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The "officially released" date that appears near the beginning of each opinion is the date the opinion will be published in the Connecticut Law Journal or the date it was released as a slip opinion. The operative date for the beginning of all time periods for filing postopinion motions and petitions for certification is the "officially released" date appearing in the opinion.

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IN RE KYREESE L., JR.*
(AC 45846)

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

Syllabus

The respondent mother appealed to this court from the judgment of the trial court terminating her parental rights with respect to her minor child, K. The mother was referred to a variety of services by the Department of Children and Families for, inter alia, substance abuse, mental health treatment and parenting, but she struggled to engage in those services. Following a trial, the court concluded that, although the department had made reasonable efforts to reunify the mother and K and the mother eventually completed most of her services, she was unable or unwilling to benefit from those services because she did not successfully complete a certain therapeutic program to which she had been referred, which provided a path to reunification, and she did not attend a psychological evaluation, which provided another path to reunification. *Held*:

1. This court concluded that there was sufficient evidence to support the trial court's finding that the department made reasonable efforts to reunify the respondent mother with K: the department provided the mother with a significant number of appropriate services and, although the mother claimed that she missed certain sessions of the therapeutic program to which she had been referred because the department failed to provide childcare for her other minor child, there was no evidence that the mother ever requested such childcare assistance from the department or sought an order to compel the department to provide such assistance; moreover, the mother testified at trial that she lived with her mother and that her mother would often care for her other minor child when she needed to go to a meeting, or, if her mother was not available, that she could bring the other minor child with her to meetings, such that the evidence did not support the mother's contention that the department's failure to provide childcare assistance prevented her from attending the therapeutic sessions; moreover, because this court determined that the record contained sufficient evidence to support the trial court's reasonable efforts determination, it was not required to review that court's secondary determination that the mother was unable or unwilling to benefit from the department's reunification efforts.

2. The trial court properly found that the respondent mother failed to achieve such a degree of personal rehabilitation as would encourage the belief that, within a reasonable time, considering the age and needs of K, she could assume a responsible position in the life of K: in concluding that the mother failed to sufficiently rehabilitate, the trial court reasoned that K required a consistent, rational, predictable and sober caregiver, and considered the fact that K had had two bone fractures, the cause of which remained unexplained, that occurred while in the care of the mother and K's father, that the mother's failure to complete certain services to which she had been referred was due to her inability to balance her reunification efforts with K with her obligation to care for her other minor child, and, thus, that she was not consistent or predictable; moreover, ample evidence supported the court's finding that the mother's failure to fully participate in the programs that could have assessed her potential for rehabilitation and assisted her in that endeavor was part of a broader pattern of delay and lack of engagement with her services.

Argued March 7—officially released July 26, 2023**

Procedural History

Petition by the Commissioner of Children and Families to terminate the respondents' parental rights with respect to their minor child, brought to the Superior Court in the judicial district of New Haven, Juvenile Matters, where the respondent John Doe was defaulted

for failure to appear; thereafter, the matter was tried to the court, *Hon. Shelley A. Marcus*, judge trial referee; judgment terminating the respondents' parental rights, from which the respondent mother appealed to this court. *Affirmed*.

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

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

Opinion

CLARK, J. The respondent mother, Naila S.,[1] appeals from the judgment of the trial court terminating her parental rights as to her minor child, Kyreese L., Jr. (Kyreese). The respondent claims that the court erred in concluding that (1) the Department of Children and Families (department) made reasonable efforts to reunify the respondent with Kyreese, (2) the respondent was unable or unwilling to benefit from reunification services, and (3) the respondent failed to achieve a sufficient degree of personal rehabilitation. We affirm the judgment of the trial court.

The following facts, as found by the trial court, and procedural history are relevant to our resolution of the respondent's claims on appeal. "The [respondent] has [had] a substance abuse history of excessive use of marijuana from the age of fifteen as well as being involved in incidents of intimate partner violence (IPV) with the father [Kyreese L., Sr.]. The [respondent] was abused as a child and uses marijuana as a coping skill for her depression and anxiety. . . . The parents also have histories with [the department] as children subject to abuse and/or neglect.

