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# IN RE CAIDEN B. ET AL.*
## (AC 45822)

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

*Syllabus*

The respondent father appealed to this court from the judgments of the trial court terminating his parental rights with respect to six of his minor children. The father had an extensive criminal history as a result of drug and alcohol abuse and his involvement in domestic violence incidents with the mothers of the children. Over the course of more than three years, the Department of Children and Families obtained custody of the six children as a result of the father's neglect and inability to care for them. Although the department provided the father in-person visitation with the children and, during the COVID-19 pandemic, virtual visitation, he failed to interact with the department to set up visitation schedules and missed numerous visits with the children. He also stopped taking medications that had been prescribed for him and refused to attend counseling and other therapy programs to which he had been referred by the department. The trial court adjudicated all six children neglected, and the petitioner, the Commissioner of Children and Families, thereafter sought termination of the father's parental rights. The trial court granted the petitions for the termination of the father's parental rights, concluding, on the basis of clear and convincing evidence, that the department, pursuant to statute (§ 17a-112), had made reasonable efforts to reunify him with the children and that termination of his parental rights was in the children's best interests. *Held*:

1. The evidence was sufficient to support the trial court's conclusion that the department had made reasonable efforts to reunify the respondent father with his minor children: the court's finding that the department facilitated adequate visitation with the children was not clearly erroneous, as the father had been provided frequent opportunities for in-person and, after the onset of the COVID-19 pandemic, virtual visitation, which included parenting education supervised by a credentialed provider when circumstances allowed, and the father was prevented from engaging in some monthly in-person visits as a result of his inconsistent visitation and reluctance to engage with the department to create visitation schedules, and visitation with one child was delayed due to his attempt to deceive the department about his paternity status as to that child; moreover, the father presented no authority for his claim that the department was required to seek a court order to compel him to comply with its referrals for therapy, as it was his choice and responsibility as to whether to engage in services aimed at reunifying him with the children; furthermore, contrary to the father's contention, the department's reunification efforts were not unreasonable, and the parenting education services it offered were not inadequate because the department had denied his request that a specific therapist, C, supervise visitation, as the department, at the time of his request, was no longer supplying providers for virtual visits, and, because C's ability to properly supervise visits had been called into question and the department's approval of C to provide supervisory services had been revoked, it was not possible to fulfill the father's request.
2. The respondent father could not prevail on his claim that the trial court erroneously determined that he had failed to achieve a degree of rehabilitation such as would encourage the belief that, within a reasonable time, considering the ages and needs of his children, he could assume a responsible position in their lives: the record showed that the father had abused and tested positive for illegal substances, including cocaine, up to and during the termination trial, he acted aggressively toward supervisors during visits with the children, which led one supervisor to request a security escort to her car, and he had to be removed from the premises during another visit; moreover, the father disregarded supervisors' attempts to engage him in parenting education and inaccurately asserted that a counselor had stated that there was no need for him to engage in additional counseling when, in fact, he had been

discharged for having failed to participate in a mental health group; furthermore, he consistently and repeatedly refused to attend therapy sessions or to engage in the anger management, substance abuse and parenting services he had been offered, as well as programs concerning domestic violence, despite a police record of involvement in such instances with the mothers of his children, and he failed to gain an understanding of the harmful effects of domestic violence on his family.

3. The trial court's conclusion that termination of the respondent father's parental rights was in his children's best interests was factually supported and legally sound: although the father contended that, in light of his alleged consistent engagement in substance abuse treatment, his affection for the children and his efforts to maintain visitation with them, the petitions should not have been granted, the evidence established that the father would be unable to provide shelter, nurturance, safety and stability for the children or to meet their emotional, educational, medical and moral needs in a reasonable amount of time, as he was unable to maintain his sobriety and had ceased taking his prescribed medications, he continued to be involved in domestic violence incidents, and he failed to engage in mental health treatment and domestic violence programs; moreover, a psychologist who evaluated the father testified that the father's continued behavioral and emotional problems could put the children at risk; furthermore, the evidence showed that the children had bonded with the grandparents and foster parents with whom they had been placed.

Argued March 8—officially released July 3, 2023**

*Procedural History*

Petitions by the Commissioner of Children and Families to terminate the respondents' parental rights with respect to their minor children, brought to the Superior Court in the judicial district of New London, Juvenile Matters at Waterford, and tried to the court, *Hoffman*, *J.*; judgments terminating the respondents' parental rights, from which the respondent father appealed to this court. *Affirmed.*

*David B. Rozwaski*, assigned counsel, for the appellant (respondent father).

*Evan M. O'Roark*, assistant attorney general, with whom were *Haseeb Kahn*, assistant attorney general, and, on the brief, *William Tong*, attorney general, for the appellee (petitioner).

*Opinion*

BRIGHT, C. J. The respondent father, Derek B., appeals from the judgments of the trial court, rendered in favor of the petitioner, the Commissioner of Children and Families, terminating his parental rights as to his minor children, Caiden B., Adrion B., Paislee B., Payton B., Skylar O., and Alexandria B., on the grounds that (1) he failed to achieve a sufficient degree of personal rehabilitation pursuant to General Statutes § 17a-112 (j) (3) (B) (i) and (ii), and (2) with respect to Caiden, Adrion, Paislee, and Payton, his acts of parental commission or omission denied them the care necessary for their well-being pursuant to § 17a-112 (j) (3) (C).[1] On appeal, the respondent claims that the court improperly concluded that (1) the Department of Children and Families (department) had made reasonable efforts to reunify him with his children pursuant to § 17a-112 (j) (1) and that he was unable or unwilling to benefit from the reunification services, (2) he failed to achieve a sufficient degree of personal rehabilitation pursuant to § 17a-112 (j) (3), and (3) termination of his parental rights was in the children's best interests.[2] We affirm the judgments of the trial court.[3]

The record reveals the following relevant facts and procedural history. The respondent has eight children, six of whom are at issue in the present appeal.[4] The respondent and Brittani B. met in 2016 and married in May of that year. The two share four children: Caiden, Adrion, Paislee, and Payton. Brittani B. also has three minor children from a previous relationship with a different man.[5] The department has been involved with Brittani B. since November, 2013, due to inadequately addressed mental health needs and an inability to care for her children.

Caiden was born in April, 2017. On June 6, 2017, the department received a report indicating that Brittani B. was overwhelmed with caring for her children and had threatened to kill herself. "It was reported that [Caiden] screamed constantly, and [Brittani B.] responded by screaming and swearing at him. [Brittani B.] was heard smacking one of her older children at least [twenty] times."

Adrion was born in March, 2018. On April 16, 2018, Brittani B. attended a biopsychosocial assessment at The Connection, a statewide community based human services agency that connects individuals with a variety of resources, in which she was diagnosed with "attention-deficit hyperactivity disorder, combined type [ADHD], opioid dependence mild symptoms or some difficulty in social and occupational functioning."

On May 1, 2018, the department received a report from Connecticut Children's Medical Center (medical center) regarding Adrion through its Child Abuse and Neglect Careline (careline). Adrion had sustained a

right parietal skull fracture with overlying hematoma. The respondent told medical center staff that, while he was caring for Adrion the previous day, Adrion fell out of his bouncer seat and hit his head. Medical center staff, however, concluded that such a fall could not cause Adrion's injury. A follow-up skeletal survey took place on May 15, 2018, at the medical center, which revealed that Adrion had six or seven healing rib fractures that appeared to be ten to fourteen days old. Medical center staff noted that Adrion's injuries were indicative of child abuse.

On May 16, 2018, the petitioner applied for and secured orders of temporary custody (OTC) on behalf of Adrion and Caiden, which were sustained on May 25, 2018. Therein, she alleged that the children were in physical danger and that immediate removal was necessary to ensure their safety. On May 16, 2018, the petitioner also filed neglect petitions on behalf of Adrion and Caiden alleging that they had been denied proper care and had been permitted to live under conditions injurious to their well-being. Additionally, the petitioner alleged that both Caiden and Adrion had been abused in that they had suffered nonaccidental physical injury or injuries that were inconsistent with the respondent's explanations. On July 24, 2018, the court, *Driscoll*, *J.*, adjudicated Adrion and Caiden neglected and committed them to the care and custody of the petitioner. The court also ordered preliminary specific steps for the respondent to take to facilitate his reunification with Adrion and Caiden.[6] On March 8, 2019, the petitioner filed motions to review and approve a permanency plan of termination of parental rights and adoption of Caiden and Adrion. On April 16, 2019, following a hearing, the court granted the motions.

In April, 2019, Brittani B. gave birth to twin girls, Paislee and Payton. On April 12, 2019, the petitioner applied for and secured OTCs on behalf of the twins. In issuing the orders on April 12, 2019, the court also ordered specific steps for the respondent to take to facilitate his reunification with the twins.[7] In the motion for temporary custody, the petitioner alleged that Paislee and Payton were in physical danger and that immediate removal was necessary to ensure their safety. On April 12, 2019, the petitioner also filed neglect petitions on behalf of the twins based on predictive neglect. Therein, the petitioner alleged that the twins had been denied proper care and had been permitted to live under conditions that were injurious to their well-being.[8] A preliminary hearing on the OTCs was held on April 18, 2019, at which point the court, *Hon. Michael A. Mack*, judge trial referee, granted the petitioner's motion for a paternity test to confirm that the respondent was the father of Paislee and Payton. The court, *Driscoll*, *J.*, sustained the OTCs on May 3, 2019. The respondent was adjudicated to be the father of Paislee and Payton on July 2, 2019.

On June 6, 2019, the petitioner filed petitions to terminate the parental rights of the respondent with respect to Adrion and Caiden.[9] The petitioner alleged, as a ground for termination, that, pursuant to § 17a-112 (j) (3) (B) (i), Caiden and Adrion had been found in a prior proceeding to have been neglected and that the respondent had failed to achieve the degree of personal rehabilitation that would encourage the belief that, considering the children's ages and needs, he could assume a responsible position in their lives. The petitions also alleged that, pursuant to § 17a-112 (j) (3) (C), Caiden and Adrion had been denied, by reason of an act or acts of parental commission or omission, including severe physical abuse or a pattern of abuse, the care necessary for their physical or emotional well-being. The petitions further alleged that reasonable efforts had been made to reunify Caiden and Adrion with the respondent. Last, the petitions alleged that "reasonable efforts to reunify are not required for the [respondent] because the court has approved a permanency plan other than reunification in accordance with [General Statutes § 17a-111b]."

