harmful and *likely to affect the result of the trial*. . . . In order to prevail on her claims, the respondent must show that the court abused its discretion . . . and that any improper admission caused her *substantial prejudice or injustice*." (Citation omitted; emphasis added; internal quotation marks omitted.) *In re Tayler F.*, 111 Conn. App. 28, 35–36, 958 A.2d 170 (2008), aff'd, 296 Conn. 524, 995 A.2d 611 (2010). Stated differently, in order to demonstrate that she was harmed and, thus, entitled to a reversal of the court's decision, the respondent must establish that, but for the evidentiary errors, the outcome of the trial likely would have been different. See, e.g., *In re Lillyanne D.*, supra, 215 Conn. App. 73; *In re Alizabeth L.-T.*, supra, 213 Conn. App. 602.

The respondent's various evidentiary claims all center around the expert report and trial testimony of Biren Caverly, the court-appointed psychological evaluator. We note that a respondent in a child protection matter generally is entitled to discovery pursuant to Practice Book § 34a-20. Under subsection (b) of § 34a-20, a respondent is entitled to the disclosure of the basis of an expert's opinion. Further, to the extent that an expert opinion may be based on scientific methods, the respondent is entitled to request and, under certain circumstances, may be entitled to a hearing in accordance with *State* v. *Porter*, 241 Conn. 57, 698 A.2d 739 (1997), cert. denied, 523 U.S. 1058, 118 S. Ct. 1384, 140 L. Ed. 2d 645 (1998). Finally, reports from doctors and social workers routinely are admitted into evidence in child protection matters. The rules of evidence, of course, apply and caution must be taken to avoid admitting inadmissible hearsay. Nevertheless, even if we agreed with the respondent that the court committed the evidentiary errors she asserts, the respondent has failed to meet her additional burden of demonstrating that these errors were harmful. This is largely due to the fact that we are unpersuaded that the evidence at issue played any significant role in the court's ultimate decision to terminate the respondent's parental rights.

Central to our evaluation of the potential harm of the claimed evidentiary errors is a careful consideration of the rationale underlying the court's ruling. The court's analysis of the respondent's failure to rehabilitate does not rely on any particular mental health diagnosis or the respondent's overall mental health issues. We reject the respondent's characterization of the court's decision and disagree that the court relied on unresolved

mental health difficulties as a basis for its decision to terminate the respondent's parental rights. Although the court makes a singular, passing reference to the respondent's mental health difficulties in the opening paragraph of its decision, the court is nonetheless also quite explicit that, "[*a*]*t the heart of this case* is the [respondent's] inability to protect her three children from the intimate partner violence between herself and the fathers of these children. . . . The pernicious impact of repeated incidents of domestic violence and the trauma it has inflicted on her children are events for which she cannot acknowledge any responsibility, despite receiving counseling, domestic violence services, and intensive family preservation services several times." (Emphasis added.) There is simply nothing in the court's decision regarding the respondent's failure to rehabilitate from which we can conclude that the court's decision would have been different in the absence of the admission of Biren Caverly's report and her expert testimony about the respondent's mental health difficulties.

The court's consideration of whether the petitioner had proven the statutory grounds for termination of the respondent's parental rights focused on the choices and actions of the respondent without any references to facts relating to her mental health diagnosis that were admitted, only in part, through the testimony and report of Biren Caverly.[12] We are cognizant that the failure of the court to order the disclosure of the testing materials potentially limited the respondent's opportunity to discredit the results and to effectively cross-examine Biren Caverly at trial. Nevertheless, reading the court's decision and its analysis as a whole, we do not conclude that this detriment alone amounted to harmful error.

The respondent has the burden of demonstrating harm, but she has failed to persuade us how the evidentiary errors she asserts had any significant bearing on the court's central rationale for concluding that the respondent had failed to rehabilitate or to demonstrate how the alleged errors could have impacted, in any significant way, the trial court's decision and, thus, the outcome of the trial. This is particularly true given the court's clear analysis regarding the defendant's failure to rehabilitate that focused on the respondent's behavior and her decision to prioritize her adult relationships over the needs and well-being of her children. Simply put, the results of her mental health evaluation or any particular mental health diagnosis did not play a material role in the court's determination to terminate her parental rights.

