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# IN RE AURORA H. ET AL.*
## (AC 46330)

Moll, Suarez and Seeley, Js.

*Syllabus*

The respondent mother appealed to this court from the judgments of the trial court terminating her parental rights with respect to her two minor children. The children had been committed to the custody of the petitioner, the Commissioner of Children and Families, since shortly after their births, and the children have resided with their foster mother during the entirety of the underlying proceedings. During the Department of Children and Families' involvement with the mother, she was arrested and charged with various crimes, including felonies, and the police report indicated that the mother had been arrested with a convicted felon who was described as her "boyfriend." The trial court had ordered specific steps that the mother should take to facilitate reunification with the children, including that she notify the department of any changes in the makeup of her household and that she refrain from involvement in the criminal justice system. Approximately eight months later, the mother called the police regarding an incident with a different, then live-in boyfriend. Despite the need for open communication with the department, the mother failed to disclose either incident involving the police to the department. Although services had been recommended to the mother one year earlier, the mother began mental health services at the recommended provider just one month prior to the hearing on the termination petitions. The court found by clear and convincing evidence that the mother had failed to fully comply with various court-ordered specific steps to facilitate reunification, including that she not get involved with the criminal justice system, and that termination was in the children's best interests. *Held*:

1. The respondent mother could not prevail on her claim that the trial court erred in concluding that she had failed to achieve a sufficient degree of personal rehabilitation within the meaning of the statute (§ 17a-112) governing termination of parental rights: the evidence, when viewed in the manner most favorable to sustaining the judgments, sufficiently supported the court's conclusion that the mother had failed to achieve a sufficient degree of rehabilitation necessary to encourage a belief that now or within a reasonable time she could assume a responsible position in the lives of the children; moreover, the trial court properly relied on the undisputed evidence of the mother's arrest in determining whether she had failed to rehabilitate, finding that the arrest violated her specific step that she not get involved with the criminal justice system and that it raised concerns about whom she was associating with and whether she would be able to provide a safe environment for her children; furthermore, although the court relied in part on the allegations of criminal behavior, it did not base its finding that the mother had failed to rehabilitate solely on the basis of the mother's arrest but, rather, cited multiple relevant factors that contributed to its findings, including the mother's mental health, her involvement in intimate partner violence, her failure to complete and benefit from counseling and services, and the circumstances surrounding the serious pending felony charges.
2. The respondent mother could not prevail on her unpreserved claim that the trial court erred in considering the specific step that she "not get involved with the criminal justice system" because § 17a-112 (j) (3) (B), as applied to her, was void for vagueness and violated federal due process principles: the mother's claim failed under the third prong of *State* v. *Golding* (213 Conn. 233) because the alleged constitutional violation did not exist, as the record reflected that the mother signed the court-ordered specific steps, including the provision ordering her to not get involved with the criminal justice system, and the mother failed to fully comply with many of her specific steps for either child, specifically, by being arrested for serious felony charges, and the specific steps issued to the mother provided adequate notice to her of what was needed to achieve such degree of rehabilitation as required by § 17a-

112 (j) (3) (B); moreover, because a person of reasonable intelligence would have known that being arrested on serious felony charges could be properly considered in terminating her parental rights under these circumstances, the mother failed to prove beyond a reasonable doubt that § 17a-112 (j) (3) (B) was unconstitutionally vague as applied to her.

Argued September 14—officially released November 6, 2023**

*Procedural History*

Petition by the Commissioner of Children and Families to terminate the respondents' parental rights with respect to their minor child Jueliexa H., and petition by the Commissioner of Children and Families to terminate the respondent mother's parental rights with respect to her minor child Aurora H., brought to the Superior Court in the judicial district of New Britain, Juvenile Matters, and tried to the court, *Daniels*, *J.*; judgments terminating the respondents' parental rights as to Jueliexa H. and the parental rights of the respondent mother as to Aurora H., from which the respondent mother appealed to this court. *Affirmed.*

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

*Blake T. Sullivan*, assistant attorney general, with whom, on the brief, were *William Tong*, attorney general, and *Jammie L. Middleton* and *Evan M. O'Roark*, assistant attorneys general, for the appellee (petitioner).

