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IN RE DEBORAS S. ET AL.*
(AC 45501)
(AC 45552)

Bright, C. J., and Elgo and Clark, Js.

Syllabus

The respondent mother appealed to this court from the judgments of the trial court terminating her parental rights with respect to her three children, J, D and B. The maternal grandmother filed a separate appeal challenging the judgments terminating the mother's parental rights and the trial court's denial of her motion to transfer guardianship. The mother, who has cognitive limitations and mental health needs, relied on the grandmother, who had been appointed her plenary guardian by the Probate Court, to make major decisions for her and to take care of the children since their birth. Two of the children have significant needs and require special services and treatment. The Department of Children and Families first became involved with the family when concerns arose as to J and D, and an allegation of physical neglect was thereafter substantiated as the mother and the grandmother were homeless, transient and not following through with treatment for the children. The family then moved to Puerto Rico, where B was born, and the department had no contact with the family. Two years later, the department was contacted by school officials in Connecticut who reported that the children had hygiene issues and that the children needed services. The petitioner, the Commissioner of Children and Families, secured orders of temporary custody for all three children and filed neglect petitions on behalf of the children. When the department reached out to the mother regarding her children, she was in Puerto Rico, and she directed the department to follow up with the grandmother regarding the children's needs. The department attempted to engage the grandmother to receive services, but the grandmother often refused or failed to sign releases to authorize services. The grandmother also instructed the mother not to sign releases to authorize treatment for herself or the children. A guardian ad litem was appointed for the mother, and the grandmother filed a motion to intervene in the neglect proceedings. The children were adjudicated neglected and committed to the custody of the petitioner. The grandmother filed a motion to transfer guardianship of the minor children to herself. The petitioner then filed petitions to terminate the respondent's parental rights. During the termination proceedings, an ex parte restraining order was issued against the grandmother to protect the mother. Thereafter, the trial court bifurcated the termination trial from the proceeding on the grandmother's motion to transfer guardianship. *Held*:

1. The respondent mother could not prevail on her claims that the trial court improperly concluded that the department made reasonable efforts to reunify her with the children, that she failed to achieve a sufficient degree of personal rehabilitation, and that termination of her parental rights were in the best interests of the children:

a. The trial court properly concluded, on the evidence before it, that the department had satisfied its statutory (§ 17a-112 (j) (1)) burden to make reasonable efforts to reunify the mother with the children: because the trial court did not make a finding that the mother was unable or unwilling to benefit from reunification efforts and addressed only the reasonableness of the reunification efforts made by the department, the mother's claim that there was insufficient evidence to support the court's finding that she was unwilling to benefit from reunification efforts, premised on the court's finding that she had an intellectual disability that would make it difficult for her to be the primary caregiver, and the department's failure to offer wraparound services that would have engaged both the mother and the grandmother, improperly conflated the ground of unable or unwilling to benefit from reunification with the failure to rehabilitate language of § 17a-112 (j) (3) (b) (i), and the claim that the department had a duty or legal obligation to offer wraparound services to engage both the mother and the grandmother was without merit, as there was

no authority cited by the mother suggesting that the department's burden in establishing the reasonable efforts ground extended or applied jointly to a person whose parental rights were not the subject of the petition; moreover, even if there was a legal duty such that the court would be precluded from finding reasonable efforts, the record demonstrated that the grandmother was not a supportive parenting figure with whom the mother could responsibly partner in the raising of her children, as the grandmother was actively hostile to the mother's ability to engage in services, was the subject of a protective order in which the mother was the protected party, a guardian ad litem was appointed for the mother as a result of conflicts with the mother over visitation, and the grandmother frustrated the department's efforts to work with her and the mother, particularly in instructing the mother not to sign any releases from the department, which prevented and delayed services from being provided; furthermore, there was sufficient evidence in the record to support the court's reasonable efforts determination because, although the mother failed to sign releases required by the department to provide services to her and the children, the department nevertheless attempted to reunify her with the children by providing psychological and psychiatric services in an attempt to determine her competency, providing weekly supervised visitation services, transportation and case management services, facilitating counseling and therapy for the children, which included observation with the mother with respect to the children, involving the mother in the children's medical appointments, and referring her to parenting services.

b. The trial court properly concluded that the respondent mother failed to achieve a sufficient degree of personal rehabilitation pursuant to § 17a-112 (j) (3) (B) as would encourage the belief that within a reasonable time, considering the ages and needs of the children, she could assume a responsible position in their lives, as the evidence credited by the court supported its conclusion that the mother failed to comply with the specific steps assigned to her to facilitate reunification with her children: the mother failed to sign releases in a timely manner to allow the department to communicate with service providers, which hampered its ability to procure rehabilitative services for her, and, although she engaged in some services, she was unsuccessfully discharged due to her failure to attend telehealth appointments, she failed to attend an intake appointment for counseling services, and she made little progress during the weekly supervised visitation sessions by failing to engage with her children; moreover, the mother conceded that, at no time since the children's births, had she ever served as their caregiver, and, due to her cognitive limitations and mental health challenges, she was largely unable to care for herself and could not meet the needs of her children.

c. The respondent mother could not prevail on her claim that the trial court erroneously found that the termination of her parental rights was in the best interests of the children: the children were thriving in their foster placement where they were provided needed consistency and stability that the mother could not provide, and, contrary to the mother's assertion, the trial court did acknowledge the bond that she shared with her children; moreover, the trial court found that the mother did not have the skills to care for the children and would not be able to assume a responsible role in their lives in a reasonable time period, which was supported by the expert testimony of a court-appointed psychologist and department social workers, as well as a written report; furthermore, the mother did not aver that she was capable of caring for her children, rather, she requested a transfer of legal guardianship to the children's grandmother, and the record contained sufficient evidence to provide a proper basis for the court to reject the mother's claim that the best interests of the children would be served by transferring guardianship to the grandmother, as the conditions that gave rise to department's intervention and the children's subsequent removal occurred while the mother was in Puerto Rico and the children were in the grandmother's care, the record indicated that the mother had a restraining order against the grandmother, and the mother indicated that the grandmother controlled her life.

2. In the second appeal, the maternal grandmother could not prevail on her claims that the trial court lacked subject matter jurisdiction to terminate the respondent mother's parental rights due to its failure to join her as a necessary party, that the court applied an incorrect legal standard in adjudicating her motion to transfer guardianship, and that the court

violated her right to equal protection:

a. The grandmother's claim that the trial court lacked subject matter jurisdiction over the termination proceedings because she was a necessary party that was excluded from the action was contrary to established precedent, and, even, if this court construed the grandmother's claim as one challenging the propriety of the trial court's decision to preclude her from participating as a party in the termination trial, she would not have prevailed, as the grandmother's counsel at the termination trial confirmed that, although the grandmother had been granted intervenor status in the prior neglect proceedings, she had not sought to intervene in the termination proceedings and was therefore not a party to the termination proceedings; moreover, because termination of parental rights proceedings concern only the rights of the respondent parent, the grandmother's claim that the court improperly precluded her in light of her status as the plenary guardian of the mother and was the only party appropriate to speak on the mother's behalf was unavailing, as the trial court appointed a guardian ad litem in place of the grandmother to assist the mother in making informed decisions because of conflicts that arose between the grandmother and the mother, and the grandmother did not allege that the court-appointed guardian ad litem could not fulfill her role; furthermore, the record indicated that the grandmother maintained that the mother was not capable of serving as a parent and was unable to meet the needs of the children, which undermined the grandmother's claim that she was the proper party to advocate on the mother's behalf at the termination trial.

b. The trial court applied the proper legal standard when it adjudicated the grandmother's motion to transfer guardianship: the grandmother could not prevail on her claim that she was entitled to a presumption that she was a suitable and worthy guardian and that a transfer of guardianship to her was in the best interests of the children, as neither the applicable statute (§ 46b-129) nor the relevant rule of practice (§ 34a-12A) provided a presumption of fitness for a parent or former guardian, rather, the rebuttable presumption applied to a relative of a child who either was licensed as a foster parent for the child or was the court-ordered temporary custodian of the child at the time of the revocation or termination, and neither condition applied to the grandmother at the time of the revocation or termination; moreover, the children were committed to the petitioner and thus, as a matter of law, they were in the custody and guardianship of the petitioner, and, accordingly, the grandmother was not entitled to the rebuttable presumption set forth in either § 46b-129 or Practice Book § 34a-12A.

c. The grandmother's claim that the trial court violated her right to equal protection under title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d), by discriminating against her as a person of Puerto Rican descent with limited English language proficiency was without merit, as nothing in the record or in the court's memorandum of decision evinced a discriminatory intent: the court had provided the grandmother with a Spanish speaking interpreter since the first hearing following the removal of the children, advised her of all her rights through an interpreter, to which she responded affirmatively, was provided an interpreter at all subsequent proceedings, and the grandmother affirmed through the interpreter that she had reviewed and understood the specific steps issued to her; moreover, all department social workers assigned to the case, as well as the court-ordered psychologist, spoke in Spanish to the grandmother and provided her with written materials in Spanish, and she had been appointed legal counsel, who represented her at every court hearing until she was no longer a party to the juvenile proceedings.

Argued January 31—officially released June 14, 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 Waterbury, Juvenile Matters, and tried to the court, *Hon. William T. Cremins*, judge trial referee; judgments terminating the respondents' parental rights, from which the respondent mother appealed to this court; thereafter, the court

denied the maternal grandmother's motion to transfer guardianship of the minor children to herself, and the maternal grandmother appealed to this court. *Affirmed.*

Lisa Vincent, assigned counsel, with whom was *Ani A. Desilets*, for the appellant in Docket No. AC 45501 (maternal grandmother).

