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IN RE PRINCE S. ET AL.*
(AC 45929)

Alvord, Elgo and Suarez, Js.

Syllabus

The respondent mother appealed to this court from the judgments of the trial court terminating her parental rights with respect to her two minor children. The children had been adjudicated neglected and committed to the custody of the petitioner, the Commissioner of Children and Families. The Department of Children and Families issued specific steps to the mother for reunification, which required her, inter alia, to gain insight through parenting and individual counseling into the effect of her mental health issues on her children. After a trial was held on the petitions, the court found that termination was in the best interests of the children. *Held:*

1. The trial court properly found, by clear and convincing evidence that the respondent mother failed to achieve a sufficient degree of personal rehabilitation as required by statute (§ 17a-112); the record contained ample evidence that the mother failed to comply with the specific steps ordered by the court in multiple aspects, including her failure to obtain and maintain adequate housing and legal income, to cooperate with substance abuse evaluations, to visit the minor children as often as the department permitted, and to gain insight into the effect of her mental health issues on them, and the record also supported the court's finding that the mother could not assume a responsible position in the life of either child within a reasonable time considering their ages and needs.
2. The respondent mother could not prevail on her claim that the trial court, in determining that the mother had failed to sufficiently rehabilitate, improperly relied on hearsay evidence, specifically, testimony from the department's social worker regarding the mother's lack of insight as to the effect of her mental health on the minor children: assuming, without deciding, that the testimony was improperly admitted into evidence, the testimony was cumulative of other properly admitted evidence, including the department's social study, documentary and testimonial evidence of the mother's in-patient psychiatric hospitalization and treatment, and additional testimony from the social worker on the issue of the mother's mental health to which the mother did not object, thus, any error in the admission of the statement in question was harmless; moreover, even if this court were to conclude that the evidence was not cumulative, the trial court's conclusion was not based solely on its finding that she had failed to gain insight into the impact of her mental health issues, rather, it was predicated on several additional factual findings, including the mother's failure to visit the minor children as often as the department permitted, her failure to maintain a legal income, her failure to obtain adequate housing, her failure to obtain a lasting benefit from parenting and counseling programs, and her refusal to cooperate with a substance abuse treatment center to which she was referred by the department and, thus, she failed to demonstrate that the court's decision to overrule her objection to the social worker's testimony on hearsay grounds likely affected the result of the trial.

Argued March 15—officially released June 1, 2023**

Procedural History

Petitions by the Commissioner of Children and Families to terminate the respondents' parental rights with respect to their minor children, brought to the Superior Court in the judicial district of New London, Juvenile Matters at Waterford, and tried to the court, *Hon. John C. Driscoll*, judge trial referee; judgments granting the petitions, from which the respondent mother appealed

to this court. *Affirmed.*

Matthew C. Eagan, assigned counsel, for the appellant (respondent mother).

Albert J. Oneto IV, assistant attorney general, with whom, on the brief, were *William Tong*, attorney general, and *Evan O'Roark*, assistant attorney general, for the appellee (petitioner).

Opinion

ELGO, J. The respondent mother appeals from the judgments of the trial court rendered in favor of the petitioner, the Commissioner of Children and Families, terminating her parental rights as to Prince S. and Arella G., her minor children.[1] On appeal, the respondent claims that the court improperly (1) concluded that she failed to achieve a sufficient degree of personal rehabilitation pursuant to General Statutes § 17a-112 (j) (3) (B), and (2) relied on hearsay evidence in so concluding. We affirm the judgments of the trial court.

The following facts, which the trial court found by clear and convincing evidence, are relevant to our resolution of these appeals. "[Prince] is the biological child of [the respondent and Mague S.]. [Arella] is the biological child of [the respondent and George L.]. . . .[2] In February, 2020, [the minor children] were living with [the respondent] in the home of [the respondent's parents]. Local police responded to a domestic complaint and learned that [the respondent] had multiple outstanding failure to appear warrants.[3] [The respondent] was taken into custody, and the [Department of Children and Families (department)] was notified. Upon investigation, the maternal grandparents advised the department that [the respondent] had serious mental health issues, including hallucinations. They further alleged that [the respondent] was abusing alcohol and marijuana and leaving the children in [their] care for extended periods of time. The maternal grandparents did not hold themselves out as a resource. [Following the respondent's subsequent incarceration] [t]he department contacted [Mague S.] and arranged to place [Prince] with him. [Mague S.] was not a resource for [Arella].