"This case opened on May 14, 2019, when [the department] received a referral from a Yale New Haven Hospital [hospital] social worker informing the petitioner, [the Commissioner of Children and Families], that the [respondent] tested positive for marijuana at the time of Kyreese's birth. The [respondent] also tested positive for marijuana at her prenatal appointments throughout her pregnancy. As a result, the [respondent] was substantiated for neglect of Kyreese.

"[The department] referred the [respondent] to Family Based Recovery (FBR) for substance use and mental health treatment. The [respondent] participated in the FBR program, but she continued to test positive for marijuana from May through September of 2019 and, therefore, received no benefit from it. . . .

"On August 16, 2019, the [respondent] contacted the New Haven Police Department to report the occurrence of a physical altercation between her and the father. An arrest warrant was issued for the father with charges of risk of injury to a minor, as Kyreese was present; assault in the third degree; and breach of the peace. Thereafter, on September 10, 2019, the father contacted the New Haven police to report another physical altercation with the [respondent]. This time the [respondent] was the aggressor, and she was arrested for risk of injury, assault in the third degree and breach of the peace. The [respondent] had been holding Kyreese during this incident, and they both fell down the stairs. As a result, Kyreese was taken to the hospital to be assessed, and the child was released the same day; however, the [respondent] was required to bring Kyreese

back to the hospital the following day, September 11, for a skeletal examination. [The department] created a safety plan for the [respondent] and Kyreese that included no contact with the father, filing a restraining order against the father, and continuation with her services including engagement in IPV services.

"The [respondent] brought Kyreese to [the hospital] on September 11, 2019, for his skeletal examination, and [the department] received the result the next day. Kyreese suffered a fracture to the right distal femur and a potential fracture to the left arm. [A physician with the hospital's] DART Team,[2] could not opine definitively if the injuries were the result of abuse and scheduled further scans in two weeks. Thus, [the department] sought and was granted an order of temporary custody (OTC) on September 16, 2019, as the parents could provide no explanation for the injuries to Kyreese and the injuries occurred while he was in their care.

"A neglect petition was filed simultaneously with the OTC. The OTC was sustained on September 20, 2019. The updated skeletal scans were completed, which showed injury to Kyreese's other leg as well. [The physician] opined to [the department's] social worker, Artemesia C., in October of 2019, that the injuries to Kyreese were highly indicative of child abuse. Further, [the department's social worker] testified credibly that these injuries did not occur when the [respondent] and Kyreese fell down the stairs. Rather, these types of injuries are incurred because someone pulled on the baby's legs. Kyreese was placed with fictive kin suggested by the [respondent], where he remains to date.[3]

"On October 31, 2019, the court adjudicated Kyreese as a neglected child and committed him to [the department's] care. The preliminary specific steps were made final. A permanency plan of [termination of parental rights] and adoption was approved by [the trial] court . . . on April 27, 2021, and March 3, 2022 . . . . This petition was filed on October 4, 2021, and amended on November 22, 2021." (Footnotes in original.)

The court, *Hon. Shelley A. Marcus*, judge trial referee, held a virtual trial on the petition for termination of parental rights on July 11 and 13, 2022. On July 27, 2022, the court issued a memorandum of decision granting the petition to terminate the parental rights of the respondent, the father, and John Doe.[4] This appeal followed.[5] Additional facts and procedural history will be set forth as necessary.

I

The respondent first challenges the court's conclusions that the department made reasonable efforts to reunify her with Kyreese and that she was unable or unwilling to benefit from those efforts. We are not persuaded.

We begin by setting forth additional facts relevant to

the respondent's claims as to the department's reunification efforts. "The [respondent] had been sporadically engaging with FBR at the time of the OTC. The [respondent] was discharged from FBR when the OTC was granted because FBR is an in-home service for substance abuse, mental health and parenting and Kyreese was no longer in the home.

"Subsequent to the discharge from FBR, the [respondent] was referred by [the department] to Monarch, LLC, on October 23, 2019, for substance abuse and mental health treatment. However, the [respondent] failed to attend. The [respondent] was also referred to IPV-FAIR for IPV treatment on September 16, 2019. It took the [respondent] eight months to complete IPV-FAIR, [which she did] on May 26, 2020. The program should have been completed in four months. IPV-FAIR recommended ongoing mental health treatment for the [respondent] at discharge.