On November 8, 2019, the petitioner filed petitions to terminate the parental rights of the respondent with respect to Paislee and Payton.[10] The petitions were amended on December 10, 2021, and again on February 25, 2022. In the operative February 25, 2022 petitions, the petitioner alleged that, pursuant to § 17a-112 (j) (3) (B) (ii), Paislee and Payton had been neglected, they had been in the custody of the petitioner for at least fifteen months, and the respondent had failed to achieve an appropriate degree of personal rehabilitation.[11] The petitions further alleged that the respondent had denied Paislee and Payton, by reason of an act or acts of parental commission or omission, the care necessary for their well-being. Last, the petitions alleged that the department had made reasonable efforts to reunify Paislee and Payton with the respondent and that he was unable or unwilling to benefit from those efforts.

The respondent and Erika O. met in 2017. The two maintained an on-again, off-again relationship over the next several years and share two children, Skylar and Alexandria. In addition to Skylar and Alexandria, Erika O. has four other children who are not involved in these proceedings.[12] Erika O. has a long history with the department dating back to 2012 when she tested positive for oxycodone at the birth of one of her children.

Erika O. gave birth to Skylar in June, 2019. On June 7, 2019, the department received a report that Erika O. had tested positive for amphetamines upon Skylar's birth. At that time, Erika O. refused to provide a name for the father. On June 13, 2019, the petitioner applied for and secured an OTC on behalf of Skylar, which was sustained on June 21, 2019. The petitioner alleged that Skylar was in physical danger and that immediate

removal was necessary to ensure her safety. That day, the petitioner also filed a neglect petition alleging that Skylar was being denied proper care and had been permitted to live under conditions injurious to her well-being. The petitioner premised the petition on the doctrine of predictive neglect.[13] On September 17, 2019, the court, *Hon. Michael A. Mack*, judge trial referee, adjudicated the respondent as the father of Skylar. On February 13, 2020, the court ordered specific steps for the respondent to take to facilitate his reunification with Skylar.[14]

Erika O. gave birth to Alexandria in June, 2020. That day, the department received a report that Erika O.'s urine was positive for methadone at the time of Alexandria's delivery. On June 29, 2020, the petitioner filed a motion for an OTC, alleging that Alexandria was in physical danger and that immediate removal was necessary to ensure her safety. On July 6, 2020, the court, *Suarez*, *J.*, sustained the OTC and ordered specific steps for the respondent to take to facilitate his reunification with Alexandria.[15] On June 29, 2020, the petitioner also filed a neglect petition on behalf of Alexandria on the basis of predictive neglect. The petitioner alleged that Alexandria was being denied proper care and had been permitted to live under conditions that were injurious to her well-being.

On April 1, 2021, the petitioner filed a petition to terminate the respondent's parental rights with respect to Skylar.[16] Therein, the petitioner alleged that Skylar had been neglected and had been in the petitioner's custody for at least fifteen months, that the respondent had been given specific steps to facilitate his reunification with Skylar, and that he had failed to rehabilitate within the meaning of § 17a-112 (j) (3) (B) (ii).

On August 2, 2021, the court, *Hoffman*, *J.*, adjudicated both Skylar and Alexandria neglected and committed them to the care and custody of the petitioner. The petitioner filed a petition to terminate the respondent's parental rights as to Alexandria on August 30, 2021, and amended the petition as to Skylar on September 13, 2021. In the petitions, the petitioner alleged that Alexandria and Skylar had been found in a prior proceeding to have been neglected, abused, or uncared for and that the respondent had failed to rehabilitate within the meaning of § 17a-112 (j) (3) (B) (i). The petitions further alleged that the department had made reasonable reunification efforts and that the respondent was unable or unwilling to benefit from those efforts.

A consolidated trial on the petitions to terminate the respondent's parental rights as to all six children at issue in this appeal occurred on October 14 and December 20, 2021, and February 7, 2022. The respondent appeared and was represented by counsel. Numerous witnesses testified and several exhibits were admitted into evidence. On June 1, 2022, the court, *Hoffman*,

*J.*, issued a memorandum of decision terminating the parental rights of the respondent as to each of the six children. The court made extensive findings of fact and concluded that the petitioner had established by clear and convincing evidence that statutory grounds for the termination of the respondent's parental rights existed for each child, and that termination was in the best interests of the children.

The court made the following relevant findings concerning the children: "[Caiden] was born [in April], 2017, to Brittani B. and [the respondent]. Caiden was placed with his paternal grandmother, where he is placed with his younger brother, Adrion. Caiden does well in the home. Caiden can be timid at times and prefers to be with his grandmother. . . .

"[Adrion] was born [in March], 2018, to Brittani B. and [the respondent]. . . . [Adrion] appears to have a good relationship with [his paternal grandmother]. [Adrion], at two months of age, went through a traumatic event, as he was found with skull and rib fractures without any clear explanation by his parents. Adrion has been observed to have overcome the trauma. Adrion started Birth to Three services on August 31, 2018, in the area of fine/gross motor skills. Services were discontinued [after] Adrion's third birthday, and he did not qualify for additional services."

"[Payton] was born [in April], 2019, to Brittani B. and [the respondent]. Payton was placed in a legal risk home since August 16, 2019. Payton shares a room with her sister, Paislee. Payton is developmentally on target. She is diagnosed with laryngomalacia and allergy rhinitis. Payton currently visits with her parents weekly through virtual and in-person visits. Payton has begun to demonstrate behaviors following visits with her parents. Behaviors include Payton['s] being agitated following visits, being quick to yell in frustration, shove, and pull hair. . . .

"[Paislee] was born [in April], 2019, to Brittani B. and [the respondent]. Paislee was placed in a legal risk foster home with her twin sister on August 16, 2019. [The] foster parents are gentle and nurturing to Paislee. Paislee is doing well there. Paislee has weekly virtual and in-person visits with her parents. Due to behaviors directly following visits, [the department] has made a referral to Child First. Behaviors include Paislee['s] having trouble sleeping; she awakes from her brief naps and her nighttime sleep screaming and is inconsolable. Furthermore, Paislee's behaviors include feces smearing. The behaviors generally resolve within a few days of the visits; however, [they] resume immediately upon returning to the foster home after a visit."

"[Skylar] was born to Erika O. and [the respondent in June], 2019. Skylar was exposed to amphetamines and methadone in utero. She is developmentally on

target. [Skylar] is medically complex. Skylar has club foot and capillary hemangioma. Since July, 2019, [Skylar] has been receiving Birth to Three services in the home weekly to support her developmental growth because she has delays following birth and her extensive medical concerns. Skylar has been placed in the same foster home since June 18, 2019, and [it] is a permanent adoptive resource for her. On June 29, 2020, her younger sibling, [Alexandria], was placed in the same foster home. Since March of 2020, Erika O. and [the respondent] were afforded once a week visitation with Skylar and since June 29, 2020, with her sister [Alexandria]. Erika O.'s and [the respondent's] visitation as to Skylar was suspended as of April, 2021. As of February 3, 2022, [the department] reported that [Erika O.] and [the respondent] have not inquired as to any updates as to the welfare of their daughter medically, educationally, socially or emotionally. . . .

"[Alexandria] was born [in June], 2020, to [the respondent] and Erika O. Alexandria was born prematurely and had exposure to substances in utero. Alexandria is receiving Birth to Three services once a month and is reaching her milestones with the additional supports of her foster family following through with any and all of the recommendations. Since June 29, 2020, [Erika O.] and [the respondent] were visiting once a week with Alexandria and her sister, Skylar. Erika O.'s and [the respondent's] visitation as to [Alexandria] was suspended as of April, 2021. As of February 3, 2022, [the department] reported that [Erika O.] and [the respondent] have not inquired as to any updates as to the welfare of their daughter medically, educationally, socially or emotionally."

As to the respondent, the court found that he "was born [in December], 1986. [He] has one brother. [The respondent] reported he had a normal childhood and was raised mainly by his mother. [He] graduated from high school in 2004. [He] attended New England Technical Institute for a year and a half.

"[The respondent] reported he began using illegal drugs and became involved with his friends [who] joined him in that habit. [He] reported he first tried alcohol when he was seventeen. [The respondent] reported in his twenties he began using both cocaine and marijuana quite frequently. He stated he then graduated to heroin use.

"[The respondent] became involved with Shannon B. in 2007. Shannon B. reported [that] after the birth of their daughter, Leeanna, [the respondent] began using substances including marijuana, crack cocaine and eventually heroin. [The department] became involved with [the respondent] in 2008 due to domestic violence with Shannon B. and their two children, Leanna and Dylaina. Leanna and Dylaina live with their mother, and [the respondent] has supervised visitation with them.

In 2010, Shannon B. prevented [the respondent] from seeing their children for three years due to his substance abuse.

"In 2016, [the respondent] became involved with Brittani B. and [the two] have been connected despite alternate relationships. They were married in March, 2016. On June 7, 2016, Brittani B. found out [that the respondent] was using heroin and threw him out, and, in 2016, she filed for divorce. [The respondent] went to a rehabilitation program, and the parties reconciled and Brittani B. became pregnant with Caiden. The reconciliation did not last long, and Caiden was born [in April], 2017. [Adrion] was born [in March], 2018. The parties reconciled again but divorced in January, 2018.

"On May 1, 2018, it was reported by [the medical center] to [the department] that Adrion [had] sustained a skull fracture with overlying hematoma. A follow-up skeletal survey two weeks later at [the medical center] revealed that Adrion had six to seven healing rib fractures, indicative of child abuse.

"It was reported that Erika O. met [the respondent] in 2017, and they started a relationship in 2018. They have two children together, Skylar . . . and [Alexandria] . . . . [The respondent] has been engaged in an off and on relationship [with Erika O.] marked by either completely supporting one another [or the respondent's] tearing Erika O. down.

"[The respondent] was referred to an inpatient program by his probation officer after relapsing on heroin shortly after Caiden and Adrion were removed. On May 28, 2018, [the respondent] entered Connecticut Valley Hospital [CVH] men's intensive outpatient program for the treatment of substance abuse. On June 4, 2018, [the respondent] left the program against clinical advice. [The respondent's] case manager recommended [that he] attend another inpatient program, as he had not recognized his condition; he minimized his addiction, and, at the end of 2018, [the respondent] started attending the Root Center for Advanced Recovery [Root Center] for his methadone treatment.

"[In March, 2021, the respondent] self-reported that . . . he had a 'dirty urine' for ecstasy. [The respondent] reported that he felt the Root Center was making mistakes, and he transferred his treatment to the New London office. The Root Center confirmed the positive urine screen. [The respondent] was attending the Root Center for medication management.