Because the respondent has failed to demonstrate how she was harmed by any of the challenged discovery and evidentiary rulings, the respondent is not entitled to a new trial. Accordingly, her evidentiary claims fail.

The judgments are affirmed.

In this opinion the other judges concurred.

* In accordance with the spirit and intent of General Statutes § 46b-142 (b) and Practice Book § 79a-12, the names of the parties involved in this appeal are not disclosed. The records and papers of this case shall be open for inspection only to persons having a proper interest therein and upon order of the court.

Moreover, in accordance with federal law; see 18 U.S.C. § 2265 (d) (3) (2018), as amended by the Violence Against Women Act Reauthorization Act of 2022, Pub. L. No. 117-103, § 106, 136 Stat. 49, 851; we decline to identify any person protected or sought to be protected under a protection order, protective order, or a restraining order that was issued or applied for, or others through whom that person's identity may be ascertained.

** March 2, 2023, the date that this decision was released as a slip opinion, is the operative date for all substantive and procedural purposes.

[1] Shawn M. is the father of Nevaeh and Melinda and Jose R. is the father of Jackson. Both fathers consented to the termination of their parental rights and have not participated in the present appeal. Accordingly, all references to the respondent in this opinion are to Kimberly G.

[2] The respondent also claims on appeal that there was insufficient evidence to support the court's adjudication of neglect. The petitioner does not directly respond to this claim in her appellate brief. Because the court's judgments on the petitions for termination of parental rights, however, were founded on prior neglect adjudications of the children, not the court's contemporaneous neglect adjudications, it is unnecessary to address this additional claim. The court's dispositions terminating the respondent's parental rights are the dispositive judgments on appeal. See also footnote 10 of this opinion.

[3] See *State* v. *Porter*, 241 Conn. 57, 698 A.2d 739 (1997), cert. denied, 523 U.S. 1058, 118 S. Ct. 1384, 140 L. Ed. 2d 645 (1998).

[4] For the sake of clarity, we have combined for discussion a number of the respondent's claims of error and address them in a different order than how they were briefed by her. Further, as set forth in more detail later in this opinion, we also decline to address a number of the respondent's claims due to inadequate briefing. See part I of this opinion.

[5] The petitioner filed a motion to strike portions of the respondent's appendix filed with her appellate reply brief and any references to those materials contained in the reply brief. According to the petitioner's motion, the appendix "improperly incorporates new evidence and documents from outside the trial record to support arguments that [the respondent] failed to raise before the trial court." The respondent filed an opposition that, in essence, admits the materials at issue were not part of the underlying record, but asks this court to suspend our rules of practice or to take judicial notice of the materials. We conclude that no action is necessary on the petitioner's motion because we have not relied on the disputed materials in resolving the issues on appeal, and, to the extent that the reply brief or appendix contains "improper matter"; see Practice Book § 60-2 (3); the panel has not considered it.

[6] The court made the following additional findings related to the May 15, 2020 shooting incident: "[The department] had recommended that [the respondent's] mother supervise the visitation exchanges between Jackson and Jose, so that no further domestic violence would occur between Jose and [the respondent] while the children were present. While it is correct to say that, specifically with respect to the shooting, [the respondent] had done no wrong, the consequences of that shooting and her failure to properly implement the supervised visitation exchanges through her mother, certainly again exposed her children to domestic violence and its trauma, especially because they had already witnessed so much in person. Knowing how upset and angry Shawn was about the beating he had taken from Jose and his posse, [the respondent's] several rounds of lengthy domestic violence services and counseling should have taught her to consider how volatile the situation might be. Yes, she did not know Shawn would be there, yes, she had nothing to do with the shooting, but only a little forethought would have prevented her children's presence on the scene that day. [The respondent's] and her mother's general insensitivity to the emotions of the two girls during this event and the fact that the two girls had for some time more than a year been calling Jose their father must have made the emotional events of this day particularly difficult. During the course of the trial, when [the respondent] was asked why she could not have allowed her mother to take Jackson into the apartment to visit with his father, as [the department] had directed, she had no real explanation except to claim that it was more convenient since they were all going to a big box store after the visitation exchange."