David B. Rozwaski, assigned counsel, for the appellant in Docket No. AC 45552 (respondent mother).

Evan O'Roark, assistant attorney general, with whom were *Emily Nastri*, assistant attorney general, and, on the brief, *William Tong*, attorney general, for the appellee in Docket Nos. AC 45501 and 45552 (petitioner).

Opinion

ELGO, J. These related appeals concern the parental rights and guardianship of Deboras S., Dorkas S., and Joe S., the minor children. In Docket No. AC 45552, 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 the minor children.[1] The respondent claims that the court improperly concluded that (1) the Department of Children and Families (department) made reasonable efforts to reunify her with the minor children pursuant to General Statutes § 17a-112 (j) (1); (2) she failed to achieve the requisite degree of personal rehabilitation required by General Statutes § 17a-112 (j) (3) (B); and (3) termination of her parental rights was in the best interests of the children. In Docket No. AC 45501, the maternal grandmother of the minor children, Ana R. (intervenor), who intervened in the underlying neglect action, appeals from the judgments of the trial court terminating the respondent's parental rights and denying her motion to transfer the guardianship of the minor children to herself. The intervenor claims that the court (1) lacked subject matter jurisdiction to terminate the respondent's parental rights due to its failure to join the intervenor as a necessary party, (2) applied an incorrect legal standard when adjudicating her motion to transfer guardianship, and (3) violated her right to equal protection under title VI of the Civil Rights Act of 1964 (title VI), 42 U.S.C. § 2000d et seq.[2] We affirm the judgments of the trial court.

The following facts and procedural history are relevant to our resolution of these appeals.[3] The respondent was born in Puerto Rico in 1983 and attended school there through the ninth grade. The respondent suffers from mental health issues, as she is cognitively limited and has been diagnosed with schizophrenia and a major depressive disorder. She lives with her mother, the intervenor, in a four bedroom apartment in Waterbury. The intervenor provides financial support to the respondent and, in 2007, was appointed as her plenary guardian by the Probate Court of New Haven. See General Statutes § 45a-677.

The respondent began an intermittent relationship with Arsenio R. in 2009 that lasted several years. They have two children together—Joe, who was born in 2010, and Dorkas, who was born in 2014.

The respondent met John Doe at a party in Puerto Rico in 2017, where they engaged in a "one-night stand" that resulted in the respondent's pregnancy. Deboras subsequently was born in early 2018. The respondent does not know the identity of John Doe and the department was unable to identify or locate him. All three minor children have been raised by the intervenor since birth.

The family's history with the department dates back to April, 2014, when concerns first arose as to the care of Joe and Dorkas. In 2016, an allegation of physical neglect was substantiated due to the respondent and the intervenor being homeless, transient, and not following through with treatment recommendations for the children. On November 29, 2016, the department filed neglect petitions on behalf of Joe and Dorkas in the Superior Court. Shortly thereafter, the intervenor informed school officials that the family was moving to Puerto Rico. When the department was able to contact the intervenor in February, 2017, she refused to disclose the family's address and hung up the telephone. For the next nineteen months, the department had no contact with the family.[4]

On September 19, 2018, the department received a report from an official at Walsh Elementary School (school) regarding the care of the minor children. The official reported that the intervenor had provided the school with a notarized paper, bearing only her signature, stating that the minor children were left in her care by the respondent. The official also reported that there were limited educational records for Joe, who previously had been identified as autistic, and that the minor children appeared dirty and had an odor. In addition, the official noted that the intervenor had informed the school that "she had nothing for the children and needed help."

Yocastra Del Rosario, an investigative social worker with the department, contacted the school the next day and spoke with its vice principal, who informed Del Rosario that she had referred the intervenor to the Hispanic Coalition, but the intervenor did not follow through with those services. She also reported that the children arrived at school with a strong odor of urine and opined that Joe needed another educational setting due to his "high autism." The vice principal further advised Del Rosario that the school, at that time, was unable to provide additional services to Joe because it did not have any signed authorizations on his behalf.

When Del Rosario visited the intervenor's home later that day, she observed a strong odor of urine and bleach. Dorkas, who then was four years old, was wearing a diaper and acting younger than her age. Joe, who then was eight years old, was drinking milk out of a baby bottle, while Deboras was in a car seat on top of a bed. Del Rosario attempted to discuss her concerns with the intervenor and offered services for the family. Although the intervenor held herself out to be the legal guardian of the children, she refused to provide proof of guardianship,[5] refused all services being offered, and refused to sign any releases. The intervenor then asked Del Rosario to leave.

On September 25, 2018, department workers visited

the school to meet with school officials, who explained that Joe was nonverbal and in need of constant supervision. During that visit, department workers observed Joe and confirmed his prior diagnosis as autistic. When the intervenor arrived to pick up Joe from school that day, department workers again offered to meet with her to discuss possible services, but the intervenor stated that she was busy and did not have time to do so.

Department workers returned to the intervenor's home on October 4, 2018, to offer assistance and obtain information about the children's medical providers. The intervenor informed them that she did not have time to speak with them and stated that the department was wasting her time. When Del Rosario once again observed Deboras sleeping in a car seat on top of a bed, she advised the intervenor that this practice was unsafe. In response, the intervenor stated that she had raised plenty of children and that the department was not going to tell her how to care for a baby. The intervenor then asked them to leave. Department workers thereafter attempted unannounced visits to the home on October 15, October 29, October 31 and November 1, 2018, but the intervenor did not answer the door.[6]

On November 8, 2018, school officials made another referral to the department regarding an altercation involving the intervenor that had transpired that day. They reported that, when the intervenor came to pick up Joe, she left Deboras, who, at that time, was eight months old, unattended in her vehicle. When the principal of the school confronted the intervenor, she denied that Deboras was alone in the car. The principal then walked to the vehicle, where Deboras remained, and began to photograph her. In response, the intervenor grabbed the principal and shoved her in the presence of Joe; she then left the school with Joe and Deboras. School officials subsequently notified the police of this altercation.

Later that day, Del Rosario and Jenny Johnson, a department supervisor, visited the intervenor's home to discuss the altercation and offer supportive services. At that time, the intervenor denied assaulting the school principal. The intervenor also expressed a willingness to engage in services for the minor children and agreed to meet with department workers the next day to sign releases on their behalf. In response to concerns about medical care, the intervenor stated that the minor children had upcoming medical appointments at St. Mary's Hospital Children's Clinic. Department workers subsequently contacted that clinic and were informed that the children did not have any medical appointments. Department workers also learned that Joe had not attended school since the November 8, 2018 altercation between the intervenor and the school principal.

On November 13, 2018, department workers asked the intervenor to attend a considered removal meeting;

see *In re Riley B.*, 203 Conn. App. 627, 629, 248 A.3d 756, cert. denied, 336 Conn. 943, 250 A.3d 40 (2021); to discuss continuing concerns regarding the needs and care of the minor children. The intervenor informed them that she was too busy to do so and asked them to postpone that meeting because she was returning to Puerto Rico with the minor children in the coming days.

The petitioner applied for and secured orders of temporary custody for all three minor children on November 14, 2018. On that date, the petitioner also filed neglect petitions on behalf of the minor children.[7] When the intervenor visited the department following the removal of the children, she placed a telephone call to the respondent, who was in Puerto Rico.[8] Del Rosario attempted to speak with the respondent, but the respondent rushed her off the phone and informed Del Rosario that she needed to continue shopping. The respondent then asked Del Rosario to speak with the intervenor regarding "what was going on" with the minor children and hung up the phone.

The respondent nonetheless returned to Connecticut and attended a hearing held on November 23, 2018,[9] at which the orders of temporary custody were sustained. The court at that time issued specific steps for the respondent to take to facilitate her reunification with the children, which the respondent signed.[10] On that date, the respondent also filed an application for the appointment of counsel and waiver of fees. That filing was accompanied by a sworn affidavit, in which the respondent stated: "I have mental health issues and [the intervenor] is my legal guardian."[11]

The respondent and the intervenor participated in one hour visits with the minor children on a weekly basis that began on November 19, 2018. In December, 2018, the attorney for the minor children filed a motion to suspend visitation due to "serious concerns" about Joe's behavior following those visits.[12] The court held a hearing on that motion on January 15, 2019, at which the respondent's counsel requested the appointment of a guardian ad litem for her in place of the intervenor, who previously was appointed as the respondent's plenary guardian in 2007.[13] As counsel explained, a separate legal guardian was necessary due to conflicts between the respondent and the intervenor regarding visitation with the minor children. The court granted that request and appointed a guardian ad litem for the respondent. Following that appointment, counsel for the minor children withdrew the motion to suspend visitation.

On February 11, 2019, the petitioner filed a motion for a competency evaluation of the respondent, which the court granted. The court held a competency hearing on June 17, 2019, at which Elizabeth Burch, a forensic psychiatry fellow at the Yale University School of Medicine, testified as to her examination of the respondent. In both her written report, which was admitted into

evidence at the competency hearing, and in her testimony, Dr. Burch opined that the respondent was not competent and not restorable due to her "long-standing intellectual deficits."[14] Dr. Burch further opined that the respondent was not able to understand the proceedings against her and was not able to assist her attorney in her case. For that reason, Dr. Burch concluded that the respondent would not be able to participate fully in those proceedings "without the support of a guardian ad litem." At the conclusion of that hearing, the court found that the respondent "lacked the capacity to understand" the pending child protection proceedings and clarified that the role of the guardian ad litem moving forward was "to assist [the respondent] with these proceedings."