*Opinion*

SUAREZ, J. The respondent mother, Alexandrea B., appeals from the judgments of the trial court, rendered in favor of the petitioner, the Commissioner of Children and Families, terminating her parental rights as to her children, Aurora H. (Aurora) and Jueliexa H. (Jueliexa).[1] On appeal, the respondent claims that (1) the court erred in concluding that she had failed to achieve a sufficient degree of personal rehabilitation within the meaning of General Statutes § 17a-112,[2] and (2) § 17a-112 (j) (3) (B), as applied to the respondent, is void for vagueness and, therefore, violates federal due process principles. We affirm the judgments of the trial court.

The following facts, as found by the court or otherwise undisputed, and procedural history are relevant to our resolution of the respondent's claims on appeal. Aurora was born in April, 2019. "On [the day of her birth], a hospital social worker contacted the [Department of Children and Families (department)], reporting that both the [respondent] and Aurora tested positive for marijuana and that [the respondent] had reported a history of being homeless. The [petitioner] invoked a ninety-six hour hold on behalf of Aurora on April 15, 2019." On April 18, 2019, the petitioner filed a motion for an order of temporary custody and a neglect petition as to Aurora. "On April 22, 2019, [Aurora] was placed with a fictive kin foster mother (the former wife of the father's uncle), with whom she still resides."

"On April 26, 2019, the court, *Abery-Wetstone*, *J.*, sustained the order of temporary custody by agreement of the parties." The court ordered specific steps for the respondent to take to facilitate reunification with Aurora, including "[n]ot [to] get involved with the criminal justice system." "On September 30, 2019, both parents entered nolo contendere pleas, and the court, *Hoffman*, *J.*, entered an adjudication of neglect. On January 16, 2020, when Aurora was nine months old, the [petitioner] filed a motion for review of [the] permanency plan, proposing a plan of termination of parental rights and adoption. On January 29, 2020, before a hearing could be held on the permanency plan, the [petitioner] filed its petition for termination of parental rights. The [respondent's] attorney filed an objection to the permanency plan on February 14, 2020, but withdrew it on February 26, 2020, at the initial plea hearing on the termination petition. The [respondent] entered a pro forma denial to the termination petition on that date and indicated her intention to contest the termination petition. The permanency plan of termination of parental rights and adoption was approved by the court, *Hoffman*, *J.*, on that date."

Jueliexa was born in May, 2020. "A referral was made to [the department] at the time of Jueliexa's birth due to concerns that Aurora remained in [the department's]

care, that [the respondent] used marijuana during the pregnancy and had limited prenatal care. The [petitioner] invoked a ninety-six hour hold on behalf of Jueliexa on May 12, 2020." On the same day, Jueliexa was placed with the same foster parent as Aurora. On May 15, 2020, the petitioner filed a motion for an order of temporary custody and a neglect petition as to Jueliexa. "On June 22, 2020, the court, *Hoffman, J.*, sustained the order of temporary custody by agreement of the parties." The court also ordered specific steps for the respondent to take to facilitate reunification with Jueliexa, including an identical step not to get involved with the criminal justice system.

On June 16, 2021, a consolidated trial commenced on the petition to terminate the respondent's parental rights as to Aurora and on the neglect petition as to Jueliexa. After the trial concluded, the court, *Huddleston, J.*, entered an adjudication of neglect as to Jueliexa and the court reserved judgment on the petition to terminate the respondent's parental rights as to Aurora.

"On July 21, 2021, following the trial, but prior to the court's decision, the department became aware of the following post on [the respondent's] Facebook page: 'The fact that white privilege is still a thing disgusts me, [s]ince my [Baby Daddy] is white and I'm black he has more saying towards my children. . . . Yet [h]e signed a TPR and hasn't been around in over a year. . . . Alyssa Jasunas[3] count your days cause I'm taking this to court. F*** you and your white privileges.' [The respondent] then made an additional post stating: 'Truthfully ready to give up and just kill myself . . . my opinion and my choice don't matter going MIA again.' Following the suicidal statement, the department went with the New Britain Police Department to conduct a well[ness] check on [the respondent]. [The respondent] opened her door and stated: 'What did I do now Alyssa? If you want me to sign the TPR, I'll just do it.' It was recommended that [the respondent] attend a mental health evaluation and medication assessment, which [the respondent] did not accept." (Footnote added.) On September 27, 2021, the [petitioner] filed a petition to terminate the parental rights of the respondent as to Jueliexa.