"[The department] made a referral for the [respondent] to [Multidimensional Family Recovery (MDFR)] on June 4, [2020], as she was struggling to engage in reunification services. MDFR is a community based service that assists parents who are having difficulty engaging in services. The [respondent] was unsuccessfully discharged from MDFR for lack of engagement.

"After the [respondent's] unsuccessful discharge from MDFR, [the department] referred the [respondent] to [Midwestern Connecticut Council of Alcoholism, Inc. (MCCA)] for mental health and substance abuse treatment on September 28, 2020. The [respondent] did not attend her intake at MCCA until December 28, 2020. The [respondent] was recommended to attend MCCA's Intensive Outpatient Program (IOP), which would address anger management as well as substance use and mental health. The [respondent's] attendance was very sporadic, but she finally completed her IOP in October of 2021. [The department's] social worker, Joel P., testified credibly that the [respondent] attended her program for ten months, which is a very lengthy period of time. The program is usually much shorter in duration. The [respondent] was not recommended for additional services upon discharge.

"[The department] also referred the [respondent] for visitation and parenting classes, initially with Family Centered Services. The [respondent] was consistent with her in person visitation. However, during the closure caused by the COVID-19 pandemic, visits were transitioned to virtual, twice a week, facilitated by the foster mother. There were periods of time when the [respondent] failed to keep consistent contact with the foster mother for virtual visits, but the [respondent's] attendance virtually improved during the holiday period in 2021. The visits transitioned to in person visitation in the fall of 2021 [occurring] once per week for one hour at the [the department's] office, and the [respon-

dent] was very consistent until December of 2021, after which she missed seven visits without explanation and without calling to cancel. Thereafter, the [respondent] maintained her consistency with her weekly visitation. The [respondent] was engaging and appropriate during visits but needed correction regarding her tardiness to visits and using her telephone during visitation. The [respondent] was responsive to these suggestions and corrected her behavior.

"In addition, during this time frame, the [respondent] gave birth to another child, Nariea, [in July], 2021. The [respondent tested] positive for marijuana upon Nariea's birth. The [respondent] appeared to be more motivated to complete her programs after Nariea was born, as that child remains in her care, and a period of protective supervision was permitted to expire in July of 2022. The [respondent] completed her parenting program, Circle of Security, in February of 2022, during that period of protective supervision. As the [respondent] appeared to be more successfully navigating parenting and was successfully engaging in services despite her engagement being delayed and lengthy in nature, [the department] made a referral to 'r kids Therapeutic Family Time (TFT) in April of 2022.

"Unfortunately, the [respondent] reverted to her previous pattern of delay and lack of engagement with regard to TFT. The [respondent] was assigned a clinician in May of 2022, but the [respondent] failed to engage for an additional four weeks, with no explanation as to why. TFT is a twelve week program that provides supervised visitation and individual parenting guidance in the context of weekly visits and individual sessions. The goal is to hopefully move on to a reunification assessment and then to transition the child home.

"[The department's] social worker, James R., credibly testified that the [respondent] only completed four of eight visitation sessions [with TFT] and none of her individual meetings. In addition, the [respondent] provided no explanation to 'r kids or to [the department] as to the reasons for her failure to comply with the program. [James R.] conversed with the [respondent] about the importance of completion of the TFT program in order to reunify with Kyreese. Nevertheless, the [respondent] missed one half of her visits. The program must be concluded within twelve weeks, and, as the [respondent] missed four of eight visits, she [could not] timely complete the program. As a result, 'r kids [could not] complete a reunification assessment and, therefore, [could not] recommend moving on to the next step, Reunification Therapeutic Family Time, which would have provided a path to reunify with Kyreese. The [respondent], when asked . . . why she missed the visits, replied that strep throat caused her to miss two visits and providing care of Nariea was the reason that she missed the other two visits. While it appear[ed] that

[she was] able to care for one child, [her response made] it apparent that the [respondent was] overwhelmed by having to care for two children, in that the [respondent was] not able to attend visits that were essential to reunification."