Following the appointment of a guardian ad litem for the respondent, the intervenor filed a motion to intervene in the juvenile proceeding as a person related to the minor children. Although the petitioner initially objected to that motion, the court granted that motion "by agreement of all parties for dispositional purposes only" on September 10, 2019. On that date, the minor children were adjudicated neglected and committed to the care of the petitioner.

On September 18, 2019, the petitioner filed a motion for a psychological evaluation of the respondent, which the court granted on October 8, 2019. The respondent thereafter participated in that evaluation conducted by Inés M. Schroeder, a forensic psychologist, in January, 2020. As part of that court-ordered evaluation, Dr. Schroeder also examined the intervenor and the minor children.

On October 16, 2019, the intervenor filed a motion to transfer guardianship of the minor children to herself. In that motion, the intervenor alleged in relevant part that she was their "former custodian," that she would be "a suitable and worthy guardian," and that transferring guardianship to her would be in the best interest of the minor children. The petitioner filed an objection to that motion, alleging that the department was "still assessing" the intervenor and that it was not in the best interests of the minor children to transfer guardianship to her at that time.

The petitioner filed petitions to terminate the respondent's parental rights on November 29, 2019, which were predicated on her failure to achieve a sufficient degree of personal rehabilitation pursuant to § 17a-112 (j) (3) (B). In those petitions, the petitioner alleged both that the department had made reasonable efforts at reunification and that the respondent was unable or unwilling to benefit from reunification efforts.

On February 4, 2020, Dr. Schroeder issued her report on the psychological evaluation of the respondent. In that report, Dr. Schroeder noted that she had performed

a Kaufman Brief Intelligence Test on the respondent, which resulted in a "[n]on-[v]erbal IQ score of 42." Dr. Schroeder further explained that "[t]here is a 90 [percent] probability that her true score would fall within 37-53. This score is in the less than [0.1] percentile; which falls in the [l]ower [e]xtreme category." With respect to the respondent's current psychological functioning, Dr. Schroeder opined that, "[a]s a parent, [the respondent] would have great difficulty meeting the needs of those around her" and emphasized that she struggles "to identify and accurately respond to her own needs." She also noted that, although the respondent "loves her children and desires to care for them, she has difficulty knowing what they need and being able to locate and implement supports to help them." For those reasons, Dr. Schroeder opined that "[a]ssessing a child's needs, knowing what a child requires, and accurately and adequately addressing them would be very difficult for her."

In July, 2020, an ex parte restraining order was issued in family court against the intervenor that instructed her not to "assault, threaten, abuse, harass, follow, interfere with, or stalk" the respondent. A copy of that protective order was admitted into evidence at the termination trial and at the hearing on the intervenor's motion to transfer guardianship. Appended to that order was a copy of a protective order that had been issued in criminal court in November, 2008, against the intervenor to protect the respondent. That document indicates that the intervenor, at that time, was charged with assault in the third degree in violation of General Statutes § 53a-61.

On August 11, 2020, the petitioner filed a motion for review of the permanency plan, in which she sought approval of the proposed plan of termination and adoption of the minor children and a finding that the department made reasonable efforts to achieve that plan.[15] The respondent filed an objection, in which she proposed "a permanency plan of transfer of guardianship to [the intervenor] or another suitable and worthy maternal relative." On October 16, 2020, the court approved the permanency plan submitted by the petitioner and found that the department had made reasonable efforts to achieve that plan.

On March 5, 2021, the intervenor filed a motion to consolidate her motion to transfer guardianship with the termination trial, which the court initially granted. On the first day of trial, however, the court revisited the issue. At the outset of that proceeding, the court inquired as to whether the intervenor's motion to intervene had been granted with respect to the underlying neglect petitions and counsel for the intervenor answered affirmatively. Counsel further confirmed that the motion to intervene had been granted prior to the filing of the termination petitions and that the interve-

nor "did not directly intervene in the [termination proceeding] itself." For that reason, the court concluded that the intervenor lacked standing to participate in the termination proceeding. It thus bifurcated the termination trial from the intervenor's motion to transfer guardianship.[16]

A trial on the termination petitions was held over the course of five days, which was followed by a four day evidentiary hearing on the intervenor's motion to transfer guardianship. On April 7, 2022, the court issued its memorandum of decision, in which it granted the petitions to terminate the respondent's parental rights. In so doing, the court made extensive findings of fact and concluded that the department had made reasonable efforts to reunify the minor children with the respondent. The court further concluded that the petitioner had established that the adjudicatory grounds for termination existed and that termination was in the best interests of the minor children. In addition, the court determined that the intervenor had failed to meet her burden of establishing that it was in the minor children's best interests to transfer guardianship to her or that she was a suitable and worthy guardian. The court thus denied the motion to transfer guardianship, and these appeals followed.

I

AC 45552

We begin with the respondent's appeal from the judgments of the trial court terminating her parental rights as to the minor children. The respondent claims that the court improperly concluded that (1) the department made reasonable reunification efforts, (2) she failed to achieve a sufficient degree of personal rehabilitation, and (3) termination of her parental rights was in the best interests of the minor children. We address each claim in turn.

A

The respondent first contends that the court improperly concluded that the department made reasonable efforts to reunify her with the minor children pursuant to § 17a-112 (j) (1).[17] On our careful consideration of the particular circumstances of this case, we disagree.

Proceedings to terminate parental rights are governed by § 17a-112 (j), which provides in relevant part: "The Superior Court, upon notice and hearing . . . may grant a petition . . . 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 section 17a-111b, unless the court finds in this proceeding that the parent is unable or unwilling to benefit from reunification efforts . . . ." In the present case, the petitioner alleged in the petitions to terminate the respondent's parental rights both that the depart-

ment had made reasonable efforts at reunification and that the respondent was unable or unwilling to benefit from reunification efforts. In its memorandum of decision, the court concluded that the department had made reasonable efforts at reunification; it did not make any determination as to whether the respondent was unable or unwilling to benefit from reunification efforts. Accordingly, our review is confined to the reasonable efforts prong of § 17a-112 (j).

Section 17a-112 (j) "imposes on the department the duty, inter alia, to make reasonable efforts to reunite the child or children with the parents. The word reasonable is the linchpin on which the department's efforts in a particular set of circumstances are to be adjudged, using the clear and convincing standard of proof. Neither the word reasonable nor the word efforts is, however, defined by our legislature or by the federal act from which the requirement was drawn. . . . [R]easonableness is an objective standard . . . and whether reasonable efforts have been proven depends on the careful consideration of the circumstances of each individual case. . . . [R]easonable efforts means doing everything reasonable, not everything possible. . . . [O]ur courts are instructed to look to the totality of the facts and circumstances presented in each individual case in deciding whether reasonable efforts have been made." (Citations omitted; internal quotation marks omitted.) *In re Ryder M.*, 211 Conn. App. 793, 810–11, 274 A.3d 218, cert. denied, 343 Conn. 931, 276 A.3d 433 (2022).

Appellate review of a trial court's reasonable efforts determination is subject to the evidentiary sufficiency standard of review; see *In re Oreoluwa O.*, 321 Conn. 523, 533, 139 A.3d 674 (2016); pursuant to which "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]." (Internal quotation marks omitted.) *In re Jayce O.*, 323 Conn. 690, 716, 150 A.3d 640 (2016). As our Supreme Court has cautioned, "[i]t is not the function of [an appellate 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." (Internal quotation marks omitted.) Id.

With that standard in mind, we address the respon-

dent's primary claim, which is premised on the court's finding that she "had a moderate severity in intellectual disability that would make it difficult for her to be the primary caregiver," and because "the grandmother had been the primary caretaker for each of the children since their birth . . . [t]he trial court's decision cannot be said to be logically correct" given those limitations and the lack of services offered to assist "her, the [intervenor] and the family." The respondent argues that "there was more than sufficient evidence to make a determination that the respondent, with appropriate services which would have included a wraparound with her [and] the [intervenor], could have within a reasonable period of time, made sufficient progress to reunify with her children." The respondent therefore contends that there was insufficient evidence to support the court's finding that she was unable to benefit from reunification efforts.

The respondent's claim suffers from several defects. First, she has improperly conflated the alternative ground of "unable or unwilling to benefit from reunification" under § 17a-112 (j) (1) with the failure to rehabilitate language from § 17a-112 (j) (3) (b) (i), which requires the court to determine whether the petitioner has established that the respondent has failed to rehabilitate "within a reasonable period of time" given the age and needs of the child. While it is true that the underlying factual considerations may be similar, we reiterate that the court did not make a finding that she was unable or unwilling to benefit from reunification efforts and addressed only the reasonableness of the reunification efforts made by the department.