[7] The court stated in its memorandum of decision that, "[b]ecause there are petitions for neglect as well as termination petitions in this case, the court must first determine if the children have been neglected as of the date the petitions were filed." Having found the children neglected and uncared for, the court then indicated that it would defer disposition on the neglect petitions "until decisions are made on the termination petitions." Because the court granted the termination petitions, it made no independent disposition regarding the neglect petitions. See footnote 2 of this opinion.

[8] Biren Caverly opined in her report and during her trial testimony that the respondent and her children "did not exhibit a close affectionate relationship, but that it was more transactional in nature. . . . It was also very apparent to the evaluator that Nevaeh had taken on a parental role with respect to her two younger siblings and that this was not psychologically good for her."

[9] The attorney for the minor children filed a statement in accordance with Practice Book § 67-13, adopting the brief filed by the petitioner and asking the court to affirm the judgments of the court.

[10] Section 17a-112 (*l*) expressly authorizes the filing of coterminous petitions for neglect pursuant to § 46b-129 and for the termination of parental rights. General Statutes § 17a-112 (*l*) provides in relevant part: "Any petition brought by the Commissioner of Children and Families to the Superior Court, pursuant to subsection (a) of section 46b-129, *may be accompanied by* . . . a petition for termination of parental rights filed in accordance with this section with respect to such child. . . . The Superior Court, after hearing, in accordance with the provisions of subsection (i) or (j) of this section, may, *in lieu of granting the petition filed pursuant to section 46b-129*, grant the petition for termination of parental rights as provided in section 45a-717." (Emphasis added.) If the ground for termination alleged in the petition is that set forth in § 17a-112 (j) (3) (B) (i), however, "the requirement that the adjudication of neglect occur 'in a prior proceeding' indicates that the termination proceeding may not be combined with the neglect proceeding and that separate judgments on each petition are necessary." *In re David W.*, 52 Conn. App. 576, 584, 727 A.2d 264 (1999), rev'd on other grounds, 254 Conn. 676, 759 A.2d 89 (2000).

In the present case, the petitions to terminate parental rights did not *accompany* the latest neglect petitions but were filed more than one year after the neglect petitions were filed. Thus, they were not coterminous petitions under the statute. The petitions, nonetheless, were tried together, and the court, although adjudicating the children neglected, deferred a disposition of the neglect petitions and proceeded to adjudication of the petitions for termination of parental rights, with the apparent understanding that, if it granted the termination petitions and terminated the respondent's parental rights, any further disposition with respect to the contemporaneously adjudicated neglect petitions would be unnecessary. See footnote 2 of this opinion.

[11] To the extent that the respondent advocates for adopting the standard for reviewing factual findings of the court advanced by the concurring justice in *In re Melody L.*, 290 Conn. 131, 176–77, 962 A.2d 81 (2009) (*Schaller*, *J.*, concurring), overruled in part on other grounds by *State* v. *Elson*, 311 Conn. 726, 91 A.3d 862 (2014), suggesting that reviewing courts should undertake a scrupulous examination of the record to ensure that findings are supported by substantial evidence, that standard was rejected by the majority; see id., 162–63; and, "[a]s an intermediate appellate court, we are bound by Supreme Court precedent and are unable to modify it . . . ." (Internal quotation marks omitted.) *State* v. *Madera*, 160 Conn. App. 851, 861–62, 125 A.3d 1071 (2015).

[12] As we have previously discussed, evidence of the respondent's mental health problems was introduced through other sources unrelated to Biren Caverly's testimony and reports, including social studies admitted into evidence and the respondent's own trial testimony. To the extent that the court discussed Biren Caverly's mental health opinion and testimony, as Biren Caverly herself testified, her opinions regarding the respondent and her children were made on the basis of several different components of her evaluation, and she explained that she put "the least onus on the testing . . . [and] the heaviest onus on the interviews with the parties . . . ."