The court also found that "the [respondent] fail[ed] to attend a psychological evaluation that would have assessed her readiness for reunification with Kyreese and would have made recommendations for services to aid in that endeavor. The [respondent] was given ample opportunity to attend, in that the evaluation was scheduled for March 15, 2022, and then, when the [respondent] failed to attend, was rescheduled twice [to] May 17, 2022, and June 6, 2022. [The department] sent the [respondent] notice by mail informing her of the date, time and place of the evaluation and offered her transportation. The [respondent] never responded except on one occasion when she called . . . James R. on the morning of the evaluation asking for transportation. At that point, it was too late for her to attend her appointment. The [respondent's] testimony that she did not have notice of the evaluations is not credible due to the fact that the notices were sent to the address she gave to the court when sworn in for her testimony and . . . James R. credibly testified that the notices were never returned to him by the post office."

The court ultimately concluded that the respondent "failed to engage in the two most important requirements for potential reunification with Kyreese. Therefore, although the [respondent] eventually completed most of her services, she was unable or unwilling to benefit from those services because she [would] not successfully complete TFT, which provided a path to reunification, and she did not attend the psychological evaluation, which provided another path to reunification. [The department] also made reasonable efforts to reunify the [respondent] and Kyreese . . . ."

A

The respondent first argues that the court erred in concluding that the department made reasonable efforts to reunify her with Kyreese.[6] We are not persuaded.

"[General Statutes §] 17a-112 (j) (1) requires that before terminating 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. . . . [T]he 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 Kylie P.*, 218 Conn. App. 85, 95–96, 291 A.3d 158, cert. denied, 346 Conn. 926, 295 A.3d 419 (2023).

We review a trial court's reasonable efforts determination for evidentiary sufficiency. *In re Oreoluwa O.*, 321 Conn. 523, 533, 139 A.3d 674 (2016). Pursuant to that standard, "we consider 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." (Internal quotation marks omitted.) *In re Gabriella A.*, 319 Conn. 775, 789, 127 A.3d 948 (2015).

The respondent argues that the department failed to make reasonable reunification efforts because it did not provide her with childcare for Nariea, which she claims she needed in order to attend TFT. She notes that the court specifically credited her testimony that she missed TFT sessions due to lack of childcare for Nariea and argues that such a finding necessarily implies that, because the department did not provide childcare, its reunification efforts were unreasonable. We disagree.[7]

As the respondent acknowledges, "the department provided [her] with a significant number of services, and the services provided were appropriate." It referred the respondent to FBR, which provided substance abuse counseling, mental health treatment, and parenting training; Monarch, LLC, which provided substance abuse and mental health treatment; IPV-FAIR, which provided intimate partner violence treatment; MDFR, which provided assistance with reunification service engagement; and MCCA, which provided anger management, substance abuse, and mental health counseling. When the respondent completed these services—albeit after substantial delay—and showed an ability to safely care for Nariea, the department offered additional services: TFT, which provides supervised visitation and individual counseling; and a psychological evaluation, which would have allowed the department to determine whether additional services were necessary to achieve

reunification. The petitioner pursued the petition for termination of parental rights only after the respondent failed to attend the psychological evaluation or any individual TFT sessions and attended only one half of the supervised visits that TFT provided.

Although the respondent claims that she missed the TFT sessions because the department failed to provide childcare for Nariea, there is no evidence that the respondent ever requested such childcare assistance from the department or sought an order to compel the department to provide such assistance. As this court previously has held, a parent's failure to ask the department for assistance, in conjunction with that parent claiming for the first time on appeal that such assistance was necessary, "undermines [the] argument that those services were part of what the department should have provided as part of its reasonable efforts to reunify . . . ." *In re Corey C.*, 198 Conn. App. 41, 64, 232 A.3d 1237, cert. denied, 335 Conn. 930, 236 A.3d 217 (2020).