On October 13, 2021, the court, *Huddleston, J.*, denied the petitioner's petition to terminate the respondent's parental rights as to Aurora. The court reasoned that, "despite the mother's failure to comply fully with her specific steps, she had made substantial progress in addressing the causes of removal. She was employed and had an apartment of her own. She was reported to be in remission from substance abuse disorder and had successfully completed a relapse prevention program without recommendations for further treatment. She appeared to have freed herself from her relationship with the child's father."

Following the court's denial of the termination of parental rights petition as to Aurora, the petitioner withdrew the petition to terminate the respondent's parental rights as to Jueliexa. Thereafter, the department and the respondent met to discuss next steps toward reunification of the respondent with Aurora and Jueliexa. At the meeting, the department recommended that the respondent complete a mental health evaluation, and, if appropriate, the department would refer her to therapeutic family time. "[The respondent] indicated that she would attend the recommended mental health intake and medication assessment. . . . In addition, [the respondent] stated that she understood that she needed to notify the department if she entered into any romantic relationships and to inform the department if she was living with anyone. These disclosures were necessary so that the department could be sure that the children would be safe in [the respondent's] care."

On November 24, 2021, the respondent was arrested and charged with carrying a pistol without a permit in violation of General Statutes § 29-35 (a); interfering with an officer in violation of General Statutes § 53a-167a; conspiracy to commit robbery in the first degree in violation of General Statutes §§ 53a-48 and 53a-134 (a) (4); and conspiracy to commit larceny in the sixth degree in violation of General Statutes §§ 53a-48 and 53a-125b. The department learned of the respondent's arrest because she missed a supervised visit with the children, prompting a review of the Department of Correction's public website. "The police report, which was entered into evidence at the trial, indicates that during contact with the police, [the respondent] provided the police with a false name. The report also indicates that the [respondent] was found to be in possession of an unregistered handgun. According to the police report, [the respondent] was arrested with Alex Vieira, who, at the time of the arrest, was a convicted felon. [Vieira] was described as [the respondent's] boyfriend."

On December 22, 2021, the court, *C. Taylor*, *J.*, entered an order suspending the respondent's reunification efforts until further order of the court. The court stated that "[i]f any party wants to restart the reunification services, they may come before the court to petition to have them restarted." The court also ordered new specific steps for the respondent as to Aurora, including the provision "[n]ot [to] break the law, which could impact your ability to care for your child(ren)." On July 5, 2022, the petitioner filed the current termination of parental rights petitions for both Aurora and Jueliexa.[4]

"On July 31, 2022, the [respondent] called the police on her then live-in boyfriend [Cyquan Navarro]. Apparently, the boyfriend showed up at [the respondent's] apartment intoxicated with two friends that [the respondent] indicated were involved in the illegal sale of narcotics. The boyfriend entered the apartment though

a window, and he got in a verbal argument with the [respondent]. Some shoving ensued, and, at one point, [the respondent] was pulled through the window to the outside [of the apartment] by one of her boyfriend's friends. The friends proceeded to shout threats at [the respondent], and [the respondent] believes they shot a pellet gun at her apartment. Again, despite the need for open communication with the department, the [respondent] did not disclose this incident to the department."

In October, 2022, the respondent began services at Community Mental Health Affiliates (CMHA). "The department was understandably concerned that one year had gone by since these services were recommended to [the respondent] in October, 2021." On November 14, 2022, the court, *Daniels*, *J.*, held a hearing on the petitioner's termination of parental rights petitions for both of the respondent's children. The court admitted four exhibits and heard testimony from five witnesses. The trial concluded on the same day, and, on January 17, 2023, the court issued a memorandum of decision terminating the parental rights of the respondent as to both children.[5] In its memorandum of decision, the court found, by clear and convincing evidence, that Aurora and Jueliexa previously had been adjudicated neglected, that the department had provided reasonable efforts to locate the respondent and to reunify her with the children, and that it was in the best interests of the children to terminate the respondent's parental rights.[6]