Second, the respondent's substantive argument that the department failed to offer "wraparound" services that would have engaged both the respondent and the intervenor has no merit. The respondent has provided no authority, and we are aware of none, that suggests that the department's burden in establishing the reasonable efforts ground extends or applies jointly to a person whose parental rights are not the subject of the petition. By contrast, supportive services to advance the public policy of prioritizing placement with relatives under relative foster care, or to seek and/or consider family members as permanent resources for guardianship or adoption is well established. Moreover, the absence of a duty to provide services to a nonparty who is nevertheless part of a family unit, does not preclude the court from concluding that it would not be in the best interest of the child to terminate parental rights if, under all of the circumstances, preservation of the family unit outweighed another permanent plan. Indeed, we can easily imagine how a spouse, who was not a biological parent, or another functioning and competent grandparent, could obviate the need for the department to even consider termination of the parental rights because of their willingness to accept voluntary services in the

first instance. In this case, the study in support of the department's permanency plan, filed on June 1, 2020, noted that the concurrent plan to the recommended plan of termination of parental rights and adoption was for transfer of guardianship to a family member. The plan noted, however, that, "although [the intervenor] was identified as a possible resource, the department and providers have noted concerns regarding her exerting control over [the respondent], [the respondent] having voiced fear of [the intervenor], and [the intervenor] not having made any progress towards parenting education with Evelyn Rodriguez or Naugatuck Valley Counseling."

Moreover, even if there was a legal duty such that the court would be precluded from finding reasonable efforts, nothing in the record supports a finding that the intervenor was a supportive parenting figure with whom the respondent could responsibly partner in the raising of her children. On the contrary, the intervenor has been actively hostile to the respondent's ability to engage in services. At trial, the court was presented with uncontroverted testimony that the intervenor instructed the respondent not to sign releases, which delayed the respondent's ability to get referred for appropriate services. When the intervenor finally provided confirmation of her appointment as guardian for the respondent at the January 15, 2019 hearing, counsel for the respondent then sought the appointment of a guardian ad litem for the respondent due to conflicts with the intervenor and the respondent over visitation. Ironically, the attorney for the children, who had moved to suspend visitation between Joe and the respondent and the intervenor because of Joe's self-injurious behavior, represented that she would not object to visitation if the respondent could see the children separately.

The respondent's attempt to tether herself to the intervenor for purposes of the court's reasonable efforts determination is not only legally untenable, but, based on the undisputed record, would arguably operate to undermine her own prospects for reunification. First, the court specifically found that the intervenor was the subject of a protective order in which the respondent was the protected party. The intervenor's documented inability to work with the department has only compounded the respondent's difficulties and limitations in receiving and benefitting from services intended to help her meet her own needs and especially those of her children.[18] For instance, whether due to her acquiescence to the intervenor's insistence that she not sign releases, or, when effectively relieved of the intervenor's constraints on her decision-making following the court's determination of incompetency and her counsel and guardian ad litem's decision to sign releases on her behalf, the undisputed evidence establishes that the department made numerous efforts to get releases signed in order to make referrals and secure appropriate ser-

vices for the respondent.

Moreover, as this court noted in *In re Destiny D.*, 86 Conn. App. 77, 84, 859 A.2d 973, cert. denied, 272 Conn. 911, 863 A.2d 702 (2004), a respondent's failure "to sign releases authorizing the department to give or to receive information about her treatment [makes] it impossible" for the department to procure rehabilitative services. See also *In re Isaiah J.*, 140 Conn. App. 626, 630, 59 A.3d 892 ("[t]he respondent revoked all of the confidentiality releases that she had given, preventing the department from speaking to the service providers to which she had been referred"), cert. denied, 308 Conn. 926, 64 A.3d 333, cert. denied sub nom. *Megan J.* v. *Katz*, 571 U.S. 924, 134 S. Ct. 317, 187 L. Ed. 2d 224 (2013); *In re Amanda L.*, Superior Court, judicial district of Middlesex, Docket No. CP-16-011877-A (January 11, 2021) (because respondents "steadfastly refused to sign any releases," department was "unable to make the appropriate referrals for them"), aff'd, 209 Conn. App. 1, 267 A.3d 362 (2021). Like the respondent in *In re Destiny D.*, the respondent's failure to sign releases in accordance with the specific steps issued to her in the present case impaired the department's ability to make referrals and secure services for more than six months.[19] As one Superior Court judge has observed, "[r]eunification efforts generally consist of visitation and, where appropriate, other rehabilitative services such as evaluations, testing, counseling, therapy, education, medical care, parenting classes and housing assistance. . . . In accomplishing the goals set out in the specific steps, time is of the essence. [The department] is expected to make all necessary referrals immediately, and the respondent parents are expected to cooperate promptly with the referral process and engage in services as soon as possible." (Citation omitted; internal quotation marks omitted.) *In re MaKenna S.*, Docket No. 14-CP-10010201A, 2011 WL 4447225, *25 (Conn. Super. August 31, 2011). Moreover, releases not only permit the department in the referral process to share confidential information to service providers appropriate to the parenting needs of the respondents, the ongoing communication that releases permit between the department and providers allows the department not only to monitor progress but to assess and adjust services as circumstances require. See *In re Melissa D.*, 1998 WL 811542, *2 (Conn. Super. November 9, 1998) (reasonable efforts found where, despite court-ordered expectations to sign releases for department to confirm attendance, monitor progress, and initiate further referrals as indicated by providers, respondent never signed required releases); cf. *In re Joseph W.*, 53 Conn. Supp. 1, 76, 145, 79 A.3d 155 (March 11, 2013) (redacted releases prevented department from sharing relevant information necessary for referral and allowed respondent to provide inaccurate history to provider), aff'd, 146 Conn. App. 468, 78 A.3d 276, cert. denied, 310 Conn. 950, 80 A.3d

909 (2013), and cert. denied, 310 Conn. 950, 81 A.3d 1179 (2013).

In that vein, we note that the court found, and the record confirms, that the department endeavored to provide various rehabilitative services to the respondent which required, as a preliminary step, the need for the respondent to sign releases as part of the referral process. As part of the specific steps that she signed on November 23, 2018, the respondent was required to sign releases within thirty days. She nevertheless did not do so for more than one-half year. At trial, Acevedo testified that, although the department offered many rehabilitative services to the respondent, including "parenting services, mental health services, and . . . therapeutic family time," it had "issues getting releases signed" by the respondent "because [the intervenor] would instruct her not to sign any releases." The record thus substantiates the court's factual finding that the respondent "refused to sign releases of information for services to be referred."

Acevedo further testified that, after the guardian ad litem was appointed for the respondent, the department sent releases to the guardian ad litem and the respondent's attorney. Following the results of the competency hearing on June 17, 2019, the guardian ad litem for the respondent subsequently signed the necessary releases on behalf of the respondent, who then was referred to multiple outside services.

When the department finally obtained releases from the respondent, they referred her to a parenting support service with Community Mental Health Affiliates on July 1, 2019. When the department was advised that that provider was unable to work with the respondent due to the lack of a Spanish speaking clinician, the department then referred the respondent to a parent coaching service with All Pointe Care, LLC, which had a Spanish speaking clinician. That clinician, however, opined that the respondent needed to work with an applied behavior analysis therapist. The department then worked to secure a Spanish speaking therapist who could meet the respondent's needs and ultimately referred her to Evelyn Rodriguez, a licensed clinical social worker trained in child-parent psychotherapy. That referral came weeks after the petitioner filed the petitions to terminate the respondent's parental rights on November 29, 2019.[20] Nevertheless, the department continued to provide services well past the adjudicatory date by which reasonable efforts is determined.

In addition to its attempt to secure releases and ongoing efforts to make appropriate referrals based on input from service providers, the department procured psychological and psychiatric evaluations of the respondent in an attempt to determine her competency, as well as "what the respondent's mental health issues were and how best to address her problems." *In re Ashley S.*, 61 Conn. App.

658, 660, 769 A.2d 718, cert. denied, 255 Conn. 950, 769 A.2d 61 (2001); see also *In re Anna B.*, 50 Conn. App. 298, 303 n.9, 717 A.2d 289 (1998) (services offered to respondent by petitioner included "psychological and psychiatric services"); *In re Joseph W.*, supra, 53 Conn. Supp. 145 (services offered to respondent by department included "psychological and neuropsychological evaluations").

The department also provided supervised visitation services on a weekly basis to the respondent and the minor children that began on November 19, 2018, mere days after their removal. Department staff testified as to the nature of those visitation services and the attempts to engage the respondent in improved interactions with her children. Department social worker Luis D. Rijos testified that he supervised visits between the respondent and the minor children from February, 2019, to March, 2020. Department social worker Malenis Acevedo testified that, during visits that she supervised, she needed to encourage the respondent to have more interaction with the children and to "reengage" with them. At oral argument before this court, the respondent conceded that visitation was a "legitimate, substantive, meaningful service" provided by the department. See, e.g., *In re Lillyanne D.*, 215 Conn. App. 61, 96, 281 A.3d 521 (reasonable efforts by department included "providing substantial supervised visitation" between respondent and minor children), cert. denied, 345 Conn. 913, 283 A.3d 981 (2022); *In re Jessica B.*, 50 Conn. App. 554, 569, 718 A.2d 997 (1998) (reasonable efforts included coordinating visitation between respondent and minor child).

The record before us also indicates that the department provided case management services to the respondent, offered transportation assistance to her, and transported the children to visits with her. See *In re Ryder M.*, supra, 211 Conn. App. 819 (reasonable efforts by department included providing case management services to respondent); *In re Jah'za G.*, 141 Conn. App. 15, 31, 60 A.3d 392 (same), cert. denied, 308 Conn. 926, 64 A.3d 329 (2013); *In re Sarah S.*, 110 Conn. App. 576, 585, 955 A.2d 657 (2008) (reasonable efforts by department included providing "transportation services" to respondent); *In re Galen F.*, 54 Conn. App. 590, 597, 737 A.2d 499 (1999) (reasonable efforts included offering "transportation assistance" to respondent). The petitioner also ensured that all department social workers assigned to her case communicated with the respondent in Spanish, including Acevedo and Rijos.