Moreover, the respondent testified at trial that she lived with her mother and that her mother would often care for Nariea when the respondent needed to go to a meeting or, if her mother was not available, that she could bring Nariea with her to the meetings. She specifically testified, "when I have meetings to go to . . . like, with [TFT], I can't bring—well, *I can bring* [*Nariea*] *if needed*, but they would prefer that, you know, she stays home so they could see how [Kyreese and I] interact. So . . . *when I go to those visits*, [*my mother will*] *watch her*." (Emphasis added.) The evidence, therefore, does not support the respondent's contention that the department's failure to provide childcare assistance prevented her from attending the TFT sessions.

On the basis of our review of the record, we conclude that there is sufficient evidence to support the court's finding that the department made reasonable efforts to reunify the respondent with Kyreese.

B

The respondent also challenges the court's conclusion that she was unable or unwilling to benefit from reunification services. As noted earlier in this opinion, a determination that a parent is unable or unwilling to benefit from reunification services is not necessary if a court has determined that the department made reasonable efforts to reunify a parent with his or her child. See *In re Elijah C.*, 326 Conn. 480, 493, 165 A.3d 1149 (2017) ("[§] 17a-112 (j) clearly provides that the department is not required to prove both circumstances" (internal quotation marks omitted)). Because we have already determined that the record contains sufficient evidence to support the court's reasonable efforts determination, we need not review the court's secondary determination that the respondent was unable or unwilling to benefit from the department's reunification

efforts. See id.

II

The respondent's final claim on appeal is that the court erred in concluding that she failed to rehabilitate. Specifically, she argues that this conclusion is erroneous because the court credited her explanation for missing one half of the TFT sessions. We disagree.

The following legal principles are pertinent to our review of the respondent's claim. Section 17a-112 (j) provides in relevant part that "[t]he Superior Court . . . may grant a petition filed pursuant to this section if . . . (3) . . . (B) the child . . . (ii) is found to be neglected, abused or uncared for and has been in the custody of the commissioner for at least fifteen months and the parent of such child has been provided specific steps to take to facilitate the return of the child to the parent pursuant to section 46b-129 and has failed to achieve such degree of personal rehabilitation as would encourage the belief that within a reasonable time, considering the age and needs of the child, such parent could assume a responsible position in the life of the child . . . ."

"Personal rehabilitation as used in [§ 17a-112 (j) (3) (B)] refers to the restoration of a parent to his or her former constructive and useful role as a parent. . . . The statute does not require [a parent] to prove precisely when [she] will be able to assume a responsible position in [her] child's life. Nor does it require [her] to prove that [she] will be able to assume full responsibility for [her] child, unaided by available support systems. . . . Rather, [§ 17a-112] requires the trial court to analyze the [parent's] rehabilitative status as it relates to the needs of the particular child, and further, that such rehabilitation must be foreseeable within a reasonable time. . . . [The statute] requires the court to find, by clear and convincing evidence, that the level of rehabilitation [the parent] has achieved, if any, falls short of that which would reasonably encourage a belief that at some future date [she] can assume a responsible position in [her] child's life." (Internal quotation marks omitted.) *In re Kylie P.*, supra, 218 Conn. App. 108.

In reviewing a trial court's determination that a parent failed to sufficiently rehabilitate, "the appropriate standard of review is one of evidentiary sufficiency . . . ." (Internal quotation marks omitted.) *In re Shane M.*, 318 Conn. 569, 588, 122 A.3d 1247 (2015). As explained in part I A of this opinion, this standard requires a reviewing court to determine "whether the trial court could have reasonably concluded, upon the facts established and the reasonable inferences drawn therefrom, that the cumulative effect of the evidence was sufficient to justify its [ultimate conclusion]. . . . When applying this standard, we construe the evidence in a manner most favorable to sustaining the judgment of the trial

court." (Internal quotation marks omitted.) Id. Although our appellate courts apply an evidentiary sufficiency standard of review to the trial court's ultimate determination on this question, "clear error review is [still] appropriate for the trial court's subordinate factual findings . . . ." (Footnote omitted.) Id., 587.[8]

The following additional findings of fact of the court are relevant to our resolution of this claim. The court found that "[t]he [respondent] has had issues with substance abuse and her mental health since the age of fifteen. The [respondent], by her own admission, began her journey to potential reunification badly. She acknowledge[d] that . . . in the beginning . . . she was working on her own mental health, she was angry, and she was not receptive to referrals made for her by [the department]. The [respondent] credit[ed] the birth of Nariea with her desire to engage with services which she believe[d] [were] helpful."