"On March 16, 2021, [the respondent] self-reported [that] he was no longer taking his medication, Lamotrigine (mood stabilizer) and Vyvanse (ADHD), since March 2, 2021, because the Root Center would no longer be prescribing [them] and he needed to find a new prescriber. However, it was reported by the Root Center [that the respondent's] last medication management

appointment was on March 23, 2021, and [he] was a no call/no show. On April 4, 2021, [the respondent] was discharged and no longer prescribed Vyvanse because [he] did not follow through with [a] referral to attend a mental health group.

"On July 13, 2021, [the respondent] admitted he relapsed on July 6, 2021, the day of [a domestic violence] incident with Brittani B. He reported [that] he used cocaine. [The respondent's] probation officer reported [that he] tested positive for cocaine and methadone.

"On April 16, 2018, [the respondent] attended a biopsychosocial assessment at The Connection. In the assessment, he was diagnosed with [ADHD], combined type, opioid dependence mild symptoms or some difficulty in social and occupational functioning. [The respondent] was recommended for individual counseling and random drug screens. In October, 2018, [he] stopped attending individual counseling at The Connection and was discharged for lack of engagement and lack of contact with his therapist. On January 1, 2022, [the respondent] reported [that] he was not engaged in individual therapy.

"[The respondent] has been inconsistent with his visits with [Caiden], [Adrion] and [Paislee] and [Payton] since they came into care. While the visits were virtual due to COVID-19 concerns, [the respondent] missed several visits. [The respondent] asked for the day and time to be changed; [the department complied]. [The respondent] also requested for the [social work case aide (SWCA)] supervising the visits to be changed, twice. The visits were scheduled for the day/time [the respondent] requested and with the SWCA he requested. Despite all the changes, [he] continued to miss visits with the girls or was doing something else during the visits. However, he would frequently appear during . . . Brittani B.'s visits.

"From February, [2020], through April, [2021], [the respondent] was provided a once a week supervised virtual visit with Skylar. From June, 2020, through April, 2021, [he] was offered a once a week visit with Alexandria. On September 29 and October 27, 2020, [he] was provided with an in-person visit with Alexandria and Skylar. On March 29, 2021, [the department] requested [the respondent] to confirm an hour before his scheduled virtual visit, as he had missed the last four scheduled visits out of eight visits. On April 29, 2021, [the respondent's] visits with Alexandria and Skylar were suspended by the court. As of February, 2022, [he] had not asked for any updates regarding the welfare of his daughters.

"On January 20 and 24, 2020, [the respondent] completed a psychological evaluation with Kelly F. Rogers, Ph.D. It was noted [that the respondent] was 'superficially cooperative with the evaluation and was not par-

ticularly candid and forthcoming.' [Rogers] noted 'the extreme presentation for [the respondent's] hyperactivity, and that [it] would be important to rule out substance abuse affecting his psychomotor behavior.' Also, [the respondent] was 'quick to minimize his anger and its expression. Results did show [him] to be angrier than most, which is most likely to be expressed in negativity and resistance.' [Rogers] further reported, coupled 'with [the respondent's] apparent limited frustration tolerance, limited self-control and substance abuse (at least, by history), aggressive action is possible.' [Rogers] also noted [that the respondent] did not present 'with good social skills but has the ability to relate reasonably well on a superficial level: particularly when the roles are clear to him.' [The respondent] was diagnosed with [ADHD] combined presentation severe, other specified disruptive, impulse control, and conduct disorder (features of intermittent explosive disorder, disruptive dysregulation, rule-out substance/medication-induced disorder), opioid use disorder (severe, on maintain therapy), stimulant use disorder (severe, cocaine, in sustained remission by report), and adjustment disorder with depressed mood.

"From May 16, 2018, to [October, 2018], [the respondent] was living in a hotel, motel, in his car, and with a friend. In October, 2018, he moved to a residence but was later evicted. From November, 2019, to April, 2020, he resided with Erika O. In March of 2021, it was reported he lived with Brittani B.

"[The respondent] has an extensive criminal history due to domestic violence and substance abuse. [He] has numerous prior convictions, including possession of narcotics, larceny [in the sixth degree], and violation of probation. [The respondent] was on probation but has pending charges, including violation of probation, failure to appear [in the first degree], two counts of possession of [a] controlled substance, failure to appear [in the second degree], assault [in the third degree], disorderly conduct, unlawful restraint [in the second degree], and interfering with an emergency call. [The respondent] was arrested for assault on two different occasions that stemmed from domestic disputes with former girlfriends. On February 23, 2021, there was a police report of a verbal argument with Erika O. and [the respondent]. Brittani B. was arrested for [a domestic violence] incident with [the respondent]. [The respondent] failed to engage in a domestic violence program."

In setting forth its determinations with respect to the adjudicatory phase of the trial, the court, citing relevant case law and Practice Book § 35a-7, observed that, in the adjudicatory phase, it was limited to making its assessment of the department's reasonable efforts on the basis of facts preceding the filing of the petitions for termination of parental rights or the latest amendments thereto. The court then evaluated whether, pursuant to

§ 17a-112 (j) (1), the petitioner had proved by clear and convincing evidence that the department had made reasonable efforts to locate the respondent and to reunify him with his children or, in the alternative, that the respondent was unable or unwilling to benefit from reunification efforts.

The court found that the petitioner had met her burden, stating that "[she] has proven by clear and convincing evidence that [the department] made reasonable efforts to reunify [the respondent] with Payton, Paislee, Adrion, Caiden, Skylar and Alexandria. As discussed [previously], [the respondent] was offered numerous services to [attain] reunification with his children, including supervised visitation by [the department] and a credential[ed] provider, individual counseling, drug screening, parenting education, case management services and [a] psychological evaluation. [The respondent] has a history with [the department] dating back to 2008 due to concerns regarding substance use/abuse, unmet mental health issues and [domestic violence] issues. [The respondent] has failed to successfully complete services and change his circumstances and has failed to attain a level of sobriety and stability to permit his children to be safely placed in his care. As noted [previously], in May of 2018, [Adrion] suffered significant injuries while in the care of [the respondent] resulting in his removal, and [the respondent] has failed to acknowledge the cause of the injuries and has not taken any meaningful therapeutic steps to prevent such events from occurring again.

"Accordingly, the court finds by clear and convincing evidence that [the department] made reasonable efforts to locate [the respondent] and reunite [him] with [Adrion], [Caiden], [Payton], [Paislee], [Skylar], and [Alexandria] and, further, that he is unwilling or unable to benefit from reunification efforts."

With respect to the statutory grounds for termination, the court determined, by clear and convincing evidence, that the respondent (1) had failed to achieve such degree of personal rehabilitation as would encourage the belief that, within a reasonable time, considering the ages and needs of the children, he could assume a responsible position in each of the six children's lives pursuant to § 17a-112 (j) (3) (B) (i) and (ii),[17] and (2) had denied Caiden, Adrion, Paislee, and Payton, by reason of an act or acts of parental commission or omission, the care, guidance, or control necessary for their physical, educational, moral or emotional well-being, pursuant to § 17a-112 (j) (3) (C). Finally, in the dispositional phase of the proceedings, the court considered and made the requisite factual findings pursuant to § 17a-112 (k)[18] and concluded that the petitioner had proven by clear and convincing evidence that terminating the respondent's parental rights was in the children's best interests. The court thus granted the petitions to termi-

nate the respondent's parental rights as to Caiden, Adrion, Paislee, Payton, Skylar, and Alexandria. This appeal followed. Additional facts will be set forth as necessary.

As a preliminary matter, we first set forth the legal principles relevant to our review. "Proceedings to terminate parental rights are governed by § 17a-112. . . . Under [that provision], a hearing on a petition to terminate parental rights consists of two phases: the adjudicatory phase and the dispositional phase. During the adjudicatory phase, the trial court must determine whether one or more of the . . . grounds for termination of parental rights set forth in § 17a-112 [(j) (3)] exists by clear and convincing evidence. The [petitioner] . . . in petitioning to terminate those rights, must allege and prove one or more of the statutory grounds. . . . Subdivision (3) of § 17a-112 (j) carefully sets out . . . [the] situations that, in the judgment of the legislature, constitute countervailing interests sufficiently powerful to justify the termination of parental rights in the absence of consent. . . . Because a respondent's fundamental right to parent his or her child is at stake, [t]he statutory criteria must be strictly complied with before termination can be accomplished and adoption proceedings begun. . . .

"If the trial court determines that a statutory ground for termination exists, then it proceeds to the dispositional phase. During the dispositional phase, the trial court must determine whether termination is in the best interests of the child. . . . The best interest determination also must be supported by clear and convincing evidence." (Citation omitted; internal quotation marks omitted.) *In re Autumn O.*, 218 Conn. App. 424, 430–31, 292 A.3d 66, cert. denied, 346 Conn. 1025, A.3d (2023).

I

The respondent first claims that the court erred in concluding that the department had made reasonable efforts to reunify him with his children and that he was unable or unwilling to benefit from the reunification efforts. The respondent contends that the evidence was insufficient to support the court's conclusion because "the [department] failed to provide appropriate and meaningful services [to him]." In particular, he argues that the department (1) failed to facilitate adequate visitation with his children, (2) failed to file a motion with the court to enforce his compliance with individual therapy, and (3) denied his request to have Heather Colino, a therapist with Innovative Therapeutic Solutions, LLC, continue to supervise visitation with his children, thus failing to provide him with adequate parenting education services "so that he could be a better parent for his children . . . ." We are not persuaded.

"Section 17a-112 (j) (1) requires that before terminat-

ing parental rights, the court must find by clear and convincing evidence that the department has made reasonable efforts to locate the parent and to reunify the child with the parent, unless the court finds in this proceeding that the parent is unable or unwilling to benefit from reunification efforts provided such finding is not required if the court has determined at a hearing . . . that such efforts are not appropriate . . . . Thus, the department may meet its burden concerning reunification in one of three ways: (1) by showing that it made such efforts, (2) by showing that the parent was unable or unwilling to benefit from reunification efforts or (3) by a previous judicial determination that such efforts were not appropriate. . . . [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 . . . ." (Citation omitted; internal quotation marks omitted.) *In re Ryder M.*, 211 Conn. App. 793, 808–809, 274 A.3d 218, cert. denied, 343 Conn. 931, 276 A.3d 433 (2022).

"Our review of the court's reasonable efforts determination is subject to the evidentiary sufficiency standard of review. . . . Under this standard, the inquiry is whether the trial court could have reasonably concluded, upon the facts established and the reasonable inferences drawn therefrom, that the cumulative effect of the evidence was sufficient to justify its [ultimate conclusion]. . . . When applying this standard, we construe the evidence in a manner most favorable to sustaining the judgment of the trial court. . . . The court's subordinate findings made in support of its reasonable efforts determination are reviewed for clear error." (Citations omitted; internal quotation marks omitted.) Id., 809.