As part of its reunification efforts, the department facilitated counseling and therapy for the minor children, which included, with respect to Joe and his special needs, observation with the respondent. See *In re Destiny D.*, supra, 86 Conn. App. 83–84 (reasonable efforts included arranging counseling and therapy services for respondent's children). The procurement of such services

enables the department to better understand the particular needs of the children in question and to tailor its efforts to facilitate reunification between parent and child. See, e.g., *In re Corey C.*, 198 Conn. App. 41, 65, 232 A.3d 1237 ("the department tailored its reunification efforts to help the respondent overcome the specific impediments to reunification"), cert. denied, 335 Conn. 930, 236 A.3d 217 (2020); *In re Domenic M.*, Superior Court, judicial district of Middlesex, Docket No. CP-10-007310-A (May 29, 2014) (department referred respondent to parent education service that "tailors parent training to the needs of the individuals involved" and taught respondent how to "anticipat[e] her young son's needs"). In addition, the department invited the respondent to attend the children's medical appointments. At trial, Acevedo testified that the respondent attended "some appointments" with her children, but then ceased doing so.

Under Connecticut law, "[t]he reasonableness of the department's efforts must be assessed in the context of each case. . . . [W]hether reasonable efforts have been proven depends on the careful consideration of the circumstances of each individual case." (Internal quotation marks omitted.) *In re Kyara H.*, 147 Conn. App. 855, 872–73, 83 A.3d 1264, cert. denied, 311 Conn. 923, 86 A.3d 468 (2014). The present case involves the particular scenario in which a respondent declined to sign releases requested by the department, as required by the specific steps, for more than one-half year. The department nevertheless attempted to reunify her with the minor children by providing psychological and psychiatric services, supervised visitation on a weekly basis, transportation and case management services, counseling and therapy for the minor children, by involving the respondent in the children's medical appointments, and by referring her to parenting services. On our careful consideration of the circumstances of this case, we conclude that the record contains sufficient evidence to support the court's reasonable efforts determination. The court properly could conclude, on the evidence before it, that the department had satisfied its statutory burden under § 17a-112 (j) (1).

B

The respondent next claims that the court improperly concluded that she failed to achieve a sufficient degree of personal rehabilitation. 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, 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.” (Citations omitted; internal quotation marks omitted.) *In re Jayce O.*, supra, 323 Conn. 715–16. 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.

“When a child is taken into the [petitioner’s] custody, a trial court must issue specific steps to a parent as to what should be done to facilitate reunification and prevent termination of parental rights. . . . Specific steps provide notice and guidance to a parent as to what should be done to facilitate reunification and prevent termination of [parental] rights.” (Internal quotation marks omitted.) *In re Omar I.*, 197 Conn. App. 499, 578–79, 231 A.3d 1196, cert. denied, 335 Conn. 924, 233 A.3d 1091, cert. denied sub nom. *Ammar I.* v. *Connecticut*, U.S. , 141 S. Ct. 956, 208 L. Ed. 2d 494 (2020). 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); 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”). As our Supreme Court has explained, “the failure to comply with specific steps ordered by the court typically weighs heavily in a termination proceed-

ing." *In re Devon B.*, 264 Conn. 572, 584, 825 A.2d 127 (2003).

On November 23, 2018, the court held a hearing on the orders of temporary custody, at which the respondent was provided legal counsel and the assistance of an interpreter. See footnote 9 of this opinion. The court at that time issued specific steps for the respondent to take to facilitate her reunification with the children, which she signed. Those steps required, inter alia, the respondent (1) to "[s]ign releases allowing [the department] to communicate with service providers to check on your attendance, cooperation and progress toward identified goals," (2) to "[t]ake part in counseling and make progress toward the identified treatment goals," (3) to "[c]ooperate with service providers recommended for parent/individual/family counseling," and (4) to "[g]et and/or maintain adequate housing and a legal income."

As we already have noted, the respondent did not sign releases in a timely manner to allow the department to communicate with service providers, which hampered its ability to procure rehabilitative services for her. See part I A of this opinion. The record also indicates that, although the respondent engaged in services with Rodriguez in January, 2020, she was unsuccessfully discharged in April, 2020, due to her failure to attend telehealth appointments following the outbreak of the COVID-19 pandemic. In addition, the record indicates that the department subsequently referred the respondent to Naugatuck Valley Counseling with an intake scheduled on May 18, 2020. The respondent did not attend that intake appointment. That evidence supports the court's factual finding that the respondent did not comply with the specific steps requiring her to cooperate with service providers and to take part in counseling.

The evidence also indicates that the respondent made little progress during the weekly visitation sessions that the department supervised. As Rijos testified, during most visits "there was very little interaction between [the respondent] and the children and that "[f]or the most part [the respondent] would just sit and observe" the children. Rijos was asked if he was able to observe any improvement in the interactions between the respondent and the children. He replied: "No, ma'am. There [was] no improvement that I was able to observe. How I started the visits in February of 2019 was the same in March of 2020. Very little interaction."

Although the record supports the court's findings that the respondent did not comply with the specific steps issued by the court in multiple respects, it also reveals a more basic shortcoming as to her ability to care for the minor children. As the respondent concedes, at no time since their births has the respondent served as their caregiver. The record reflects the sad reality that the respondent, due to cognitive limitations and mental health challenges, is largely unable to care for herself.[21] In her expert

report, which was admitted into evidence at the termination trial, Dr. Schroeder opined that the respondent struggles "to identify and accurately respond to her own needs" and "[a]s a parent [she] would have great difficulty meeting the needs of those around her." In this regard, we note that both Joe and Dorkas have significant specialized needs—Joe is autistic and Dorkas suffers from an attention disorder that requires medication and qualifies her for special education services. Although Joe and Dorkas have made significant improvements while in foster care, Joe, who was nearly eleven years old as of March 24, 2021, was reported to be displaying an increase in hand ticks, flapping, rocking and vocalizations, was stealing in school and having ongoing problems with nighttime enuresis. Dorkas, who could not speak when she was first placed in foster care old at four and one-half years old, has progressed in her speech and presented healthy in weight and height when evaluated by Dr. Schroeder. Nevertheless, Dr. Schroeder recommended ongoing services, including an assessment for trauma, based on concerns reported in the foster home.[22] In her report, Dr. Schroeder stated that, although the respondent "loves her children and desires to care for them, she has difficulty knowing what they need and being able to locate and implement supports to help them." For those reasons, Dr. Schroeder opined that "[a]ssessing a child's needs, knowing what a child requires, and accurately and adequately addressing them [is] very difficult for her."

The critical inquiry in evaluating personal rehabilitation under § 17a-112 (j) (3) (B) is whether a person "has gained the ability to care for the particular needs of the [children] at issue." (Internal quotation marks omitted.) *In re Omar I.*, supra, 197 Conn. App. 579. 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 evidence credited by the court supports its conclusion that the respondent failed to achieve a sufficient degree of personal rehabilitation pursuant to § 17a-112 (j) (3) (B).

C

The respondent also claims that the court erroneously found that the termination of her parental rights was in the best interests of the minor children. We disagree.

Connecticut's appellate courts will not disturb a trial court's best interests finding unless it is clearly erroneous. See *In re Brayden E.-H.*, 309 Conn. 642, 657, 72 A.3d 1083 (2013). "A finding is clearly erroneous when either there is no evidence in the record to support it, or the reviewing court is left with the definite and firm conviction that a mistake has been made. . . . On appeal, our function is to determine whether the trial court's conclusion was factually supported and legally correct. . . . In doing so . . . [g]reat weight is given to the judgment of the trial court because of [the court's] opportunity to observe the parties and the evidence. . . . We do not

examine the record to determine whether the trier of fact could have reached a conclusion other than the one reached. . . . [Rather] every reasonable presumption is made in favor of the trial court's ruling." (Internal quotation marks omitted.) *In re Davonta V.*, 285 Conn. 483, 488, 940 A.2d 733 (2008).

The evidence adduced at the termination trial indicates that the minor children were "thriving" in their foster home placements. The court also was presented with evidence regarding the children's need for stability and the respondent's inability to provide it. In her testimony, Dr. Schroeder[23] testified that Joe's "difficulties [due to his] autism spectrum disorder require him to have as much consistency, stability, and routine as possible. . . . When [his] routine is disrupted, it can be very traumatic for him."[24] Dr. Schroeder also stated that Joe and Dorkas "require stability, and safety, and nurturance, to be able to process the trauma that they suffered from the many losses that they experienced." When asked if the respondent is "able to provide that stability for them," Dr. Schroeder answered, "No." That evidence substantiates the court's finding that the respondent was unable to provide the "consistency and stability [that] are crucial" for the minor children.

In her principal appellate brief, the respondent alleges that the court did not "take into consideration the bond" that she shared with the children. The record belies that contention. In its memorandum of decision, the court specifically acknowledged that the children have "emotional ties" to the respondent. It nevertheless found that any such bond "is secondary to the long-term permanency, safety, and security needs of [the minor] children." As this court has observed, the appellate courts of this state "consistently have held that even when there is a finding of a bond between [a] parent and a child, it still may be in the child's best interest to terminate parental rights." *In re Rachel J.*, 97 Conn. App. 748, 761, 905 A.2d 1271, cert. denied, 280 Conn. 941, 912 A.2d 476 (2006); see also *In re Melody L.*, 290 Conn. 131, 164, 962 A.2d 81 (2009) (same), overruled in part on other grounds by *State v. Elson*, 311 Conn. 726, 91 A.3d 862 (2014); *In re Kiara Liz V.*, 203 Conn. App. 613, 626, 248 A.3d 813 ("the existence of a bond between a parent and a child, while relevant, is not dispositive of a best interest determination"), cert. denied, 337 Conn. 904, 252 A.3d 364 (2021).