The court acknowledged "that the [respondent] has made excellent progress in completing programs, albeit over an extraordinary length of time, that led to her being able to parent Nariea, with the assistance of the maternal grandmother, with a period of protective supervision being permitted to expire in early July of 2022. However, each child and each situation is unique. Kyreese came into care, in part, because he had unexplained injuries that have still not been explained to date. [A physician] opined that these injuries were highly indicative of child abuse. The [respondent] was given an opportunity, after her success with Nariea, to show her ability to reunify with Kyreese by attending TFT in order to be assessed by 'r kids for reunification and by attending a psychological evaluation which would have also assessed her ability to parent Kyreese within the foreseeable future. The [respondent] did not attend the psychological [evaluation] at all, despite being given three opportunities to do so. The [respondent] has attended TFT visits but has missed one half of them as well as all of her individual sessions and will not successfully complete the program. The [respondent] attributes missing visits to her having to care for Nariea. This testimony is credible and makes it apparent that the mother is not able to safely parent more than one child."

In concluding that the respondent failed to sufficiently rehabilitate, the court reasoned that "Kyreese requires a consistent, rational, predictable and sober caregiver. Kyreese had two fractures, the cause of which remains unexplained, that occurred while in the care of the [respondent] and the father. The [respondent] has failed to rehabilitate regarding Kyreese in that she has not shown the ability to care for Kyreese and Nariea and, thus, she is not consistent, nor is she predictable. The [respondent] failed to fully participate in the programs that could have assessed her potential

for rehabilitation and assisted her in that endeavor. . . . For all of the foregoing reasons, neither the [respondent] nor the father has rehabilitated in the three years that Kyreese has been in care, and they cannot do so within a reasonable time."

On appeal, the respondent argues that there is insufficient evidence in the record to support the court's determination that she failed to rehabilitate because the court did not sufficiently credit her reasons for failing to fully engage with TFT. As set forth in part I A of this opinion, however, the record does not support the respondent's claim that she failed to attend TFT because the department did not provide her with childcare. Rather, the trial court found that the respondent's failure to successfully complete TFT was due to her inability to balance her reunification efforts with Kyreese with her obligation to care for Nariea, which made it apparent that she was "not able to safely parent more than one child." The respondent argues that this finding is incongruent with the court's separate finding explicitly crediting her testimony that she missed two TFT visits due to a lack of childcare and two more TFT visits because she had strep throat, but the respondent ignores the other evidence in the record. Although the court credited the respondent's explanation for missing one half of the supervised TFT visits, she also missed, without explanation, every individual TFT session and the psychological evaluation, which were intended to assess "her ability to parent Kyreese . . . within the foreseeable future."

Moreover, ample evidence supports the court's finding that the respondent's failure "to fully participate in the programs that could have assessed her potential for rehabilitation and assisted her in that endeavor" was part of a broader "pattern of delay and lack of engagement" with her services. The respondent was referred to IPV-FAIR, which should have taken four months to complete but took the respondent eight. The respondent was referred to the intensive outpatient program with MCCA, which took ten months to complete but "is usually much shorter in duration." When the respondent was struggling to engage in services, the department referred her to MDFR to assist with that, but she was unsuccessfully discharged from MDFR for lack of engagement. She had seven unexplained absences from supervised visits with Kyreese after December, 2021, separate from the four TFT visits that she missed. She later failed to engage in a psychological evaluation, despite the fact that it was rescheduled twice to accommodate her. The record also reflects that the respondent failed to fully benefit even from those services that she did complete, as evidenced by the fact that she participated in three different substance abuse services—FBR, Monarch, LLC, and MCCA—but still tested positive for marijuana when she gave birth to Nariea.

On the basis of our review of the record in this case, we conclude that there is sufficient evidence to support the court's finding that the respondent failed to achieve such degree of personal rehabilitation as would encourage the belief that, within a reasonable time, considering the age and needs of Kyreese, she could assume a responsible position in his life.