"[We do] not examine the record to determine whether the trier of fact could have reached a conclusion other than the one reached. . . . In our review of the record for evidentiary sufficiency, we are mindful that, as a reviewing court, [w]e cannot retry the facts or pass upon the credibility of the witnesses. . . . Rather, [i]t is within the province of the trial court, when sitting as the fact finder, to weigh the evidence presented and determine the credibility and effect to be given the evidence." (Citations omitted; internal quotation marks omitted.) *In re Gabriella A.*, 319 Conn. 775, 790, 127 A.3d 948 (2015).

Pursuant to § 17a-112, the department has the duty "to make reasonable efforts to reunite the child or children with the parents. The word reasonable is the linch-

pin 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.*, supra, 211 Conn. App. 810–11.

In the present case, the department determined that the respondent's presenting problems were his significant mental health issues, including emotional outbursts and anger management difficulties, deficits in parenting abilities, ongoing, unresolved substance abuse issues, and incidents of domestic violence. The record reveals that the department took various steps to address these problems and to facilitate the respondent's reunification with his children before the petitioner sought to terminate his parental rights as to each of the six children.

The petitions to terminate the respondent's parental rights as to Adrion and Caiden were filed on June 6, 2019. The record reflects that, in May, 2018, the respondent was attending individual therapy twice a week at The Connection. In addition, on May 28, 2018, the respondent entered the CVH men's intensive program for the treatment of substance dependence and co-occurring disorders. On June 4, 2018, however, he left the program against clinical advice and was subsequently discharged on July 9, 2018. The respondent's case worker at CVH recommended that he continue to attend another inpatient program, as he had not recognized his condition, had minimized his addiction, and had not yet taken any responsibility for his actions and their consequences.

Sometime between June and October, 2018, the department requested that the respondent attend an anger management group, which he refused to do. Further, in October, 2018, the respondent stopped attending individual therapy at The Connection and was discharged for lack of attendance and engagement and failure to respond to his therapist's phone calls. He thereafter refused the department's referrals to additional mental health, substance abuse, and individual therapy services. He likewise declined the department's referrals to Alcoholics Anonymous and Narcotics Anonymous. Although the respondent began attending the Root Center for methadone maintenance and substance abuse

services at the end of 2018, the Root Center does not offer individual therapy.

In addition to referrals to the aforementioned service providers, the record shows that the department provided the respondent with substance abuse evaluations and urine screenings, case management services, permanency team meetings, safety planning, and a considered removal meeting. The department also facilitated visitation between the respondent and Caiden and Adrion that included an integrated parenting education component supervised by a credentialed provider associated with Child Guidance or Innovative Therapeutic Solutions, LLC. Specifically, the department provided the respondent with two, two hour supervised in-person visits a week in addition to in-person visits supervised by Caiden and Adrion's paternal grandmother.[19]

The petitions to terminate the respondent's parental rights as to Paislee and Payton were filed on November 8, 2019, amended on December 10, 2019, and amended again on February 25, 2022. The record reflects that, prior to the filing of the November, 2019 petitions, the department continued to refer the respondent to mental health services and individual therapy providers despite his repeated refusals to engage with such services. The department also provided him with substance abuse evaluations, and urine screenings and case management services.

In addition, beginning in November, 2019, the respondent was offered weekly, supervised in-person visits with Paislee and Payton. Those visits included an integrated parenting education component supervised by a credentialed provider. In March, 2020, due to the onset of the COVID-19 pandemic, the department changed the respondent's weekly visits with the twins to a virtual format. Department staff, rather than credentialed supervisors, oversaw the virtual visits. Notably, the respondent missed seventeen visits with Paislee and Payton from August, 2020, through March, 2021, and did not attend any visits from March 30 through May 25, 2021. Because the respondent was inconsistent in attending the virtual visits, the department declined to resume in-person visits between the respondent and the twins until August, 2021. In September, 2021, the respondent missed two out of three in-person visits with the twins and all of his scheduled virtual visits. On September 22, 2021, the department offered the respondent alternating weekly virtual and in-person visits with the twins. In October and November, 2021, the respondent missed each of his scheduled in-person and virtual visits. In December, 2021, the department moved to suspend visits between the respondent and Paislee and Payton due to the respondent's inconsistent attendance.

The petition to terminate the respondent's parental rights as to Skylar was filed on April 1, 2021, and

amended on September 30, 2021. The petition to terminate the respondent's rights as to Alexandria was filed on August 30, 2021. The record indicates that, prior to the filing of those petitions, the department explored family resources with the respondent, continued to provide substance abuse evaluations and urine screenings, continued to provide case management services, and made several referrals to individual therapy and mental health service providers. Moreover, the department ordered a psychological evaluation, which occurred on January 20 and 24, 2020, and resulted in recommendations to address the respondent's unique barriers to reunification.

On October 21, 2019, the respondent met with the department to arrange a weekly, in-person visitation schedule with Skylar that included an integrated parenting education component supervised by a credentialed provider. The respondent attended each of his scheduled visits in October and November, 2019. On December 2, 2019, the respondent's in-person visit with Skylar was cancelled early. According to the department's protocols, the respondent was required to keep Skylar in the supervisor's line of sight during visits. He failed to do so and, upon being reminded to comply with that protocol, became angry and yelled at the supervisor while he was holding Skylar. A department security officer ended the visit and escorted the respondent out of the room. On December 3, 2019, the petitioner filed an emergency motion, requesting that the court temporarily suspend the respondent's visitation with Skylar and order a psychological evaluation for the respondent. On December 17, 2019, the court, *Hon. Michael A. Mack*, judge trial referee, denied the motion and ordered that weekly in-person visits continue and that they be supervised by the respondent's choice of provider, Colino.

The respondent continued attending weekly in-person visits with Skylar until the onset of COVID-19 in March, 2020, at which point visits changed to a virtual format supervised by department staff. Between March and September, 2020, the respondent missed three virtual visits with Skylar. On July 2, 2020, Alexandria began joining the respondent's visits with Skylar. The department facilitated two in-person visits between the respondent and Skylar and Alexandria in September and October, 2020, in addition to the virtual visits. Due to both an increase in the transmission of COVID-19 and the concerns of Skylar and Alexandria's foster parents, visitation returned solely to a virtual format thereafter. From November, 2020, through April, 2021, the respondent missed ten of twenty-three virtual visits. As a result of the respondent's inconsistent attendance, the department moved to suspend the respondent's visitation with Skylar and Alexandria. On April 29, 2021, the court, *Hoffman, J.*, granted the motion and suspended the respondent's visitation with Skylar and Alexandria until

further notice. Since the court suspended his visitation, the respondent has not asked for any updates regarding the welfare of Skylar or Alexandria.

Given these facts, the respondent's arguments that the department's efforts toward reunification were unreasonable are unavailing. Put simply, the record contains ample evidence to support the court's reasonable efforts determination. See *In re Anthony S.*, 218 Conn. App. 127, 141, 290 A.3d 901 (2023) (department made reasonable efforts where it provided case management and support services, weekly supervised visits, offered visits in clinical setting, referred respondent to health service to be evaluated for and receive drug and mental health treatment and other individual therapy services, and offered transportation assistance and permanency placement services); *In re Ryder M.*, supra, 211 Conn. App. 811–12 (department made reasonable reunification efforts where it referred respondent father to two different providers offering mental health and substance abuse services and provided him with opportunity to attend fatherhood program and have visitation with his child); *In re Phoenix A.*, 202 Conn. App. 827, 839–40, 246 A.3d 1096 (department made reasonable efforts to reunify where it repeatedly referred respondent to numerous service providers in attempt to address his substance abuse, mental health, and parenting issues), cert. denied, 336 Conn. 932, 248 A.3d 1 (2021); *In re Jacob M.*, 204 Conn. App. 763, 783, 255 A.3d 918 (department made reasonable efforts when respondent was offered mental health treatment, parent mentoring services, visitation services, domestic violence counseling and transportation), cert. denied, 337 Conn. 909, 253 A.3d 43 (2021), and cert. denied sub nom. *In re Natasha T.*, 337 Conn. 909, 253 A.3d 44 (2021).

Furthermore, the specific deficiencies that the respondent claims are either belied by the evidentiary record or unsupported in the law. First, we are unconvinced by the respondent's argument that the department failed to provide him with adequate visitation with his children. Specifically, the respondent contends that (1) virtual visitation was unreasonable because it "was not a meaningful way to foster and maintain a parent-child relationship," and (2) any inconsistencies in his engaging in visitation with his children was a result of the department's actions and the reality of COVID-19.[20] The record, however, does not support either contention.

As recounted previously, the record indicates that the department provided the respondent with weekly virtual visitation with his daughters after the onset of the COVID-19 pandemic. It is silent as to what kind of visitation occurred between the respondent and Caiden and Adrion after March, 2020. Nevertheless, because the petitions to terminate the respondent's parental rights as to Caiden and Adrion were filed on June 6,

2019, before the onset of the COVID-19 pandemic and the necessity of virtual visitation, any alleged deficiencies in virtual visitation are irrelevant to the reasonableness of visitation the department provided in relation to Caiden and Adrion. See *In re Ryder M.*, supra, 211 Conn. App. 809 ("[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" (internal quotation marks omitted)).

Moreover, it is significant that the respondent was subsequently denied in-person visitation with Paislee, Payton, Skylar, and Alexandria because he was inconsistent in attending virtual visitation. At trial, Robin Brisson—the department social worker assigned to Skylar's and Alexandria's cases—testified that, because the department was dealing with limited resources during the COVID-19 pandemic, there was a finite amount of in-person visits the department could facilitate. Brisson further testified that, in May, 2021, the department began reviewing cases individually to determine whether it would be appropriate to permit monthly in-person visits. She clarified that, "how many . . . virtual visits were provided, [and] how many were missed out of a certain period of time" was one of the factors used to determine which cases were going to be permitted in-person visitation.