In addition, the court found that the respondent "does not have the skills to care for" the minor children and would "not be able to assume a responsible role in [their] lives in a reasonable time period." That finding is supported by Dr. Schroeder's expert testimony and written report, as well as the testimony of department social workers. More importantly, that finding is not contested by the respondent. In this regard, it bears emphasis that, in her objection to the permanency plan submitted by the petitioner, the respondent did *not* aver that she was

capable of caring for the minor children; rather, she requested a transfer of legal guardianship of the children to the intervenor "or another suitable and worthy maternal relative." In this appeal, the respondent likewise submits that she "supports the [intervenor] as the primary caretaker for the children and maintains that the integrity of the family can be best maintained with a transfer of guardianship to the [intervenor]."

Although the propriety of the court's decision to deny the intervenor's motion to transfer guardianship is discussed in part II of this opinion, we note that the evidence before the court at the termination trial undermines the respondent's contention. The conditions that gave rise to department intervention and the removal of the minor children all occurred while the respondent was in Puerto Rico and the children were in the care of the intervenor. Moreover, at the termination trial, Rodriguez testified that she initially encountered difficulty in working with the respondent because the intervenor "would not allow [the respondent] to answer freely." As a result, Rodriguez worked with department staff "to find a new location to meet" where she could meet privately with the respondent. During subsequent meetings, the respondent stated that the intervenor had "authority over" her and that she "controls [the respondent's] life." The respondent also confided in Rodriguez that she was subject to corporal punishment as an adult and that the intervenor had "pushed her, hit her, [and] locked her out of the house." Also admitted into evidence at the termination trial was a copy of the protective order that was issued against the intervenor in July, 2020, which instructed her not to "assault, threaten, abuse, harass, follow, interfere with, or stalk" the respondent.[25] That evidence provides a proper basis for the court to reject the respondent's claim that the best interests of the minor children would be served by transferring guardianship to the intervenor.

In its memorandum of decision, the court found that termination of the respondent's parental rights was in the best interests of the minor children, who needed stability, continuity, and permanency in their lives. Mindful that we must make every reasonable presumption in favor of the court's ruling; see *In re Davonta V.*, supra, 285 Conn. 488; we conclude that the evidence in the record supports the court's determination. That finding, therefore, is not clearly erroneous.

II

AC 45501

We now turn our attention to the intervenor's appeal from the judgments of the trial court terminating the respondent's parental rights and denying her motion to transfer guardianship of the minor children. On appeal, the intervenor claims that the court lacked subject matter jurisdiction to terminate the respondent's parental rights due to its failure to join the intervenor as a necessary

party. She further contends that the court applied an incorrect legal standard in adjudicating her motion to transfer guardianship and that it violated her right to equal protection.

A

We begin, as we must, with the intervenor's jurisdictional claim.[26] In her appellate brief, the intervenor contends that "the trial court lacked subject matter jurisdiction to terminate [the respondent's] parental rights because [she] was a necessary party and she was excluded from the action." That contention is contrary to established precedent. As our Supreme Court repeatedly has held, "the failure . . . to join an indispensable party does not impact the court's subject matter jurisdiction." (Internal quotation marks omitted.) *Rodriguez* v. *Kaiaffa, LLC*, 337 Conn. 248, 275, 253 A.3d 13 (2020); see also *Batte-Holmgren* v. *Commissioner of Public Health*, 281 Conn. 277, 288, 914 A.2d 996 (2007); *Bauer* v. *Souto*, 277 Conn. 829, 838, 896 A.2d 90 (2006); *Eder Bros., Inc.* v. *Wine Merchants of Connecticut, Inc.*, 275 Conn. 363, 382 n.10, 880 A.2d 138 (2005). We thus reject the intervenor's claim that the court lacked subject matter jurisdiction in the termination proceeding.

Even if we construe the intervenor's claim as one challenging the propriety of the court's decision to preclude her from participating as a party in the termination trial; see footnote 17 of this opinion; the intervenor could not prevail, as she never sought to intervene in that proceeding. The record indicates that, at the outset of the termination trial, the court noted that the intervenor had been granted intervenor status in the prior neglect proceeding but had not sought to intervene in the termination proceeding. Her counsel at that time confirmed to the court that the intervenor "did not directly intervene in the [termination proceeding] itself" and that the intervenor "is not a party to the [termination proceeding]." The termination trial then proceeded to its ultimate conclusion and at no point did the intervenor move to intervene in that proceeding.

Moreover, it bears emphasis that "termination of parental rights proceedings concern *only* the rights of the *respondent parent*." (Emphasis altered.) *In re Santiago G.*, 325 Conn. 221, 234, 157 A.3d 60 (2017); see also *In re Brian P.*, 195 Conn. App. 582, 593, 226 A.3d 152 (2020) (dismissing grandmother's appeal from denial of motion to intervene for lack of standing). As our Supreme Court has explained, it is well established that "there is no right to intervene in the adjudicatory phase of a termination of parental rights action"; *In re Santiago G.*, supra, 234; particularly when intervention is sought to obtain custody of the minor children in question. See *In re Denzel A.*, 53 Conn. App. 827, 835, 733 A.2d 298 (1999) ("[t]he purpose of the intervention . . . in a termination of parental rights case does not include the right to effect an adoption or to obtain custody . . . but is solely for the purpose

of affecting the termination itself").

The intervenor alternatively argues that the court improperly precluded her participation in the termination trial in light of her status as the plenary guardian of the respondent and claims that she "was the only appropriate party to speak on behalf of the respondent" in the termination proceeding. She overlooks the undisputed fact that, when conflicts arose between the intervenor and the respondent shortly after the orders of temporary custody were sustained, the respondent's counsel requested the appointment of a guardian ad litem in place of the intervenor, averring that the respondent "requires assistance in making informed decisions in all major decisions." See footnote 13 of this opinion. The court granted that request and appointed a guardian ad litem for the respondent on January 15, 2019. Furthermore, following a competency hearing on June 17, 2019, the court found that the respondent "lacked [the] capacity to understand" the pending juvenile proceedings and clarified that the role of the guardian ad litem moving forward was "to assist [the respondent] with these proceedings." Attorney Deborah Dombek thereafter participated in these juvenile proceedings as the guardian ad litem for the respondent in accordance with General Statutes § 45a-132.[27]

In *In re Tayquon H.*, 76 Conn. App. 693, 821 A.2d 796 (2003), this court addressed a claim by a maternal grandmother that, as the natural guardian of the child in question, she was the proper person to advocate for that child, rather than the court-appointed guardian ad litem. In rejecting that claim, this court explained that, "[i]n contrast to a guardian of a person who has physical control of the minor or a guardian of an estate who has legal control over the minor's financial affairs, the guardian ad litem is appointed by a court and granted limited powers to represent the interest of the child in a particular court proceeding." Id., 708–709. Noting "the fundamental role of a guardian ad litem," the court continued: "[W]e believe that as between a guardian ad litem and a natural guardian, the presumption should be that the court-appointed guardian ad litem is the proper person to speak for the child for the purposes of the litigation, barring a showing that he or she cannot properly fulfill the guardian ad litem role and that another is better suited to the role. The maternal grandmother has made no showing that the court-appointed guardian ad litem could not fulfill her role, nor has the grandmother alleged that the guardian ad litem has misspoken or that the grandmother was more properly suited to speak on behalf of [the child's] best interest." Id., 710–11. In the absence of such a showing, the court concluded that "the guardian ad litem supersedes the role of the natural guardian to speak for the child's best interest in the present litigation."[28] Id., 708.

In the present case, the intervenor has not alleged, never mind established, that the court-appointed guardian ad litem could not fulfill her role in assisting the respon-

dent in the juvenile proceedings.[29] For that reason, we conclude that the presumption articulated in *In re Tayquon H.* applies in the present case involving a court-appointed guardian ad litem for an incompetent respondent.

Lastly, we note that the intervenor's purported interest in advocating on behalf of the respondent's interests rings hollow in light of the record before us. The record indicates that the intervenor steadfastly has maintained that the respondent was not capable of serving as a parent and meeting the needs of the minor children. In the "Position Statement" that she filed with the trial court during the termination trial, the intervenor averred in relevant part that the respondent "is incompetent" and that "her intellectual disability precludes her from being a parent." At oral argument before this court, the intervenor stated that the respondent "was never the parent to [the minor] children [except] in biology only" and that the respondent was not competent to serve as their parent. In her appellate brief, the intervenor claims that she "was the actual and psychological parent of these children" and asserts that the respondent mother "was the improper party" in the termination proceeding.[30] That contention reflects a fundamental misunderstanding of a termination of parental rights proceeding, which, we reiterate, concerns "*only* the rights of the respondent parent." (Emphasis in original.) *In re Santiago G.*, supra, 325 Conn. 234. More significantly, the intervenor's stated position throughout these proceedings that the respondent was unable to parent and to meet the needs of the minor children undermines the intervenor's claim that she was the proper party to advocate on the respondent's *behalf* at the termination trial. In light of the foregoing, we conclude that the court did not improperly preclude the intervenor from participating as a party in the termination trial.