In its memorandum of decision, the court reasoned that "the [respondent] has not been available to take part in her daughters' lives in a safe, nurturing, responsible and positive manner, and, based on her issues of mental health, parenting deficits, exposure to intimate partner violence, criminal activity including serious pending felony charges and her failure to complete and benefit from counseling and services, she will never be consistently available to Aurora and Jueliexa. . . . When one considers the high level of care, patience, and discipline that Aurora and Jueliexa's needs will require from their caregiver, it is patently clear that [the respondent] is not in a better position to parent her children than she was at the time of Aurora and Jueliexa's commitments and still remains without the qualities necessary to successfully parent Aurora and Jueliexa. . . . Even if the [respondent] was finally capable of realizing and correcting her problems, it would be exceedingly rash to expect her to be able to parent her daughters at any time in the near future, if ever. Unfortunately, the clear and convincing evidence shows that Aurora and Jueliexa's needs of permanence and stability do not allow for the time necessary for [the respondent] to further attempt rehabilitation." (Citations omitted.)

The court also found by clear and convincing evi-

dence that the respondent failed to fully comply with the following specific steps: create and maintain a safe, stable, and nurturing home environment free from violence, substance abuse, and criminal activity; address trauma history and understand its impact on present functioning; address mental health needs in individual counseling in order to maintain emotional stability and be a stable resource for the child; immediately let the department know about any changes in the makeup of the household to make sure that the change does not hurt the health and safety of the child; attend and complete an appropriate domestic violence program; and not get involved with the criminal justice system. The court concluded that, "[h]aving balanced Aurora and Jueliexa's individual and intrinsic needs for stability and permanency against the benefits of maintaining a connection with the respondent parents, the clear and convincing evidence in this case establishes that the children's best interests cannot be served by continuing to maintain any legal relationship to the respondent parents." This appeal followed.[7] Additional facts and procedural history will be provided as necessary.

I

The respondent first claims that the court erred in determining that she failed to rehabilitate pursuant to § 17a-112 (j) (3) (B) (i). Specifically, she asserts that the evidence on which the court based its decision was not sufficient to support a finding, by clear and convincing evidence, that she failed to rehabilitate. In particular, the respondent emphasizes that the court's reliance on her pending criminal charges was improper. We are not persuaded.

We begin by setting forth the following relevant legal principles and standard of review that govern the resolution of this claim. "A hearing on a termination of parental rights petition consists of two phases, adjudication and disposition. . . . In the adjudicatory phase, the court must determine whether the [petitioner] has proven, by clear and convincing evidence, a proper ground for termination of parental rights. . . . In the dispositional phase, once a ground for termination has been proven, the court must determine whether termination is in the best interest of the child. . . .

"Although the trial court's subordinate factual findings are reviewable only for clear error, the court's ultimate conclusion that a ground for termination of parental rights has been proven presents a question of evidentiary sufficiency. . . . That conclusion is drawn from both the court's factual findings and its weighing of the facts in considering whether the statutory ground has been satisfied. . . . On review, we must determine whether the trial court could have reasonably concluded, upon the facts established and the reasonable inferences drawn therefrom, that the cumulative effect of the evidence was sufficient to justify its [ultimate

conclusion]. . . . When applying this standard, we construe the evidence in a manner most favorable to sustaining the judgment of the trial court. . . .

* * *

"In the adjudicatory phase of a termination of parental rights proceeding, the court must determine whether one of the six statutory grounds that may serve as a basis for termination of parental rights exists. . . . Failure of a parent to achieve sufficient personal rehabilitation is one of six statutory grounds on which a court may terminate parental rights pursuant to § 17a-112. . . . That ground exists when a parent of a child whom the court has found to be neglected fails to achieve such a degree of rehabilitation as would encourage the belief that within a reasonable time, considering the age and needs of the child, the parent could assume a responsible position in the life of that child. . . .

"Personal rehabilitation as used in [§ 17a-112 (j) (3) (B) (i)] 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. . . . [I]n assessing rehabilitation, *the critical issue is not whether the parent has improved* [*her*] *ability to manage* [*her*] *own life, but rather whether* [*she*] *has gained the ability to care for the particular needs of the child at issue.* . . .