"On March 6, 2020, the [petitioner] obtained an ex parte order of temporary custody for [Arella and a] neglect petition was filed as well. The respondent was served in the correctional institution . . . . On March 13, 2020, the order of temporary custody was sustained and [Arella] was placed with a maternal relative. [The respondent] was subsequently appointed counsel, and later was discharged [from confinement] and returned to live with [her parents].

"On June 12, 2020, a neglect petition was filed in the interest of [Prince]. It, as did [Arella's] neglect petition, alleged a history of domestic violence, inadequate living conditions, inadequate supervision of the children, substance abuse by both parents, criminal charges pending against both parents, and [the respondent's] mental health issues. On October 2, 2020, the [petitioner] sought and obtained an ex parte order of temporary custody of [Prince]. The department learned that [Mague S.] had returned [Prince to the respondent] without [notifying] the department. [Prince] was found

in [the respondent's] home, [which was] found to be in deplorable condition. [The respondent's] issues remained unabated and unaddressed as of that date. On October 9, 2020, [the respondent] agreed to sustain the order of temporary custody. . . .

"On October 30, 2020, [the respondent] filed a written plea of nolo contendere. . . . [Prince] was adjudicated neglected and committed to the [petitioner]. [Prince] has remained in the [petitioner's] care and custody since October 2, 2020. [The respondent] . . . [was] given specific steps for reunification in October, 2020.

"On March 9, 2021, [the respondent] submitted a plea of nolo contendere as to [Arella who was] adjudicated neglected and committed to the [petitioner]. [The respondent's] specific steps for reunification were reaffirmed. [The] specific steps required her, in part, to: gain insight through parenting and individual counseling into the effect of her mental health issues on her children; [to] cooperate with a substance abuse evaluation, treatment, and testing; to get and maintain adequate housing and income; and [to] visit her children. [The respondent's] compliance [with those steps] has been inconsistent and inadequate.

"When the case began, [the respondent's] home with the maternal grandparents was problematic. The residence was infested with cockroaches. This physical concern could be addressed and corrected. [The respondent] claims it has been [corrected] and [that] the department has not [conducted] a home visit to confirm this. The greater difficulty was with the maternal grandparents, whose residence it was. Neither [grandparent] is able to be a long-term caregiver for the children, and [the respondent] repeatedly imposed upon them as caregivers. Most problematic was the maternal grandfather's predilection for pornography, to which [Arella] was exposed. [The respondent] observed her child watching pornographic videos under her bed covers. The child recorded sexually inappropriate videos. [The respondent] has made no effort to correct this. Her counselor indicated that she has little insight into child safety.

"[The respondent] has not obtained independent housing. Periodically she has moved in with friends or lived in a car. She has not obtained her own home. [The respondent's] lack of income is a barrier to housing. [The respondent's] exhibits establish a very limited work history and income, and ultimately the loss of this limited employment. [The respondent's] aunt testified [at the termination trial] that [the respondent] had given all of her income to the aunt . . . for the purpose of buying and insuring a car. [The respondent] had no driver's license and had only made preliminary arrangements for licensure at the time of the commencement of the trial. [The respondent's] prospects for independent housing and income are remote, at best.

"As noted, the department's involvement commenced with [the respondent's] arrest on multiple failure to appear warrants. [The respondent] ultimately was placed on probation, and has avoided new arrest, and is cooperative with her probation.

"However, [the respondent's] family disclosed, and testified to the fact, that [the respondent's] behavior was out of control. She took little or no responsibility for [the minor] children. She was more interested in partying with friends than in parenting. She was often angry, paranoid, and avoidant. These behaviors predated the department's referral to, and the respondent's participation in, a virtual parenting program. [The respondent] completed that program in January, 2021. [The respondent] demonstrated no insight gained from the program. Her parenting did not improve, as her out of control behaviors continued, according to her family.

"[The respondent] was referred to and completed a program at a center for behavioral health in April, 2021. It did not amend her behaviors. In May, 2021, [the respondent] was referred to a psychiatrist for medication evaluation. [The respondent] has been attending a different local provider and her therapist there questioned whether [the respondent] had the insight or ability to benefit from counseling. [The respondent] discharged herself from this service prematurely. [The respondent] had been diagnosed with major depressive disorder, severe, with psychotic features.