B

The intervenor next claims that the court applied an incorrect legal standard when adjudicating her motion to transfer guardianship of the minor children. We disagree.

At the outset, we note that "whether the [trial] court applied the correct legal standard is a question of law subject to plenary review." (Internal quotation marks omitted.) *Nationwide Mutual Ins. Co.* v. *Pasiak*, 346 Conn. 216, 227, 288 A.3d 615 (2023); see also *In re Mariana A.*, 181 Conn. App. 415, 437, 186 A.3d 83 (2018).

General Statutes § 46b-129 (j) and Practice Book § 35a-12A govern motions to transfer guardianship in juvenile proceedings. As this court has explained, "to properly grant a motion to transfer guardianship under ubsection (j) of § 46b-129, the [trial] court must first determine whether it would be in the best interest of the child for guardianship to be transferred from the petitioner to the proposed guardian. . . . The court must then find that the third party is a suitable and worthy guardian." (Cita-

tions omitted.) *In re Avirex R.*, 151 Conn. App. 820, 834, 96 A.3d 662 (2014). The moving party bears the burden of proving that the proposed guardian is suitable and worthy and that transfer of guardianship is in the best interest of the child. See id.; see also General Statutes § 46b-129 (j); Practice Book § 35a-12A.

In the present case, the court conducted a four day hearing on the motion to transfer guardianship, at which testimonial and documentary evidence was presented by the parties. In its subsequent memorandum of decision, the court found that the intervenor had failed to meet her burden of establishing by a preponderance of the evidence that she was a suitable and worthy guardian or that it was in the best interests of the minor children to transfer guardianship to her. In this appeal, the intervenor has not challenged the propriety of either determination. Moreover, the record before us contains ample evidence to support those determinations, including Dr. Schroeder's expert opinion that the minor children "should remain in their present foster homes" because the intervenor "would not be able to meet all of their needs." The court, as the arbiter of credibility, was entitled to credit that evidence. See *De La Concha of Hartford, Inc.* v. *Aetna Life Ins. Co.*, 269 Conn. 424, 431–32, 849 A.2d 382 (2004); *In re Leo L.*, 191 Conn. App. 134, 142, 214 A.3d 430 (2019); see also *In re Nicolina T.*, 9 Conn. App. 598, 605, 520 A.2d 639 ("psychological testimony from professionals is rightly accorded great weight in [juvenile] proceedings"), cert. denied, 203 Conn. 804, 525 A.2d 519 (1987).

The intervenor nevertheless claims that the court applied an incorrect legal standard because she was entitled to a presumption that she was a suitable and worthy guardian and that a transfer of guardianship to her was in the best interests of the minor children. She is mistaken.

As this court has observed, "neither subsection (j) of § 46b-129 nor Practice Book § 35a-12A provides a presumption of fitness for a parent or former guardian . . . ." *In re Avirex R.*, supra, 151 Conn. App. 835. Rather, Connecticut law recognizes a rebuttable presumption that both prongs of the relevant analysis are met in limited circumstances. Section 46b-129 (j) (3) provides in relevant part: "If the court determines that the commitment should be revoked and the child's . . . legal guardianship . . . should vest in someone other than the respondent parent, parents or former guardian, or if parental rights are terminated at any time, there shall be a rebuttable presumption that an award of legal guardianship . . . upon revocation to . . . the temporary custodian of the child . . . at the time of the revocation or termination, shall be in the best interests of the child . . . and that such caregiver is a suitable and worthy person to assume legal guardianship . . . ." Practice Book § 35a-12A provides in relevant part: "(b) In cases in which a motion for transfer of guardianship seeks to vest guardianship of a child . . . in any relative who is the licensed foster parent for such child

. . . or who is, pursuant to an order of the court, the temporary custodian of the child . . . at the time of the motion, the moving party has the burden of proof that the proposed guardian is suitable and worthy and that transfer of guardianship is in the best interests of the child. In such cases, there shall be a rebuttable presumption that the award of legal guardianship to that relative shall be in the best interests of the child . . . and that such relative is a suitable and worthy person to assume legal guardianship. . . .” Accordingly, the rebuttable presumption mandated by § 46b-129 (j) (3) and Practice Book § 35a-12A applies to a relative of the child in question who either (1) is licensed as a foster parent for the child, or (2) is the court-ordered temporary custodian of the child at the time of the revocation or termination. See also *In re Avirex R.*, supra, 834–35.

In the present case, the intervenor was not licensed as a foster parent for the minor children. She also was not the temporary custodian of the minor children at the time of the revocation or termination pursuant to a court order. Because they were committed to the petitioner at the time of the termination, the children were, as a matter of law, in the custody and guardianship of the petitioner. Accordingly, the intervenor was not entitled to the rebuttable presumption set forth in § 46b-129 (j) (3) and Practice Book § 35a-12A. We, therefore, conclude that the court did not apply an incorrect legal standard when adjudicating her motion to transfer guardianship.[31]

C

As a final matter, the intervenor claims that the court violated her right to equal protection under title VI.[32] More specifically, she alleges that the court discriminated against her as a person of Puerto Rican descent with limited English language proficiency. We disagree.

As the United States Supreme Court has explained, title VI prohibits only intentional discrimination. See *Alexander* v. *Sandoval*, 532 U.S. 275, 280, 121 S. Ct. 1511, 149 L. Ed. 2d 517 (2001). Discrimination claims brought pursuant to title VI are “analyzed under the shifting burden of proof scheme applied in [t]itle VII cases”; *Woods* v. *Wright Institute*, Docket No. 96-16811, 1998 WL 133035, *1 (9th Cir. March 24, 1998) (decision without published opinion, 141 F.3d 1183); wherein “[t]he complainant [bears] the initial burden . . . of establishing a prima facie case of . . . discrimination.” *McDonnell Douglas Corp.* v. *Green*, 411 U.S. 792, 802, 93 S. Ct. 1817, 1824, 36 L. Ed. 2d 668 (1973) (*McDonnell Douglas*); see also *Lin* v. *District of Columbia*, Docket No. 20-7111, 2022 WL 4007900, *14 (D.C. Cir. 2022) (applying “the *McDonnell Douglas* framework” to title VI claim); *Rashdan* v. *Geissberger*, 764 F.3d 1179, 1182 (9th Cir. 2014) (“[w]e now join the other circuits in concluding that *McDonnell Douglas* also applies to [t]itle VI disparate treatment claims”); *Brewer* v. *Board of Trustees of University of Illinois*, 479 F.3d 908, 921 (7th Cir.) (initial burden rests with

complainant in title VI case), cert. denied, 552 U.S. 825, 128 S. Ct. 357, 169 L. Ed. 2d 36 (2007); *Jackson* v. *University of New Haven*, 228 F. Supp. 2d 156, 159 (D. Conn. 2002) ("[c]ourts have . . . applied the same burden-shifting framework articulated in *McDonnell Douglas* to disparate treatment claims arising under [title VI]." The intervenor has not met that burden.

It would serve no useful purpose to recite the litany of complaints lodged by the intervenor with respect to this claim. It suffices to say that the record before us belies her claim of discrimination in all respects. At the very first hearing following the removal of the minor children in November, 2018, the court provided the intervenor with the assistance of a Spanish speaking interpreter and advised her of her legal rights. The court thereafter provided an interpreter at all subsequent proceedings. Moreover, when the intervenor was provided with specific steps at the September 10, 2019 hearing, the court, through that interpreter, asked the intervenor if she had reviewed those steps and understood them, to which she responded affirmatively. The record also indicates that all department social workers assigned to the case communicated with the intervenor in Spanish, including Acevedo and Rijos. Dr. Schroeder, who examined the intervenor as part of a court-ordered psychological evaluation of the respondent, likewise spoke with the intervenor in Spanish and provided her with written evaluation materials in Spanish. In addition, the court appointed legal counsel for the intervenor at the November 23, 2018 temporary custody hearing, who represented her at every court hearing until the intervenor no longer was a party to these juvenile proceedings.[33] In short, nothing in the record before us or in the memorandum of decision issued by the court evinces a discriminatory intent. We therefore conclude that the intervenor's equal protection claim is without merit.[34]

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.

** June 14, 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 Arsenio R., the father of Dorkas and Joe, and John Doe, the father of Deboras. Because they have not appealed, we refer to the respondent mother as the respondent. We refer to Deboras, Dorkas, and Joe collectively as the children or the minor children.

In addition, we note that, although Attorney Anissa M. Klapproth was appointed as the attorney for the minor children, she did not file any briefs or statements on their behalf in these appeals, as required under our rules of practice. See Practice Book §§ 67-13 and 79a-6 (c).

[2] Title VI provides in relevant part: "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." 42 U.S.C. § 2000d (2018).

[3] In addition to setting forth detailed findings of fact in its memorandum of decision, the court took judicial notice of "the entire court record including the chronology of the proceedings, the filings or submissions of pleadings, petitions, social studies, statements of facts, affidavits, status reports, court hearing memoranda, and the court's findings, orders, rulings, and judgments."

[4] At a psychological consultation conducted by Dr. Inés M. Schroeder, a forensic psychologist, on January 7, 2020, the intervenor explained that, after the family relocated to Puerto Rico, her home was destroyed by Hurricane Maria in 2017. She therefore returned to Connecticut with the minor children in July, 2018, but did not have enough funds at that time to bring the respondent. A copy of Dr. Schroeder's written report memorializing those statements was admitted into evidence at both the termination trial and at the hearing on the intervenor's motion to transfer guardianship.