"Section 17a-112 (j) (3) (B) allows for the termination of parental rights due to a respondent's failure to achieve personal rehabilitation only after the respondent has been issued specific steps to facilitate rehabilitation. Specific steps provide notice . . . to a parent as to what should be done to facilitate reunification and prevent termination of rights. . . . The specific steps are a benchmark by which the court will measure the respondent's conduct to determine whether termination is appropriate pursuant to § 17a-112 (j) (3) (B). . . . We acknowledge that the court need not base its determination purely on the respondent's compliance with the specific steps. . . . A parent may complete all of the specific steps and still be found to have failed to rehabilitate. . . . Conversely, a parent could fall somewhat short in completing the ordered steps, but

still be found to have achieved sufficient progress as to preclude a termination of his or her rights based on a failure to rehabilitate." (Citations omitted; emphasis in original; internal quotation marks omitted.) *In re Marie J.*, 219 Conn. App. 792, 805–808, 296 A.3d 308 (2023). "[T]he relevant date for considering whether [a respondent] failed to rehabilitate is the date on which the termination of parental rights petition was filed . . . . Although a court may rely on events occurring after the date of the filing of the petition to terminate parental rights when considering the issue of whether the degree of rehabilitation is sufficient to foresee that the parent may resume a useful role in the child's life within a reasonable time . . . it is not required to do so." (Emphasis omitted; internal quotation marks omitted.) *In re Nevaeh G.-M.*, 217 Conn. App. 854, 880, 290 A.3d 867, cert. denied, 346 Conn. 925, 295 A.3d 418 (2023).

The respondent argues for the first time on appeal that the court's reliance on her criminal activity as evidence of her failure to rehabilitate was improper because an arrest is only proof that probable cause existed as to the respondent's criminal activity and does not establish that she failed to rehabilitate by clear and convincing evidence. The respondent further argues that there was insufficient evidence in the record from which the court could have concluded as it did, by clear and convincing evidence, that the respondent failed to rehabilitate based on her mental health, parenting deficits, and exposure to interpersonal violence. We are not persuaded.

In its memorandum of decision, the court found that the respondent was arrested in November, 2021, and that the arrest violated her specific step that she not get involved with the criminal justice system. The court also stated that the respondent's arrest raised concerns about whom she was associating with and whether she would be able to provide a safe environment for her children. It is well settled that a court in a termination of parental rights matter may rely on a respondent's arrest in determining whether a respondent has failed to rehabilitate. This court has reasoned that, "[b]ecause one of the respondents' specific steps for reunification was to '[n]ot get involved with the criminal justice system,' we determine that the court *properly relied on the respondents' arrests*, among other factors, to find that they had failed to rehabilitate." (Emphasis added.) *In re Brian P.*, 195 Conn. App. 558, 572–73, 226 A.3d 159, cert. denied, 355 Conn. 907, 226 A.3d 151 (2020); see also *In re Anna Lee M.*, 104 Conn. App. 121, 130, 931 A.2d 949 ("[w]e have recognized that the court may consider the respondent's prior arrests, even if they did not result in convictions, when assessing the respondent's ability to provide a safe and secure home for the children and to provide the necessary care for them"), cert. denied, 284 Conn. 939, 937 A.2d 696 (2007). As in

*In re Brian P.*, the respondent in the present case had been issued a similar specific step to "[n]ot get involved with the criminal justice system." Accordingly, we conclude that the court properly relied on the undisputed evidence of the respondent's arrest as a factor in determining that the respondent failed to rehabilitate.

We note that, although the court relied in part on the allegations of criminal behavior, the court did not base its finding that the respondent failed to rehabilitate solely on the basis of the respondent's arrest. In its memorandum of decision, the court stated that it had considered all of the evidence introduced at trial in reaching its conclusion. The court cited multiple relevant factors that contributed to its findings, including the respondent's mental health, intimate partner violence, failure to complete and benefit from counseling and services, and serious pending felony charges. After careful review of the record, construing it in the manner most favorable to sustaining the judgments, as we are obligated to do, we conclude that the record contains sufficient evidence to support the court's conclusion.