Karina Sanchez, the department social worker assigned to the cases of Caiden, Adrion, Paislee, and Payton, testified that, "because [the respondent] was already . . . missing so many virtual visits [with Paislee and Payton], one of the things was for him to make [a certain number] of virtual visits before [the department resumed] the in-person visits." She then reiterated that the respondent "was inconsistent with his visits. So, he needed to show some consistency before starting the in-person visits." Similarly, on February 24, 2021, the department conducted a review of Skylar's and Alexandria's cases that was the subject of the following note: "Visitation re-triage. [Foster parents] continue to be concerned with exposure to COVID-19. [Erika O.] has been inconsistent with virtual visits and [the respondent] has missed some. [Erika O.] has not been consistent with meeting with [the department], so this makes it difficult to assess for recent [domestic violence] concerns. Decision: no [in-person] visitation at this time given ongoing assessment for possible current [domestic violence] (moreso [Erika O.]) need to demonstrate consistency with virtual visits." Although the department did not permit in-person visitation to resume until May, 2021, after it had suspended the respondent's visits with Skylar and Alexandria in April, 2021, it is clear that the department began evaluating the possibility of in-person visitation in February, 2021. Accordingly, it was the respondent's own failure to be

consistent with virtual visitations that prevented him from having sooner in-person visitation with his daughters.

In addition, there is evidence in the record indicating that it was the respondent who delayed initiating visitation with Paislee, Payton, and Skylar. At trial, Sanchez testified that, when she received Paislee's and Payton's cases in June, 2019, there was no established visitation schedule between the respondent and the twins. She further testified that the respondent was not responsive to the department, though she acknowledged meeting him at an administrative case review in June or July, 2019. In a case status report dated December 3, 2019, Sanchez noted that, since late September, 2019, "[t]he department repeatedly asked to meet with [the respondent] to set up his services and his visitation." Ultimately, despite the department's earlier requests, the respondent did not meet with Sanchez to arrange a consistent visitation schedule with the twins until October 21, 2019.

The record further indicates that, despite denying paternity at the time, the respondent attended two of Skylar's medical appointments with Erika O. in August, 2019, under the pseudonym Henry Pratt. Although he was aware that Skylar was in the department's care, the respondent failed to inform it that he was Skylar's father and, instead, actively attempted to deceive the department. At trial, Brisson testified that, once paternity had been established in September, 2019, the department could not begin visitation immediately, as it needed to complete an assessment of the respondent, given that he had been presenting himself under another name.[21] The respondent did not meet with the department to arrange visitation with Skylar until October 21, 2019.

"[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." (Internal quotation marks omitted.) *In re Corey C.*, 198 Conn. App. 41, 65, 232 A.3d 1237, cert. denied, 335 Conn. 930, 236 A.3d 217 (2020). On the basis of the evidence presented, we conclude that the court's finding that the department facilitated adequate visitation between the respondent and his children is not clearly erroneous. The record reflects that the department provided the respondent with frequent opportunities for in-person and virtual visitation with his children; that, when circumstances allowed, those visitations included a parenting education component supervised by a credentialed provider; that the respondent's own inconsistency in visitation prevented him from having the opportunity to engage in monthly in-person visitation with his daughters; and that the respondent's own reluctance to engage with the department caused much of the delay in the creation of visitation schedules with

his daughters. Therefore, we conclude that there is sufficient evidence in the record to support the court's finding that the department's visitation efforts were reasonable.

Second, the respondent argues that the department's efforts were not reasonable because the petitioner never sought a court order compelling him to engage in the individual therapy the department offered him. This argument requires little discussion. The respondent has not cited any authority, and we are aware of none, that requires the department, as part of its reasonable efforts, to seek a court order requiring the respondent to comply with each department referral. In fact, such a requirement would be inconsistent with the requirement that child protection matters be addressed in an expedited fashion so that children are not left in a state of limbo. See, e.g., *In re Davonta V.*, 285 Conn. 483, 495, 940 A.2d 733 (2008) ("[n]o child can grow emotionally while in limbo, never really belonging to anyone except on a temporary and ill-defined or partial basis" (internal quotation marks omitted)); *In re Avia M.*, Superior Court, judicial district of New Britain, Juvenile Matters, File No. H14-CP16-011696-A (April 3, 2018) (reprinted at 188 Conn. App. 740, 805, 205 A.3d 770) ("child's needs for safety, stability and permanency cannot wait for the uncertainty of her parents' rehabilitation"), aff'd, 188 Conn. App. 736, 205 A.3d 764 (2019). Furthermore, a parent who does not take advantage of the department's reunification efforts should not be permitted to challenge the reasonableness of those efforts on the ground that a court did not compel him to do so. The reunification efforts are offered for the benefit of the parent with a view to meeting the needs of the children. They are intended to give parents the opportunity to demonstrate that they can assume the responsibility of parenting, which includes addressing identified deficits in their capacity to fulfill that role. It would turn the child protection statutes on their head to allow a parent who fails to engage in reunification efforts to argue that he would have complied if only a court had ordered him to do so. Reunification with his children, as opposed to a potential court sanction, should be sufficient motivation for the respondent to engage in the recommended services. Thus, although the provision of reunification services always remains the burden of the department, the choice and responsibility to engage in services so that his children may have a parent who can meet their needs must ultimately lie with the respondent. Consequently, the offering of services meets the reasonable efforts requirement.

Finally, the respondent argues that the department's reunification efforts were not reasonable because the department denied his request to have Colino continue to supervise visitation with his children, thus failing to provide him with adequate parenting education ser-

vices. The respondent's claim is not supported by the evidence. The record reflects that, once the department moved to virtual visitations in March, 2020, visits were no longer supervised by a credentialed provider but by department staff. The respondent thereafter requested that Colino be brought in to supervise virtual visitations with Skylar and Alexandria. At trial, Brisson testified that the department had denied the respondent's request because it was not supplying any providers for virtual visitation at that time. Furthermore, Brisson testified that there had been several reports taking issue with Colino's ability to appropriately supervise visits. Accordingly, the department's approval of Colino to provide supervisory services was revoked at about the time the respondent requested that she supervise all visitation with his children. Thus, it was not possible to fulfill the respondent's request.

In sum, the record reflects sufficient evidence to support the court's conclusion that the department made reasonable efforts to reunify the respondent with each of his six children at issue in this appeal.[22]

II

The respondent next claims that the trial court erred in finding that he had failed to achieve such a degree of personal rehabilitation as would encourage the belief that, within a reasonable time, considering the ages and needs of his children, he could assume a responsible position in their lives. We disagree.

We begin by setting forth the following relevant legal principles and standard of review. "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 [his] ability to manage [his] own life, but rather whether [he] has gained the ability to care for the particular needs of the child at issue. . . .

"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." (Citation omitted; footnote omitted; internal quotation marks omitted.) *In re A'vion A.*, 217 Conn. App. 330, 347–48, 288 A.3d 231 (2023).

In this case, the court's analysis as to why the respondent failed to rehabilitate was substantively the same for all six children. The court found that "the respondent was provided with court-ordered specific steps to facilitate the return of [his children] to his care. [The department] assisted [the respondent] by referring him to appropriate services. [The respondent's] minimal compliance with his specific steps was not sufficient to achieve sufficient rehabilitation. He has only minimally engaged in services. [The respondent] has failed to engage and make progress in mental health treatment, substance abuse treatment or maintain his sobriety. [The respondent] has failed to demonstrate progress in engaging in individual therapy to fully address his unmet mental health issues, explosive behaviors when he is in a stressful situation, lack of ability to maintain emotional regulation, and maintaining his medication management. There is clear and convincing evidence that, when the termination of parental rights [petitions were filed], [the respondent] had failed to achieve such a degree of personal rehabilitation as would encourage the belief that, within a reasonable period of time, considering the ages and needs of his children, he could assume a responsible position in their lives. [The respondent] has failed to gain insight and ability to care for [his children], given their ages and needs, within a reasonable time."

The court explained that, "due to his domestic violence and substance use, [the department] has been involved with [the respondent] since 2008. [The respondent] has attempted to engage in services for many years to address his ongoing issues with his mental health and domestic violence. [The respondent] has not engaged in any mental health treatment. He often would self-report that either he did not have mental health concerns or he was in the process of engaging with a therapist. Although [the respondent] was attending the Root Center for medication management . . . since

April 20, 2021, he was no longer prescribed his medication because he refused to be involved in mental health treatment. It was reported [that the respondent] tested positive for methadone and amphetamines/ecstasy. On July 6, 2021, [the respondent] admitted to using . . . cocaine and, on February 2, 2022, his probation officer reported [that the respondent had] tested positive for cocaine and methadone. Despite being offered services for mental health and substance abuse issues by [the department, the respondent] has failed to reap any benefit or insight from these services. Notably, [the respondent] has failed to engage in appropriate domestic violence programs and continues not to engage in mental health treatment. He has demonstrated poor parenting skills and failed to provide [the department] with a plausible explanation as [to] how his son Adrion sustained a skull fracture and rib injuries. [The respondent] has failed to gain an understanding of the harmful effect of family violence on his family. As demonstrated in the past, [the respondent] remains unable to benefit from the treatment and services he has received.

"[The respondent] has not consistently engaged in services offered by [the department]. [He] did engage in methadone treatment but has failed to engage in mental health treatment or complete a program to address his domestic violence. [The respondent] has failed to acknowledge the cause of the injuries to [Adrion] and has not taken any meaningful therapeutic steps to prevent such events from happening again."

Accordingly, the court found that, "[d]espite [the department's] reasonable efforts, [the respondent] is unable to parent [his children] and serve as their caregiver. [He] has failed to engage in services to address the recommendations for his unmet mental health [needs], his ability to control his anger outburst[s], and [domestic violence] concerns. [The respondent] has a long history of chronic substance abuse issues. He cannot provide for the shelter, nurturance, safety, and security of his children. . . . [The respondent] does not have the stability in his own life to enable him to care for [his children]. [He] has failed to reap any benefit or insight from these services. [He] has clearly failed to gain an understanding of the harmful effects of family violence on his family. . . . He is unable to meet the developmental, emotional, educational, medical and moral needs of [his children]. . . . [The respondent] has not made significant progress toward personal rehabilitation and clearly cannot assume a responsible position in [his children's lives], considering their age[s] and needs. While [the respondent] has continued to visit [Caiden] and [Adrion], it has been inconsistent, and his attempt to reunify has failed.[23]

"In light of the above, the court finds that [the department] has met its burden of proof that [the respondent] has failed to rehabilitate in that, given the age[s] and

needs of [his children], he cannot assume a responsible position in their lives within a reasonable period of time. [The respondent] continues to fail to demonstrate the ability to rehabilitate despite being offered ongoing services.

"Of paramount consideration to the court is the issue of stability and permanency for [the children]. . . . The need for permanence for [the children] far outweighs any remote chance that [the respondent] may rehabilitate in the far distant future. [The respondent] has, either because [of] the lack of ability or lack of desire, failed to successfully accomplish what was needed to consider reunification as an appropriate conclusion. [The children] cannot afford to wait for their father to rehabilitate. [The petitioner] has presented compelling evidence that [the children] need permanency and stability now. They have the same needs of all children for permanency and stability in their [lives].