[5] The department never was able to corroborate the intervenor's purported status as legal guardian of the minor children. As part of its efforts, department workers contacted the courts in Puerto Rico seeking confirmation of that status, but "[t]here was no documentation stating that [the intervenor] was [the] legal guardian of the children."

[6] At the termination trial, Del Rosario testified that "[o]n several occasions, when we knocked outside the door, we would see movement inside the home, but [the intervenor] would close the [blinds], the window, so we wouldn't be able to see."

[7] The petitions for neglect alleged that the minor children were being (1) denied proper care and attention physically, educationally, emotionally or morally and (2) permitted to live under conditions, circumstances or associations injurious to their well-being.

[8] At the termination trial, the respondent testified that she was in Puerto Rico at the time of removal.

[9] At that hearing, the respondent was represented by legal counsel, provided a Spanish speaking interpreter, and advised of her rights. The court also provided the intervenor with an interpreter and the assistance of legal counsel and advised the intervenor of her rights.

[10] The specific steps issued on November 23, 2018, required, among other things, the respondent (1) to "[s]ign releases allowing [the department] to communicate with service providers to check on your attendance, cooperation and progress toward identified goals," (2) to "[t]ake part in counseling and make progress toward the identified treatment goals," (3) to "[c]ooperate with service providers recommended for parent/individual/family counseling," and (4) to "[g]et and/or maintain adequate housing and a legal income."

[11] On November 23, 2018, the court also issued specific steps for the intervenor, who, at that time, had been identified as the "guardian" of the minor children.

[12] The department documented self-injurious behaviors by Joe after visits, such as hitting himself in the face, kicking things, throwing himself on the ground and crying, as well as scratching his thighs until he bled, difficulty sleeping and being aggressive and uncooperative at school.

[13] That request also was memorialized in a written motion to appoint a guardian ad litem that counsel for the respondent filed on January 22, 2019. That motion alleged in relevant part that the respondent "requires assistance in making informed decisions in all major decisions. Therefore, [the respondent] is unable to assist counsel in her defense." At the January 15, 2019 hearing, counsel for the petitioner informed the court that "the department supports this motion" to appoint a guardian ad litem for the respondent.

[14] In her report, Dr. Burch noted that, during her evaluation, the respondent explained that she "did not attend school in Puerto Rico but went to a 'special group' for children who did not know how to read or write," that she never attended school in the United States, and that she never has held a job. The respondent also informed Dr. Burch that she "has received disability benefits since she was 'a little girl.' "

[15] "A 'permanency plan' is the proposal for what the long-term, permanent solution for the placement of the child should be. . . . Our statutory scheme provides five permanency options: (1) reunification with a parent; (2) long-term foster care; (3) permanent guardianship; (4) transfer of either guardianship or permanent guardianship; or (5) termination followed by adoption."

(Citations omitted; footnote omitted.) *In re Adelina A.*, 169 Conn. App. 111, 121, 148 A.3d 621, cert. denied, 323 Conn. 949, 169 A.3d 792 (2016). The initial permanency plan for the minor children was submitted by the petitioner on July 1, 2019. The respondent did not file an objection to that plan, which the court approved on August 7, 2019.

[16] In bifurcating those proceedings, the court stated: "I want to clarify how we're going to proceed with respect to this consolidation that was done so we don't have any issues here. I'm going to hear the [termination trial] through all evidence. I will then separately hear the motion to transfer guardianship. So, with respect to the [termination trial], the [intervenor's] counsel can be here, [the intervenor] can be here, you [both] can listen, but no participation until after the [termination trial] is concluded, and then we'll separately hear the motion to transfer guardianship."

[17] Although the respondent also alleges in her principal appellate brief that the court improperly determined that she was unwilling or unable to benefit from reunification efforts, the record before us plainly indicates that the court did not address that issue in its memorandum of decision, a point underscored by the petitioner in her appellate brief. In her appellate reply brief, the respondent confines her claim in this regard to whether the department made reasonable efforts at reunification.

[18] The evidence also demonstrates that, in 2016, the department substantiated neglect and, given the failure to follow through with treatment recommendations while the children were in the care of the respondent and the intervenor, the petitioner filed neglect petitions on behalf of Dorkas and Joe. The intervenor subsequently informed school officials that she was leaving for Puerto Rico and, when the department was able to contact the intervenor in 2017, she refused to disclose the family's whereabouts. As a result, the treatment recommendations and conditions leading up to the initial neglect petitions were unaddressed for the next nineteen months during which the department lost contact with the family. The respondent also acknowledges in her brief that there was evidence that the department was not seeking removal of the children in 2018 because they wanted to give the intervenor an opportunity to follow up with services, but that they could not engage her because she would not sign releases for referrals for services.

[19] The decisional law of our Superior Court is replete with instances in which the court has concluded that the department made reasonable efforts in the face of a respondent's refusal to sign necessary releases. In those cases, the court has recognized that releases not only assist the department in monitoring progress and compliance, but are critical to ensuring that services are relevant, appropriate, and tailored to both the respondent and the needs of the children. See, e.g., *In re Samuel V.*, Docket No. 09-CP-14013826-A, 2016 WL 4150583, *5 (Conn. Super. June 27, 2016) (respondent "did not sign releases to allow the department to provide referrals and to confirm her attendance, progress and cooperation").

[20] "[I]n determining whether the department has made reasonable efforts to reunify a parent and a child . . . the court is required in the adjudicatory phase to make its assessment on the basis of events preceding the date on which the termination petition was filed. . . . This court has consistently held that the court, [w]hen making its reasonable efforts determination . . . is limited to considering only those facts preceding the filing of the termination petition or the most recent amendment to the petition . . . ." (Emphasis omitted; internal quotation marks omitted.) *In re Cameron W.*, 194 Conn. App. 633, 660, 221 A.3d 885 (2019), cert. denied, 334 Conn. 918, 222 A.3d 103 (2020).

[21] In her principal appellate brief, the respondent states that the intervenor "had raised the [minor children] since their births until their removal . . . and the respondent still resided with [the intervenor] and was dependent upon her . . . ."

[22] Dr. Schroeder noted signs of possible trauma even after one year in foster care, in that Dorkas "will not share her opinion or inform if she is uncomfortable," such as refusing to say she is cold even if she is shivering in a bath of cool water or sleeping on the floor even after checking under her bed.

[23] Dr. Schroeder conducted a court-ordered psychological evaluation of the respondent in January, 2020. As part of that evaluation, Dr. Schroeder also examined the minor children and the intervenor.

[24] Joe's foster mother similarly testified at the termination trial that he required consistency and stability, without which he would regress.

[25] Appended to that order was a copy of another protective order that was

issued against the intervenor to protect the respondent in November, 2008.

[26] "[A] possible absence of subject matter jurisdiction must be addressed and decided whenever the issue is raised . . . . A determination regarding a trial court's subject matter jurisdiction presents a question of law, and . . . we exercise plenary review." (Internal quotation marks omitted.) *In re Ava W.*, 336 Conn. 545, 553, 248 A.3d 675 (2020).

[27] General Statutes § 45a-132 provides in relevant part: "(a) (1) . . . in any proceeding before a court of probate or the Superior Court . . . the judge or magistrate may appoint a guardian ad litem for any minor or incompetent . . . person . . . .

"(b) The appointment of a guardian ad litem shall not be mandatory, but shall be within the discretion of the judge or magistrate. . . ."

In these appeals, neither the respondent nor the intervenor has claimed that the court abused its discretion in appointing a guardian ad litem for the respondent.

[28] We recognize that *In re Tayquon H.*, supra, 76 Conn. App. 695, arose in the context of a guardian ad litem appointed to represent the interests of a minor child. Because the Superior Court is statutorily authorized to appoint a guardian ad litem for "any minor or incompetent . . . person"; General Statutes § 45a-132 (a) (1); the principles articulated in *In re Tayquon H.* apply equally to juvenile proceedings in which a guardian ad litem is appointed to represent the interests of an incompetent person.

[29] In her principal appellate brief, the intervenor does not acknowledge the existence of the court-appointed guardian ad litem. Although the petitioner devoted significant discussion to the role of the guardian ad litem in her appellate brief, the intervenor did not file a reply brief with this court.

[30] For that reason, the intervenor opined at oral argument before this court that the petitioner was obligated to bring petitions to terminate parental rights against the intervenor. She has provided no legal authority to support that bald assertion.

[31] We also reject the intervenor's ancillary contention that the petitioner bore the burden of proving that the department made reasonable efforts to reunify her with the minor children. Section 46b-129 (j) contains no such requirement. Although reasonable efforts is a statutory prerequisite to the granting of a petition to terminate the rights of a parent; see General Statutes § 17a-112 (j) (1); the intervenor has provided this court with no authority, nor are we aware of any, indicating that it is relevant to the adjudication of a motion to transfer guardianship.

[32] See footnote 2 of this opinion.

[33] Also unavailing is the intervenor's contention that she was "denied her right to defend herself in the adjudication portion of the underlying neglect case." To the contrary, the record reflects that the intervenor sought to intervene in the neglect proceeding for dispositional purposes only and did not request to participate in its adjudicatory phase.

[34] Even if we were to assume, arguendo, that the intervenor had met her burden of establishing a prima facie case of discrimination, she has provided no legal authority to support her contention that such a discrimination claim properly is invoked in a juvenile proceeding or that it provides a proper basis to overturn the court's determinations that she was not a suitable and worthy guardian or that transferring guardianship of the minor children to her was not in the best interests of the minor children.