"In July, 2021, [the respondent's] family convinced her to go to the local hospital and [the respondent] was hospitalized in a psychiatric ward for approximately one month. Upon discharge, [the respondent] was diagnosed with schizophrenia, and began services at the hospital's mental health center. [The respondent was] discharged from hospital services and began individual counseling with a local community mental health service. Her counselor at this service reports that [the respondent] is pleasant, but demonstrates no insight into the effect her mental health issues have on her children and her parenting. Despite reasonable efforts to obtain services for [the respondent, she] has been unable to benefit from mental health supports.

"The department referred [the respondent] to a local drug treatment and counseling center. [The respondent] did not schedule an intake. While [the respondent] has tested negative for marijuana through probation, she was also observed during a virtual visit purchasing 'nip' bottles of alcohol and blunt papers. While this demonstrates a clear lack of insight as to proper parenting, it also justifies continued concerns regarding [the respondent's] lifestyle choices.

"While [the respondent] has avoided new involvement with the criminal justice system, [she] provided a photo of herself to [Prince's] foster mother on July

14, 2022, showing [the respondent] with serious facial injuries. [The respondent] provided no explanation for the injuries, which appear to be the result of an assault.

"The department attempted to arrange regular virtual visitation between [the respondent] and the children. [The respondent] often did not call or participate in visits. She was frequently late. Despite attempts at correction, she frequently made inappropriate remarks to the children about reunification. On August 23, 2021, [the respondent's] visitation was suspended by order of the [trial court]. Prior to the trial, [the respondent] made no effort to reinstate visitation, despite returning to and completing in March, 2022, the same virtual parenting program that she completed in 2021.

"The department made appropriate and reasonable referrals for services, with which [the respondent] either did not comply, or from which she gained inadequate benefit. Ultimately, on October 5, 2021, the [trial court] approved a permanency plan, which did not include reunification with any parent.[4]

"[Prince] is doing well in foster placement, recognizes [the respondent's] deficits, and does not want to reunify. [Arella] has conflicted feelings. [Arella] has had multiple placements, and is not as secure or as stable in placement as [Prince]. However, [Arella] has greater needs, as demonstrated by her unprotected access to pornography, and [the respondent's] lack of insight into that issue. [The respondent] has inadequate parenting skills, and her mental health treatment has not progressed to any appreciable insight into how her mental health concerns adversely affect her children.

"In summary, the department made reasonable efforts to reunify [the respondent] by connecting her with necessary services. [The respondent] was unable or unwilling to cooperate with those efforts. . . . [The respondent] did not adequately visit the children, and her visitation was suspended. [The respondent] has not obtained adequate housing or employment. [The respondent] attended parenting classes, but demonstrated no lasting benefit. [The respondent] attended some counseling programs but demonstrated no lasting benefit. [The respondent] did not cooperate with a substance abuse referral for evaluation. . . . [T]he [petitioner] has proven by clear and convincing evidence: that the department made reasonable efforts to locate [the respondent]; the department made reasonable efforts to reunify the children with [the respondent]; that [she] was unable or unwilling to benefit from reunification efforts; the court determined such efforts were no longer required because the court approved a permanency plan other than reunification; and both children had been found in prior proceedings to have been neglected and [the respondent] has failed to achieve the degree of personal rehabilitation that would encourage the belief that within a reasonable time, considering

the age[s] and needs of the children, [the respondent] could assume a responsible position in the life of either child." (Footnotes added.) The court further found that termination was in the best interests of the minor children and, accordingly, granted the petitions to terminate the respondent's parental rights. From those judgments, the respondent now appeals.

I

The respondent first claims that the court improperly concluded that she failed to achieve a sufficient degree of personal rehabilitation pursuant to § 17a-112 (j) (3) (B). We do not agree.

Failure to achieve a sufficient degree of personal rehabilitation is one of the seven statutory grounds on which parental rights may be terminated under § 17a-112 (j) (3). Section § 17a-112 (j) permits a court to grant a petition to terminate parental rights "if it finds by clear and convincing evidence that . . . (3) . . . (B) the child . . . has been found by the Superior Court . . . to have been neglected . . . 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 . . . 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 . . . ." In making that determination, "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 child at issue." *In re Danuael D.*, 51 Conn. App. 829, 840, 724 A.2d 546 (1999).