"Thus, the evidence clearly and convincingly establishes that, at the end of the trial of this matter, [the respondent] has not sufficiently rehabilitated himself to the extent he could assume a responsible position in their lives, given their ages and needs or within a reasonable period of time." (Citations omitted; footnote added.)

On appeal, the respondent claims that "there is insufficient evidence to support the court's finding that [he] has failed to rehabilitate himself." Specifically, the respondent contends that "the [department] failed to provide meaningful and appropriate services to engage [him]." We disagree.

As we concluded in part I of this opinion, there was sufficient evidence in the record from which the court reasonably determined that the department had provided meaningful and appropriate reunification services to the respondent. In particular, the evidence indicates that the department provided him with frequent in-person and virtual visitation with each of his children, integrated parenting education services supervised by credentialed providers, referrals to mental health service providers and individual therapy providers, referrals to Alcoholics Anonymous and Narcotics Anonymous, substance abuse evaluations and urine screenings, and case management services. Furthermore, prior to the filing of the petitions to terminate the respondent's parental rights as to Skylar and Alexandria, the department provided the respondent with a psychological evaluation on January 20 and 24, 2020. These services were tailored to address the respondent's substance abuse, anger management issues, and parenting deficits, but the respondent refused to attend.

The respondent also argues that he "was making progress toward rehabilitating himself so that he could nurture and care for his children." To support that con-

tention, he points to evidence in the record reflecting that (1) he was self-employed with an income, (2) as of trial, he had maintained adequate housing for several years despite brief periods of transience early in the department's involvement, (3) he consistently engaged in substance abuse treatment at the Root Center, (4) he always acted appropriately when engaging with his children during visits, and (5) Rogers testified that he did not believe that the respondent posed any risk of imminent harm to his children. The respondent asserts that, "despite multiple difficulties, [he] was still actively engaging in substance abuse treatment, maintaining housing and his income, and visiting his children as often as he could. . . . The respondent has been engaged with his substance abuse counseling, and his counselor [at the Root Center] saw no need to recommend any additional counseling." In essence, the respondent posits that the evidence indicated that he would be able to assume a responsible position in the lives of his children within a reasonable period of time with the use of available support programs.[24] We are not persuaded.

First, we note that the record belies the respondent's assertion that he always acted appropriately when engaging with his children during visits. In addition to the previously described incident that took place on December 2, 2019, on November 4, 2019, the respondent became aggressive during another visit with Skylar. In response to the supervising provider's attempts to engage him in parenting education, the respondent disregarded the supervisor's recommendations and thereafter repeated several inappropriate statements referencing Brisson while getting louder with each repetition. A security agent then removed the respondent from the premises.

Second, the respondent's contention that his counselor at the Root Center saw no need to recommend any additional counseling is not a complete picture of the record regarding the Root Center's recommendations. On June 1, 2021, Leilanie Huertas, a substance abuse counselor at the Root Center in Norwich informed the department that, as of April 20, 2021, Nicole Snyder—an advanced practice registered nurse who worked with the Root Center and had been responsible for prescribing Vyvance to the respondent for his ADHD and Lamotrigine as a mood stabilizer—had discharged the respondent as a patient and would no longer prescribe his medication because he did not follow through with a referral to attend the Root Center's weekly mental health group. Accordingly, although the respondent engaged in substance abuse treatment at the Root Center, he failed to follow its separate requirement that he participate in a mental health group in order to continue receiving prescriptions to address his mental health issues. Notably, the respondent has not since engaged with a provider to manage or pre-

scribe this medication to address those issues.

Moreover, the existence of favorable evidence in the record is not a basis from which to determine that the court's finding that the respondent failed to rehabilitate was clearly erroneous. "[T]he mere existence in the record of evidence that would support a different conclusion, without more, is not sufficient to undermine the finding of the trial court. . . . [T]he proper inquiry is whether there is *enough* evidence in the record to support the finding that the trial court made." (Emphasis altered.) *In re Jayce O.*, 323 Conn. 690, 716, 150 A.3d 640 (2016). On the basis of our review of the record, we conclude that there is sufficient evidence to support the court's conclusion that clear and convincing evidence demonstrated that the respondent had failed to achieve a sufficient degree of rehabilitation to be able to assume a responsible position in the lives of his children within a reasonable period of time.

The evidence shows that the respondent's struggles with mental health issues, anger management, and emotional regulation were the primary concerns of the department throughout its involvement with the respondent. Despite this, the respondent consistently and repeatedly refused to attend individual therapy or engage in any of the mental health services to which the department had referred him in order to address his anger and emotional regulation issues.[25] The department's focus on these issues was reasonable considering the various incidents in which the respondent demonstrated a continued inability to regulate his anger. Notably, after the November 4, 2019 incident, the provider who had been supervising the visit requested that security escort her to her car following the visit because "she felt unsafe . . . it was only her second visit with [the respondent], and her visit the first time was notable for his politeness and he was a 'completely different' person this time." Following that visit, Brisson also received a voice mail from the respondent, "which was coarse, and full of foul language." In the social study for termination of parental rights prepared in March, 2021, Brisson noted that, "[s]ince the case opened, credentialed providers, [the department's] staff, foster parents, and Skylar have observed [the respondent] presenting with explosive reactions to situations. This included through text messages, voice mail, and in person. Due to this, the [d]epartment continues to have concerns with [the respondent's] ability to provide a safe environment free from violence."[26]

Although the respondent was engaged in methadone maintenance treatment at the Root Center and was consistent in such treatment, that does not resolve the other issues the department identified. Moreover, the undisputed evidence indicates that the respondent continued abusing substances up to and during trial. In particular, the respondent tested positive for ecstasy

in March, 2021. The respondent also relapsed and used cocaine in July, 2021, in the aftermath of a domestic violence incident with Brittani B. In addition, the respondent's probation officer reported to the department that the respondent's urine was positive for cocaine on September 7, 2021. In January, 2022, the respondent again tested positive for cocaine.

In addition, the undisputed evidence demonstrates that the respondent failed to engage in any domestic violence program, despite the fact that he continued to be involved in domestic violence incidents. At trial, the petitioner presented the court with six police reports detailing various domestic disputes between the respondent and both Brittani B. and Erika O., which occurred in 2021 and 2022. Further, in a case status report dated February 3, 2022, Brisson noted that, in relation to domestic violence, "[t]he department continues to have concerns with [the respondent's] continued choices to put himself in compromising positions and [his] failed ability to regulate his emotions to reduce the occurrences of unsafe situations."

In short, there is sufficient evidence to support the court's finding that the respondent failed to achieve the requisite degree of personal rehabilitation required by § 17a-112 (j) (3) (B). See *In re Shane M.*, 318 Conn. 569, 589, 122 A.3d 1247 (2015) ("the respondent's 'failure to acknowledge the underlying personal issues that form the basis for the department's concerns indicates a failure to achieve a sufficient degree of personal rehabilitation' "); *In re Anthony S.*, supra, 218 Conn. App. 149 (respondent failed to rehabilitate where she lacked consistent engagement in individual counseling, was reluctant to participate in behavioral therapy as court-appointed psychologist recommended, and displayed inappropriate, aggressive, and argumentative behaviors during visitations); *In re Ryder M.*, supra, 211 Conn. App. 803–804 (father failed to rehabilitate where he failed to attend substance abuse and mental health services, "missed visits from time to time," acted belligerently during visits, and failed to "comprehend the effect of his mental health difficulties" on minor child); *In re Phoenix A.*, supra, 202 Conn. App. 845 (respondent failed to rehabilitate where he "continued to struggle with substance abuse and mental health issues throughout the department's involvement"); *In re Joseph M.*, 158 Conn. App. 849, 865, 120 A.3d 1271 (2015) (respondent failed to rehabilitate where he "cancelled at least two of his scheduled biweekly visits with the child every month" and refused department's referrals for substance abuse and domestic violence treatment).

"Although the respondent encourages us to focus on the positive aspects of his behavior and to ignore the negatives, we will not scrutinize the record to look for reasons supporting a different conclusion than that reached by the trial court." *In re Shane M.*, supra, 318

Conn. 593. Consequently, we conclude that, when indulging every reasonable presumption in favor of the court's ruling, as our standard of review requires; see, e.g., *In re Jayce O.*, supra, 323 Conn. 716; the evidence credited by the court supports its conclusion that the respondent failed to achieve sufficient rehabilitation that would encourage the belief that, within a reasonable time, he could assume a responsible position in the lives of his children.

III

The respondent's final claim is that the trial court improperly determined that terminating his parental rights was in his children's best interests. We are not persuaded.

In reviewing a trial court's best interests determination, we apply the clearly erroneous standard of review. See *In re Aubrey K.*, 216 Conn. App. 632, 653, 285 A.3d 1153 (2022), cert. denied, 345 Conn. 972, 286 A.3d 907 (2023). "In the dispositional phase of a termination of parental rights hearing, the emphasis appropriately shifts from the conduct of the parent to the best interest of the child. . . . It is well settled that we will overturn the trial court's decision that the termination of parental rights is in the best interest of the [child] only if the court's findings are clearly erroneous. . . . In the dispositional phase of a termination of parental rights hearing, the trial court must determine whether it is established by clear and convincing evidence that the continuation of the [respondent's] parental rights is not in the best interest of the child. In arriving at this decision, the court is mandated to consider and make written findings regarding seven statutory factors delineated in [§ 17a-112 (k)]. . . . The seven factors serve simply as guidelines for the court and are not statutory prerequisites that need to be proven before termination can be ordered. . . . There is no requirement that each factor be proven by clear and convincing evidence. . . .

"[T]he fact that the legislature [has interpolated] objective guidelines into the open-ended fact-oriented statutes which govern [parental termination] disputes . . . should not be construed as a predetermined weighing of evidence . . . by the legislature. [If] . . . the record reveals that the trial court's ultimate conclusions [regarding termination of parental rights] are supported by clear and convincing evidence, we will not reach an opposite conclusion on the basis of any one segment of the many factors considered in a termination proceeding . . . . Indeed . . . [t]he balancing of interests in a case involving termination of parental rights is a delicate task and, when supporting evidence is not lacking, the trial court's ultimate determination as to a child's best interest is entitled to the utmost deference. . . . [A] trial court's determination of the best interests of a child will not be overturned on the basis of one factor if that determination is otherwise

factually supported and legally sound. . . .

"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." (Citations omitted; internal quotation marks omitted.) Id., 654–55.