The judgment is 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 Appellate Court.

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

** July 26, 2023, the date that this opinion was released as a slip opinion, is the operative date for all substantive and procedural purposes.

[1] The court also terminated the parental rights of Kyreese L., Sr., and John Doe. Kyreese L., Sr., who we refer to as the father in this opinion, signed an Acknowledgement of Paternity one day after the child's birth, but he claimed during the underlying proceedings that he might not be Kyreese, Jr.'s father. The court ordered a paternity test, but the father and the child did not attend the testing appointment, so John Doe was necessarily cited into the case. Because neither Kyreese L., Sr., nor John Doe have appealed from the judgment of the trial court, all references to the respondent are to Naila S. only.

[2] "The DART Team is a group of physicians, nurses and staff at [the hospital] dedicated to assessing children for the possibility of child abuse."

[3] "Kyreese is placed with the [respondent's] former foster mother."

[4] See footnote 1 of this opinion.

[5] The attorney for the minor child has adopted the petitioner's appellate brief.

[6] The respondent also argues, for the first time on appeal, that our body of law concerning reasonable efforts to reunify is unconstitutional. Specifically, she argues that, because General Statutes § 17a-111b (a) (2) provides that the petitioner need not prove that the department made reasonable efforts to reunify if the court previously approved a permanency plan of termination and adoption, the statutory scheme "allows for an impermissible end run around the clear and convincing evidentiary standard required, as a matter of due process, in all termination hearings. . . . [A]t the permanency plan hearing, the [petitioner] is merely required to satisfy [her] burden . . . by a mere preponderance of the evidence." She therefore contends that this system violates due process and seeks review under *State* v. *Golding*, 213 Conn. 233, 239–40, 567 A.2d 823 (1989), as modified by *In re Yasiel R.*, 317 Conn. 773, 781, 120 A.3d 1188 (2015).

In this case, however, the court never relieved the petitioner of her burden of proving that the department made reasonable efforts to reunify. Instead, the court found, by clear and convincing evidence, that the department made "reasonable efforts . . . to reunify Kyreese and [the respondent] and that the [respondent] was unable or unwilling to benefit from reunification efforts." Because the court properly found, on the basis of clear and convincing evidence, that the department made reasonable efforts to reunify the respondent and the child, we need not address the respondent's constitutional claim. See *In re Brayden E.-H.*, 309 Conn. 642, 656, 72 A.3d 1083 (2013) (noting that Connecticut courts "follow the recognized policy of self-restraint and the basic judicial duty to eschew unnecessary determinations of constitutional questions" (internal quotation marks omitted)).

[7] As the petitioner points out, the respondent did not raise this argument in the trial court. Our Supreme Court has noted that "the proper place for the respondent to have raised her claim [that the department should have offered childcare services] was in the trial court, where the issue could have been litigated and a factual record developed as to whether reasonable

reunification efforts required the department to [provide childcare].” *In re Elijah C.*, 326 Conn. 480, 503–504, 165 A.3d 1149 (2017). Nevertheless, the record in this case is sufficient for us to review the respondent’s claim that, because the department did not offer the respondent childcare services, its reunification efforts were unreasonable.

[8] Prior to *In re Shane M.*, supra, 318 Conn. 569, courts had applied the clear error standard of review both to a trial court’s determination that a parent failed to rehabilitate and to that court’s subordinate factual findings. See, e.g., *In re Elvin G.*, 310 Conn. 485, 499, 78 A.3d 797 (2013). The respondent argues in her appellate brief that “the standard of review as established by our Supreme Court in *In re Shane M.* is improper and should be replaced by the former clear error standard.” As the respondent acknowledges, however, this court is bound by our Supreme Court’s precedent. *State* v. *Hurdle*, 217 Conn. App. 453, 475, 288 A.3d 675 (“[i]t is axiomatic that this court, as an intermediate body, is bound by Supreme Court precedent and [is] unable to modify it” (internal quotation marks omitted)), cert. granted, 346 Conn. 923, 295 A.3d 420 (2023).