"We review the trial court's subordinate factual findings for clear error,[5] and review its finding that the respondent failed to rehabilitate for evidentiary sufficiency. . . . In reviewing that ultimate finding for evidentiary sufficiency, we inquire 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]. . . . [I]t is not the function of this court to sit as the [fact finder] when we review the sufficiency of the evidence . . . rather, we must determine, in the light most favorable to sustaining the verdict, whether the totality of the evidence, including reasonable inferences therefrom, supports the [judgment of the trial court] . . . . In making this determination, [t]he evidence must be given the most favorable construction in support of the [judgment] of which it is reasonably capable. . . . In other words, [i]f the [trial court] could reasonably have reached its conclusion, the [judgment] must stand, even if this court disagrees with it."[6] (Citations omitted; footnote added; internal quotation marks omitted.) *In re Jayce O.*, 323

Conn. 690, 715–16, 150 A.3d 640 (2016). Applying that standard, we conclude that there is sufficient evidence in the record to support the trial court's finding that the respondent failed to achieve a sufficient degree of personal rehabilitation.

We begin by noting that specific steps "are a benchmark by which the court will measure the respondent's conduct to determine whether termination is appropriate pursuant to § 17a-112 (j) (3) (B)." (Internal quotation marks omitted.) *In re Shane M.*, 148 Conn. App. 308, 329, 84 A.3d 1265 (2014), aff'd, 318 Conn. 569, 122 A.3d 1247 (2015). The specific steps issued by the court in the present case required the respondent, among other things, to get and maintain adequate housing and a legal income, to cooperate with substance abuse evaluations, to visit the minor children as often as the department permitted, and to gain insight into the effect of her mental health issues on them. In its memorandum of decision, the court found that the respondent had not maintained a legal income and had failed to schedule an intake with a drug relapse prevention agency to which she had been referred by the department. The court also found that the respondent had failed to obtain adequate housing, noting that "[p]eriodically she has moved in with friends or lived in a car [and she] has not obtained her own home." Those findings are supported by evidence in the record and, thus, are not clearly erroneous. Moreover, in light of the uncontroverted evidence that (1) the maternal grandparents were unwilling to be long-term caregivers, (2) the respondent had repeatedly imposed upon them as caregivers, and (3) the maternal grandfather possessed a predilection for pornography, which resulted in the exposure of such materials to Arella, the court reasonably could infer that residing with the maternal grandparents was not a suitable housing option.

The court also found that the respondent failed to comply with the specific step requiring her to visit the minor children "as often as [the department] permits." The court found, and the evidence in the record confirms, that the respondent routinely was a "no-call/no-show" and did not participate in numerous visitation appointments.[7] After the respondent failed to attend a visitation appointment scheduled on July 15, 2021, the department filed a motion to suspend visitation, which the court granted by order dated August 23, 2021. As the court noted in its memorandum of decision, the respondent thereafter "made no effort to reinstate visitation" with the minor children.[8] A respondent's refusal to take visitation seriously is a ground on which the trial court properly may rely in concluding that a respondent has failed to achieve a sufficient degree of personal rehabilitation. See *In re Lil'Patrick T.*, 216 Conn. App. 240, 254, 284 A.3d 999 (failure to rehabilitate determination predicated in part on court's finding "that the respondent attended about one half of the available

visits"), cert. denied, 345 Conn. 962, 285 A.3d 387 (2022); *In re Mariah S.*, 61 Conn. App. 248, 266, 763 A.2d 71 (2000) (failure to rehabilitate determination predicated in part on court's finding that "the respondent consistently refused to take her visitation and counseling obligations seriously"), cert. denied, 255 Conn. 934, 767 A.2d 104 (2001); *In re Noelle C.*, Superior Court, judicial district of Middlesex, Docket No. CP-15-009255-A (July 28, 2020) (failure to rehabilitate determination predicated in part on court's finding that respondent refused to participate in visitation with minor children for fourteen months prior to termination trial); *In re Brianna Rose B.*, Superior Court, judicial district of Windham, Docket No. CP-07-015192-A (March 3, 2009) (failure to rehabilitate determination predicated in part on court's finding that respondent's attendance at scheduled visits initially was intermittent and that respondent "then stopped coming").