In the present case, the court considered and made findings under each of the seven statutory factors of § 17a-112 (k) before determining, by clear and convincing evidence, that termination of the respondent's parental rights was in the best interests of the minor children. In reaching that determination, the court's findings were substantively the same for all six children. Specifically, the court found that "[t]he problems that led to the removal [of the children] have not been rectified, and the prospects of improvement are bleak especially in light of . . . [the respondent's] unaddressed substance and mental health issues. [The respondent has not] acknowledged causing the injuries to . . . [Adrion] and therefore . . . cannot provide a competent, safe and nurturing parenting to [the children]. This conclusion is supported by the testimony of the witnesses as well as the information contained in the exhibits presented at the trial.

"[The children] desperately [need] the permanency and stability that [they] have in [their] foster home[s]; termination of parental rights will bring that much needed stability and permanency to [them] and give [them] the opportunity to have a healthy and emotionally stable life. [The children's] needs are those of all children. [They have] an interest in sustained growth, development, well-being, and a continuous, stable environment. Accordingly, based upon the clear and convincing evidence presented, it is in [the children's] best interest[s] to terminate the parental rights of [the respondent]."

On appeal the respondent does not challenge any particular factual finding made by the court in support of its best interests determination. Rather, he claims that, "[e]ven if this court finds that there were sufficient grounds for termination of the respondent's parental rights, nevertheless . . . [i]n light of the respondent's consistent engagement with substance abuse treatment and his efforts toward maintaining visitation with his children, this court should find that it is in the best interest[s] of the minor children not to grant the petition[s] terminating the respondent's parental rights." The respondent further points to the affection he has for his children as a basis for concluding that the court's best interests determination was improper. In response, the petitioner argues that the evidence supports the trial court's finding that it was in the best interests of the children to terminate the respondent's parental rights. We agree with the petitioner.

This court recently rejected an argument similar to that of the respondent, explaining that, "[i]n addition to considering the seven factors listed in § 17a-112 (k), [t]he best interests of the child include the child's interests in sustained growth, development, well-being, and continuity and stability of [his or her] environment. . . . Furthermore, in the dispositional stage, it is appropriate to consider the importance of permanency in children's lives. . . . [T]he court's inquiry in the dispositional phase of the proceeding was properly focused on whether termination of the respondent's parental rights was in the children's best interest[s]. . . . The respondent's efforts to rehabilitate, although commendable, speak to [his] own conduct, not the best interests of the child. . . . Further, whatever progress a parent arguably has made toward rehabilitation is insufficient to reverse an otherwise factually supported best interest finding. . . . Additionally, although the respondent may love [his] children and share a bond with them, the existence of a bond between a parent and a child, while relevant, is not dispositive of a best interest determination." (Citations omitted; internal quotation marks omitted.) *In re Autumn O.*, supra, 218 Conn. App. 444; see also *In re Aubrey K.*, supra, 216 Conn. App. 667 ("the dispositional phase of a termination of parental rights proceeding centers on the best interest of the child, not the conduct or improvements of the parent").

The same reasoning applies in the present case, in which there is ample evidence to support the court's finding that it was in the best interests of the minor children to terminate the respondent's parental rights, despite his purported progress and affection for his children. The evidence at trial established that the respondent had failed to engage in appropriate domestic violence programs, mental health treatment, or individual therapy, had ceased taking medication to manage his ADHD, was involved in several domestic violence incidents in 2021 and 2022, and was unable to maintain his sobriety, all of which support the court's finding that he would be unable to "provide for the shelter, nurturance, safety and security of his children" or meet their "emotional, educational, medical and moral needs . . . ."

Significantly, at trial, Rogers testified: "I highlighted in my evaluation . . . some concerns about substance abuse for [the respondent] and [his] ability to regulate [his] behavior in such a way that [he] could safely and consistently manage a child and provide primary care for that child or children. The information that's been provided [recounting the respondent's actions up to trial] suggests that [he has] not overcome [his] limitations and/or consistently participated in recommended treatment, and that there remains serious concern about [his] behavior and stability. That would certainly include statements regarding . . . ongoing substance

abuse. In light of those facts and in light of the time that the children have been outside the home, I would say that it would be appropriate to consider permanent placement of the children apart from the biological parent."

Rogers further testified that he thought the respondent's ADHD symptoms were "severe" and was "concerned about how that impulsivity might interact with his relationships and ultimately the circumstances to which he might expose a dependent child." Rogers explained that "[the respondent] has a history of outbursts. Sometimes angry outbursts and conflictual relationships that I believe are augmented by his poor impulse control. And I would be concerned at the risk for additional such episodes where he [acts] in the role of primary caregiver. I would add that, in light of his history of stimulant abuse, that further such substance abuse would increase the related risks." Notably, Rogers testified that he was concerned about the respondent's ability to function and effectively regulate his emotions and behavior without ADHD medication. In particular, Rogers testified that "exposing a child to that kind of volatility would be concerning. It's noted that [the respondent has] had several instances of domestic violence. I would always be concerned when a child was exposed to domestic violence because we know that that has lasting effects on children's psychological adjustment and indeed their progress in a number of areas of development as they grow."

Moreover, department reports admitted into evidence at trial indicate that Adrion and Caiden are "very bonded to [their] paternal grandmother and great-grandmother" and are doing well in the home. Similarly, the reports indicate that Paislee and Payton are doing well in their nonrelative foster home and "are bonded to [their] foster parents." The reports likewise note that Skylar and Alexandria have both been placed with their nonrelative foster parents since infancy, and that they identify their foster parents as their psychological parents and look to them to have their basic, emotional, and social needs met. Last, Brisson testified that the children's respective foster parents have arranged visits between the children, including one with all six children. Brisson testified that it was her understanding that, should the termination of parental rights petitions be granted, the foster parents would continue to nurture the bonds between all six siblings.

In light of the children's needs for safety, stability, and permanency, the evidence of the respondent's inability to demonstrate that he could resolve his substance abuse issues, address his emotional dysregulation, and provide a safe home environment free from incidents of domestic violence in a reasonable amount of time supports the court's finding that termination of his parental rights was in the children's best interests.

See *In re Phoenix A.*, supra, 202 Conn. App. 850 (upholding best interests finding where child was bonded with foster parents and respondent "continued to struggle with substance issues throughout the department's involvement"); *In re Brian P.*, 195 Conn. App. 558, 580, 226 A.3d 159 ("given . . . [inter alia] the court's findings as to the respondents' failure to rehabilitate . . . we cannot conclude that the court's finding as to [the minor child's] need for a 'permanent, safe, supportive, nurturing home' and the respondents' inability to meet that need were clearly erroneous"), cert. denied, 335 Conn. 907, 226 A.3d 151 (2020). Accordingly, we conclude that the court's determination that termination of the respondent's parental rights was in the children's best interests was factually supported and legally sound.[27]

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.

**July 3, 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 rendered judgments terminating the parental rights of Brittani B., the mother of Caiden, Adrion, Paislee, and Payton, and Erika O., the mother of Skylar and Alexandria. Neither Brittani B. nor Erika O. have appealed from the judgments terminating their parental rights, and, therefore, we refer in this opinion to Derek B. as the respondent.

[2] The respondent also claims that the court erred in finding that the petitioner had proved acts of parental commission or omission with respect to Caiden, Adrion, Paislee, and Payton. Pursuant to § 17a-112 (j) (3), the petitioner need only prove that one or more statutory ground for termination exists. Accordingly, we need not address this claim in light of our conclusion that the court did not err in finding that the respondent failed to achieve such a degree of personal rehabilitation as would encourage the belief that he could assume a responsible position in the lives of his children. See *In re Nasia B.*, 98 Conn. App. 319, 326, 908 A.2d 1090 (2006) ("[w]e need not address the other statutory grounds alleged, as proof of one statutory ground is sufficient to terminate parental rights"); *In re Shane P.*, 58 Conn. App. 234, 242, 753 A.2d 409 (2000) ("[w]e need only uphold one statutory ground found by the court to affirm its decision").

[3] The attorneys for the children have adopted the petitioner's appellate brief.

[4] The respondent's eldest two minor children reside with their biological mother and are not involved in these proceedings.

[5] The three minor children reside with their biological father and are not involved in these proceedings.

[6] Those steps required the respondent to keep all appointments set by or with the department; cooperate with the department's home visits; partake in both individual and parenting counseling to address anger management; submit to a substance abuse evaluation and follow treatment recommendations; submit to random drug testing; not use illegal drugs or abuse alcohol or medicine; cooperate with service providers recommended for counseling, in-home support services, and/or substance abuse treatment; continue treatment at The Connection and a substance abuse treatment center, in addition to individual therapy to address anger issues; cooperate with court-ordered evaluations or testing; obtain and maintain adequate housing; attend and complete an appropriate domestic violence program; and visit the children as often as the department permits.

[7] The steps largely mirrored those issued to the respondent to facilitate his reunification with Caiden and Adrion; see footnote 6 of this opinion; and specifically ordered the respondent to continue treatment at the Root Center for Advanced Recovery and to attend individual therapy for anger

management.

[8] The neglect petition specifically alleged that "[the respondent] has a history with the department beginning in 2008 for domestic violence. [The respondent] has a history of heroin abuse as well as an extensive criminal history, including seven incarcerations. . . . In May, 2018, a skeletal survey found Adrion to have a right parietal skull fracture and two weeks later six to seven healing rib fractures, indicative of child abuse. Paislee and Payton are similarly situated, as neither parent has accepted responsibility for causing these injuries, nor have they participated in meaningful rehabilitative services to ensure the safety of the newborn twins. . . . Parents have demonstrated that they are unable to make safe decisions. . . . Neither mother nor [the respondent's] other children are in their care at this time."

[9] The petitioner also sought to terminate the parental rights of Brittani B. See footnote 1 of this opinion.

[10] The petitioner also sought to terminate the parental rights of Brittani B. See footnote 1 of this opinion.

[11] In the original petitions, filed November 8, 2019, the petitioner alleged only that Paislee and Payton had been denied, by reason of acts of parental commission or omission, the care, guidance, or control necessary for their physical, educational, moral or emotional well-being. On December 10, 2021, the court granted the petitioner's motion to amend the petitions to allege that the twins were found to have been neglected in a prior proceeding and that the respondent had failed to rehabilitate pursuant to § 17a-112 (j) (3) (B) (i). Significantly, Paislee and Payton had *not* been adjudicated neglected prior to the consolidated trial on the petitions to terminate the respondent's parental rights. Accordingly, on February 25, 2022, the court, *Hoffman*, *J.*, granted the petitioner's motion to open the evidence and to amend the petitions as to Paislee and Payton to allege that the respondent had failed to rehabilitate pursuant to § 17a-112 (j) (3) (B) (ii) rather than § 17a-112 (j) (3) (B) (i). The court simultaneously adjudicated the twins neglected and granted the petitions to terminate the respondent's parental rights as to the twins on June 1, 2022.