The specific steps also required the respondent to gain insight into the effect of her mental health issues on the minor children. It is undisputed that the respondent was diagnosed with "major depressive disorder, severe, with psychotic features" in June, 2021. She subsequently was diagnosed with "schizophrenia, paranoid, chronic, with acute exacerbation" while hospitalized as part of an inpatient psychiatric treatment program. In its memorandum of decision, the court found that, although the respondent had attended parenting classes and counseling programs, she had demonstrated "no lasting benefit."[9] More specifically, the court found that the respondent's "mental health treatment has not progressed to any appreciable insight into how her mental health concerns affect her children." That finding is supported by evidence in the record—namely, the October 22, 2021 social study submitted in support of the termination petitions. That study states in relevant part: "Though [the respondent] has attended mental health . . . treatment, [she] has failed to make progress . . . in order to live a healthy, stable life and meet the needs of her children. She continues to demonstrate behaviors associated with untreated, significant mental health needs. When attending services, [the respondent] denied a need for services and indicated to . . . providers that she was engaged in services because [the department] told her to. [The respondent] shows no insight [into] her mental health needs nor does she display coping skills." Because that social study was admitted as a full exhibit at trial without objection, the court was entitled to rely on it in making its findings. See *In re Leilah W.*, 166 Conn. App. 48, 71, 141 A.3d 1000 (2016).

In addition, the court heard testimony at trial from department social worker Christina Garabedian. In response to a question regarding "feedback" from service providers on whether the respondent was benefiting from those services "in any meaningful way," Gar-

abedian testified that the respondent "continues to not understand the jeopardy that she put her children in and the safety factors that were present in her care and she has not been able to . . . make sufficient progress to eliminate those factors . . . ." Garabedian also was asked what barriers existed to the respondent "being a safe and appropriate caregiver to her children," to which Garabedian responded: "The most significant barrier . . . is her mental health. [The respondent] has very serious mental health issues . . . . [Those issues will] not be stabilized and resolved to the point at which she could be considered a reliable and responsible caregiver for her children."[10] The court, as arbiter of credibility, was entitled to credit that testimony. See *In re Nevaeh W.*, 317 Conn. 723, 737, 120 A.3d 1177 (2015) ("[i]n a case tried before a court, the trial judge is the sole arbiter of the credibility of the witnesses and the weight to be given specific testimony" (internal quotation marks omitted)); *In re Brianna L.*, 139 Conn. App. 239, 251, 55 A.3d 572 (2012) (whenever evidence is admitted without objection, trier of fact can rely on it). On that evidence, the court properly could conclude that the respondent had failed to comply with the specific step requiring her to gain insight into the effect of her mental health issues on the minor children.

As our Supreme Court has explained, "the failure to comply with specific steps ordered by the court typically weighs heavily in a termination proceeding." *In re Devon B.*, 264 Conn. 572, 584, 825 A.2d 127 (2003); see also *In re Brian T.*, 134 Conn. App. 1, 25, 38 A.3d 114 (2012) (*Robinson*, *J.*, concurring) ("specific steps are intricately intertwined with the failure to rehabilitate"). The record before us contains ample evidence to substantiate the court's finding that the respondent failed to comply with the specific steps in multiple respects. The record also supports the court's finding that the respondent could not "assume a responsible position in the life of either child" within a reasonable time when considering their ages and needs. Indulging every reasonable presumption in favor of the court's ruling, as our standard of review requires; see *In re Jayce O.*, supra, 323 Conn. 716; we conclude that the record contains sufficient evidence to support the court's conclusion that the respondent failed to achieve the requisite degree of personal rehabilitation pursuant to § 17a-112 (j) (3) (B).

II

The respondent also claims that the court improperly relied on hearsay evidence in reaching that conclusion. In response, the petitioner contends that any error in the admission of that evidence was harmless. We agree with the petitioner.

"Our standard of review regarding challenges to a trial court's evidentiary rulings is that these rulings will be overturned on appeal only where there was an abuse

of discretion and a showing . . . of substantial prejudice or injustice. . . . Additionally, it is well settled that even if the evidence was improperly admitted, the [party challenging the ruling] must also establish that the ruling was harmful and likely to affect the result of the trial." (Internal quotation marks omitted.) *In re Jordan T.*, 119 Conn. App. 748, 762, 990 A.2d 346, cert. denied, 296 Conn. 905, 992 A.2d 329 (2010). "[I]f erroneously admitted evidence is merely cumulative of other evidence presented in the case, its admission does not constitute reversible error." *Swenson* v. *Sawoska*, 215 Conn. 148, 155, 575 A.2d 206 (1990).

At trial, the following colloquy occurred during the direct examination of Garabedian by the petitioner's counsel:

"[The Petitioner's Counsel]: [H]ave you had some feedback directly from any clinical member at [Sound Community Services, Inc.]?

"[Garabedian]: Yes. I've spoken with [the respondent's] therapist, Jody Castella, on a couple of the occasions. And she reports, you know, in terms of [the respondent's] personality and presentation, very positively that [the respondent] is a pleasant young woman, a likable young woman, but that she truly lacks insight into how much her mental health has impacted her life and—

"[The Respondent's Counsel]: Objection, Your Honor. This is far—this is complete hearsay.

"[Garabedian]: Okay.

"[The Petitioner's Counsel]: I think it's in the—Ms. Garabedian, is this in your update?

"[Garabedian]: It's not in my update, it is in the case record so—

"[The Petitioner's Counsel]: The narrative?

"[Garabedian]: —in the narratives.

"[The Petitioner's Counsel]: Oh, we can—I mean, to me it's substance over form, Your Honor, but we can offer the narrative but it seems that—

"The Court: I'm going to allow it.

"[The Petitioner's Counsel]: Go ahead.

"[Garabedian]: Yeah, yeah, that [the respondent] has really failed to appreciate how much her mental health has impacted her and her relationship with her children in terms of having been separated from her children and not having them in her care."

Assuming without deciding that the aforementioned statement was improperly admitted into evidence, it was cumulative of other properly admitted evidence. As discussed in detail in part I of this opinion, the October 22, 2021 social study submitted in support of

the termination petitions substantiates the court's finding that the respondent's "mental health treatment has not progressed to any appreciable insight into how her mental health concerns affect her children."[11] More specifically, the study documents the department's discussions with the respondent about her ongoing need for mental health and substance abuse treatment for her dual diagnosis, her minimization and denial of her need for treatment, and her report to providers that "I'm just playing whatever game DCF wants me to play." This pattern of minimization since the respondent's release from incarceration with one month long stay at York Correctional Institution's psychiatric unit in April, 2020, persisted throughout the department's work with the respondent, notwithstanding its having referred her to services at CarePlus and Stonington Institute. After her diagnosis with major depressive disorder, severe, with psychotic features, at Reliance House in February, 2021, the respondent was discharged on May 19, 2021, for lack of engagement with mental health treatment and discontinuing attendance despite outreach. When the department encouraged the respondent in June, 2021, to return to Reliance House, the respondent stated that she "was content." Subsequently, the respondent was involuntarily admitted for in-patient psychiatric treatment for one month at Backus Hospital with a diagnosis of schizophrenia, paranoid, chronic, with acute exacerbation. The court properly may consider such evidence in making its factual findings. See *In re Lillyanne D.*, 215 Conn. App. 61, 80 n.15, 281 A.3d 521 ("the court may rely on the social study in both the adjudicatory and dispositional phases of a termination of parental rights proceeding"), cert. denied, 345 Conn. 913, 283 A.3d 981 (2022); see also *In re Anna Lee M.*, 104 Conn. App. 121, 128, 931 A.2d 949, cert. denied, 284 Conn. 939, 937 A.2d 696 (2007); *In re Tabitha P.*, 39 Conn. App. 353, 368, 664 A.2d 1168 (1995).

In addition, the court heard additional testimony from Garabedian to which the respondent did not object. For example, *prior* to the aforementioned colloquy, Garabedian was asked what barriers existed to the respondent "being a safe and appropriate caregiver to her children," to which she responded: "The most significant barrier . . . is her mental health. [The respondent] has very serious mental health issues . . . . [Those issues will] not be stabilized and resolved to the point at which she could be considered a reliable and responsible caregiver for her children." Later in her testimony, Garabedian testified that the respondent "continues to not understand the jeopardy that she put her children in and the safety factors that were present in her care and she has not been able to . . . make sufficient progress to eliminate those factors . . . ." The respondent did not object to that testimony. Because the court had documentary and testimonial evidence that was probative of the same issue as the

evidence in controversy, including in-patient psychiatric hospitalization and treatment; see *DeNunzio* v. *DeNunzio*, 320 Conn. 178, 204, 128 A.3d 901 (2016); we conclude that any error in the admission of the statement in question was harmless.