[12] None of Erika O.'s children are in her care. Three reside with their respective fathers. Erika O.'s parental rights as to the fourth child were terminated on the ground of abandonment.

[13] The petitioner specifically alleged that Erika O. had tested positive for amphetamines on June 6, 2019, that she had a history of abusing cocaine as well as prescription pain medication dating back to 2012, and that the father of Skylar was unknown.

[14] The steps required the respondent to keep all appointments set by or with the department; cooperate with the department's home visits; partake in both individual and parenting counseling to increase parenting skills and learn appropriate discipline; submit to a substance abuse evaluation and follow treatment recommendations; submit to random drug testing; not use illegal drugs or abuse alcohol or medicine; cooperate with service providers recommended for counseling, in-home support services, and/or substance abuse treatment; remain clean and sober; engage in the parenting program at Fatherhood International Program; comply with the safety plan and the department's instructions; undergo individual therapy to address and demonstrate progress in managing anger and explosive outbursts; maintain adequate housing and legal income; and visit the children as often as the department permits.

[15] The steps mirrored those ordered for the respondent to reunify with Skylar. See footnote 14 of this opinion.

[16] The petitioner also sought to terminate the parental rights of Erika O. See footnote 1 of this opinion.

[17] As to Paislee and Payton, the court found § 17a-112 (j) (3) (B) (ii) satisfied insofar as the respondent failed to rehabilitate and both children had been adjudicated neglected and had been in the care of the petitioner for at least fifteen months. As to the other four children, the court found § 17a-112 (j) (3) (B) (i) satisfied insofar as the respondent failed to rehabilitate and those four children previously had been adjudicated neglected.

[18] General Statutes § 17a-112 (k) provides: "Except in the case where termination of parental rights is based on consent, in determining whether to terminate parental rights under this section, the court shall consider and shall make written findings regarding: (1) The timeliness, nature and extent of services offered, provided and made available to the parent and the child by an agency to facilitate the reunion of the child with the parent; (2) whether the Department of Children and Families has made reasonable efforts to reunite the family pursuant to the federal Adoption and Safe

Families Act of 1997, as amended from time to time; (3) the terms of any applicable court order entered into and agreed upon by any individual or agency and the parent, and the extent to which all parties have fulfilled their obligations under such order; (4) the feelings and emotional ties of the child with respect to the child's parents, any guardian of such child's person and any person who has exercised physical care, custody or control of the child for at least one year and with whom the child has developed significant emotional ties; (5) the age of the child; (6) the efforts the parent has made to adjust such parent's circumstances, conduct, or conditions to make it in the best interest of the child to return such child home in the foreseeable future, including, but not limited to, (A) the extent to which the parent has maintained contact with the child as part of an effort to reunite the child with the parent, provided the court may give weight to incidental visitations, communications or contributions, and (B) the maintenance of regular contact or communication with the guardian or other custodian of the child; and (7) the extent to which a parent has been prevented from maintaining a meaningful relationship with the child by the unreasonable act or conduct of the other parent of the child, or the unreasonable act of any other person or by the economic circumstances of the parent."

[19] The record is unclear as to whether the respondent's visitation with Caiden and Adrion continued in-person or via remote means after the onset of the COVID-19 pandemic in March, 2020. In addition, the record is unclear as to the respondent's consistency with visitation with them.

[20] The respondent also points to alleged technical difficulties that occurred at several of his virtual visits, which he maintains the department failed to address. He argues that such difficulties constituted a failure on the department's part to facilitate appropriate visitation with his children. Evidence in the record, however, indicates that technical issues with the virtual visits did not significantly interfere with the respondent's ability to visit his children. Because we must construe evidence in the manner most favorable to sustaining the judgment of the trial court, we conclude that there was sufficient evidence that any technical difficulties were short-lived and resolved such that the respondent's visitation was not rendered inadequate.

[21] During cross-examination the following exchange occurred between Brisson and counsel for the respondent:

"A. [B]ecause [the respondent] had just come aboard, and we just identified him as [the] father; we still needed to assess his housing, his services, all of those things. So, until everything was assessed, we needed to move forward.

"Q. When you say you needed to move forward, what do you mean?

"A. With what the visitations were going to look like, and I had scheduled a meeting because he didn't want to be—at that point, only wanted to be—unless he had his attorney . . . so, we had to coordinate schedules so I could see his apartment because, at that point, he was another name, he wasn't [the respondent], the father. So, at that point, once he was, you know, adjudicated, we needed to start the assessment and figure out where [the respondent] was.

"Q. So, you started from a position of he doesn't get visits until we decided that he can.

"A. No, no, no. Not that he—but we did have to manage what it was going to look like based on—I didn't even know [the respondent] at this point, only based on the adjudication and him, you know, reporting that he was someone else, a boyfriend, a friend, all of these different things. So, I needed to find out who [the respondent] was . . . ."

[22] In its analysis under § 17a-112 (j) (1), the court also found that the respondent was unable or unwilling to benefit from reunification efforts. "[T]he [petitioner] must prove [by clear and convincing evidence] *either* that [the department] has made reasonable efforts to reunify or, *alternatively*, that the parent is unwilling or unable to benefit from the reunification efforts. Section 17a-112 (j) clearly provides that the [petitioner] is not required to prove both circumstances. Rather, either showing is sufficient to satisfy this statutory element." (Emphasis in original; internal quotation marks omitted.) *In re Corey C.*, supra, 198 Conn. App. 66. Because we conclude that the court properly found that the department had made reasonable efforts to reunify the respondent with his children, a finding that is sufficient to satisfy § 17a-112 (j), we need not address the merits of the respondent's claim that the court erred in finding that he was unable and unwilling to benefit from those efforts. See id.

[23] As to Skylar and Alexandria, the court noted that "[the respondent's]

visitation rights were suspended by the court in April, 2021, and his attempt to reunify has failed." As to Paislee and Payton, the court incorporated by reference all of the factual findings it had made previously in its memorandum of decision regarding the respondent's failure to rehabilitate and found "by clear and convincing evidence that [the respondent] has failed to achieve the necessary degree of rehabilitation that would encourage the belief that within a reasonable period of time, considering the age and needs of [Paislee] and [Payton], he could assume a responsible position in their lives."

[24] We note that, as discussed further in this opinion, the undisputed evidence indicated that the respondent continually resisted the department's rehabilitation services. Thus, we disagree with the respondent's contention that the record demonstrates that he is willing and capable of benefiting from continued reunification efforts. See, e.g., *In re Lillyanne D.*, 215 Conn. App. 61, 92–93, 281 A.3d 521 (rejecting respondent's argument that evidence was insufficient to support conclusion that he failed to rehabilitate because record demonstrated he was willing and capable of benefiting from continued efforts toward reunification where no evidence demonstrated that he sought department's help in obtaining additional support services or intended to rely on support services if reunification were granted), cert. denied, 345 Conn. 913, 283 A.3d 981 (2022). In addition, to the extent the respondent father is arguing that he should have been afforded more time to rehabilitate, "such an argument is inconsistent with our Supreme Court's repeated recognition of the importance of permanency in children's lives." (Internal quotation marks omitted.) Id., 93.

[25] For example, on January 14, 2019, after the respondent stated a preference for a male therapist, the respondent was provided with a list of several community resources and male clinicians. The respondent, however, declined to reach out to any of those resources. On November 6, 2019, the respondent informed the department that he did not want the department to choose a therapist for him and that he would choose one on his own. He failed to do so and continued to decline to engage in any individual therapy. On April 2, 2020, the respondent reported to the department that he was beginning to work with Lighthouse Counseling in Groton but had decided not to begin until the COVID-19 pandemic was over. On April 23, 2020, the department emailed the respondent with the name of a therapeutic agency that was accepting new patients via telehealth. On May 9, 2020, the respondent confirmed receipt of resources for individual therapists and informed the department that he had not yet contacted any of them. On July 13, 2021, the respondent informed the department that he had obtained a new therapist through the assistance of his court-appointed attorney. He did not provide the department with the name or contact information of that therapist, however, and the department was unable to confirm the respondent's participation in individual therapy. At trial, Brisson testified that, "to date, I have not—there hasn't been any individual therapy engagement that I am aware of." On January 12, 2022, the respondent reported to the department that he was not engaged in individual therapy.

[26] Notably, many of the reports the department prepared during the pendency of the respondent's engagement with it included references to the respondent's use of derogatory or vulgar language toward department staff.

[27] The respondent also argues that "[a] permanent transfer of guardianship would be the better way to resolve" the issue of providing the children with permanency. This argument is without merit.

"It is well settled that [o]ur case law and rules of practice generally limit [an appellate] court's review to issues that are distinctly raised at trial. . . . [O]nly in [the] most exceptional circumstances can and will this court consider a claim, constitutional or otherwise, that has not been raised and decided in the trial court. . . . The reason for the rule is obvious: to permit a party to raise a claim on appeal that has not been raised at trial—after it is too late for the trial court or the opposing party to address the claim—would encourage trial by ambuscade, which is unfair to both the trial court and the opposing party." (Internal quotation marks omitted.) *In re Sequoia G.*, 205 Conn. App. 222, 235, 256 A.3d 195, cert. denied, 338 Conn. 904, 258 A.3d 675 (2021).

Prior to ordering a permanent transfer of guardianship, a court must first make five factual findings, including that adoption of the child is not possible or appropriate. See General Statutes § 46b-129 (j) (6) (A) through (E). In the present case, the respondent never sought to transfer permanent guardianship of the children to another individual, and, therefore, the court made no findings regarding whether a transfer of guardianship was both in the children's best interests and a more appropriate disposition than the one

approved by the court. Consequently, this court is unable to review this aspect of the respondent's best interests claim as it was not raised before the trial court and no exceptional circumstances exist. See, e.g., *In re Sequoia G.*, supra, 205 Conn. App. 234–35 (rejecting respondent's unpreserved claim that trial court's best interest determination was erroneous because court should have ordered transfer of guardianship instead of terminating parental rights); *In re Skylar B.*, 204 Conn. App. 729, 745, 254 A.3d 928 (2021) (only properly filed motion provides requisite notice to all interested parties and court of alternative disposition as well as evidence relevant for court to evaluate merits of transfer of guardianship versus termination of parental rights).