Even if we were to conclude that the evidence at issue in this claim was not cumulative of other evidence before the court, the respondent could not prevail. The court's determination that she had failed to sufficiently rehabilitate was not based solely on its finding that she had failed to gain insight into the impact of her mental health issues. Rather, it was predicated on several additional factual findings, including the respondent's failure to visit the minor children as often as the department permitted, her failure to maintain a legal income, her failure to obtain adequate housing, her failure to obtain a lasting benefit from parenting and counseling programs, and her refusal to cooperate with a substance abuse treatment center to which she was referred by the department. For that reason, she has not demonstrated that the court's decision to overrule her objection to Garabedian's statement on hearsay grounds likely affected the result of the trial.

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.

** June 1, 2023, the date that this decision was released as a slip opinion, is the operative date for all substantive and procedural purposes.

[1] The court also terminated the parental rights of Mague S., the father of Prince, and George L., the father of Arella. Because they have not appealed, we refer to the respondent mother as the respondent. We refer to Prince and Arella collectively as the minor children.

In addition, we note that the attorney for the minor children filed a statement adopting the brief of the petitioner in this appeal pursuant to Practice Book §§ 67-13 and 79a-6 (c).

[2] The court found that Prince was nine years old and Arella was six years old at the time of trial in April, 2022.

[3] Admitted into evidence at trial was a criminal history report prepared by the Department of Emergency Services and Public Protection. That report indicates that the respondent had been arrested for, inter alia, assault in the third degree in violation of General Statutes § 53a-61, criminal mischief in the third degree in violation of General Statutes § 53a-117, disorderly conduct in violation of General Statutes § 53a-182, and multiple counts of failure to appear in the second degree in violation of General Statutes § 53a-173.

[4] The petitioner filed petitions to terminate the respondents' parental rights as to the minor children on November 3, 2021.

[5] "Appellate review of a trial court's findings of fact is governed by the clearly erroneous standard of review. . . . 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." (Internal quotation marks omitted.) *In re Jacob W.*, 330 Conn. 744, 770, 200 A.3d 1091 (2019).

[6] In her principal appellate brief, the respondent argues that the evidential sufficiency standard adopted by our Supreme Court "should be replaced" by a clear error standard. She acknowledges that this court is incapable of modifying or overruling the precedent of the Supreme Court; see *State Marshal Assn. of Connecticut, Inc.* v. *Johnson*, 198 Conn. App. 392, 419,

234 A.3d 111 (2020); and merely seeks to preserve her claim for further appellate review.

[7] The evidence indicates that the respondent did not participate in visits scheduled on August 18, 2020, September 3, 2020, September 10, 2020, September 17, 2020, October 10, 2020, November 14, 2020, December 11, 2020, December 23, 2020, January 8, 2021, January 15, 2021, May 11, 2021, May 18, 2021, May 25, 2021, June 10, 2021, June 24, 2021, and July 15, 2021.

[8] The respondent's last documented visit with Arella occurred on June 21, 2021, nine months prior to the start of the termination trial. Her last documented visit with Prince was in January, 2021, fourteen months prior to trial.

[9] In its decision, the court also found that, despite completing the inpatient psychiatric treatment program at the hospital, the respondent "has been unable to benefit from mental health supports." That finding undermines the respondent's claim that the court failed to consider her posthospitalization efforts to rehabilitate. To the contrary, the court specifically noted certain positive aspects of the respondent's posthospitalization efforts, including her cooperation with probation, her negative drug tests, and her completion of a parenting education program.

[10] The respondent did not object to those questions or Garabedian's responses at trial.

[11] The respondent maintains that such evidence cannot support the court's findings regarding her mental health and its impact on the minor children, as it is not "medical" evidence. She has provided no authority for that bald assertion. Contra *In re Leilah W.*, supra, 166 Conn. App. 70–71 (rejecting claim that petitioner was required to present testimony of "a mental health provider" and concluding that court properly relied on social study that was admitted without objection in making findings regarding respondent's mental health).