We first reiterate that, in viewing the evidence, we must look at whether "*the cumulative effect of the evidence* was sufficient to justify" the trial court's ultimate conclusion that the respondent failed to rehabilitate. (Emphasis in original; internal quotation marks omitted.) *In re Anaishaly C.*, 190 Conn. App. 667, 687, 213 A.3d 12, cert. denied, 345 Conn. 914, 283 A.3d 505 (2019).

In the present case, the court heard testimony from Jasunas, the social worker employed by the department to oversee the respondent's case, who prepared the two social studies that were introduced as full exhibits. The first social study was prepared on June 15, 2022 (June 15 social study), and the second study was prepared on July 28, 2022 (July 28 social study). In the June 15 social study, Jasunas stated that the respondent had reported to the department that she was diagnosed with depression, anxiety, and post-traumatic stress disorder, had experienced postpartum depression, and had a history of suicidal ideation.[8] The department referred the respondent to the Center for Emotional Healing in May, 2020, for mental health treatment, but "[the respondent] was not consistent with her sessions with [the mental health] clinician . . . Mary McGowan. . . . [The respondent] did not attend counseling consistently and would not attend sessions for weeks and months at a time. [The respondent] reengaged with . . . McGowan in June, 2021, to resume sessions after not attending for months. . . . [The respondent] stopped attending [mental health treatment] after July, 2021 when the [d]epartment became concerned with suicidal statements [the respondent] made on social media. . . . McGowan recommended that [the respondent] attend a mental health evaluation and medication assessment, to which [she] did not accept. The [d]epartment has

continually encouraged [the respondent] to engage in mental health services, but she has not returned to date."

The July 28 social study raised similar concerns regarding the respondent's mental health and judgment relating to her November 24, 2021 arrest. The report stated: "[The respondent's] mental stability and decision making continues to be a concern. . . . She has yet to attend [mental health treatment] despite several reminders by [the department] to [the respondent]. She continually states she will attend 'soon.' . . . The department expressed to her the [department's] continued concerns of her judgment, relationships and not addressing this [arrest] in therapy as court ordered and [department] recommended."

In addition to the written social studies prepared by Jasunas that were in evidence, the court also heard testimony from her. Jasunas testified that the department remained concerned with the respondent's mental health and decision making, stating that "[the respondent] reported that she went for [a mental health] intake last month. However, we had been recommending this for over a year since the girls had [come] into care and those needs have not been met for her, and the department remains concerned that if the girls did return home that there would be ongoing concerns with her decision making. She would not be able to keep the girls safe." Jasunas also testified that "[the respondent] did not disclose that she was in a relationship with anyone" and that she was aware the respondent was in relationships with other people due to the November 24, 2021 arrest and the domestic incident in July, 2022. Jasunas noted that the respondent never disclosed the July, 2022 incident to the department, and the department only learned of the incident through a police report four months after the incident had occurred when conducting a call for a service check before trial.

The court also heard testimony from Jovaldo Mendes, a New Britain police officer, who responded to the July, 2022 incident. Officer Mendes described the incident as "a verbal domestic [dispute] between [the respondent] and a boyfriend at the time." Officer Mendes testified that, "[a]s far as [the respondent] reported on [the] scene, they were still dating, and she was going to allow him back to the apartment after the incident." Furthermore, Officer Mendes stated that he gave the respondent a victim services card, testifying that "when there's an issue of domestic violence or a possibility of domestic violence, we always issue the victim a victim services card which gives her opportunities to get in contact with the victim's advocate so that they may be able to conduct a safety plan and discuss how to move forward in case another issue should arise."

The court further heard testimony from the respon-

dent's mental health therapist, Yobielania Santana. Santana testified that she had seen the respondent four times since the respondent began therapy in October, 2022, and had been prescribed medication.[9] Santana testified that the respondent had also attended one group therapy session to address trauma. Although Santana described the respondent as engaged and compliant in her therapy sessions, Santana testified that "[t]he recommendation for [the respondent] would be six months [of group therapy] and then we'll assess from there to see what the further needs are."

With regard to the respondent's mental health, the record reflects that the respondent made a suicidal statement on social media following the first trial on the petitioner's petition to terminate her parental rights as to Aurora and discontinued mental health services until one month before the second trial. Furthermore, the respondent's therapist testified that she would recommend that the respondent attend another six months of therapy to further assess her mental health needs. The respondent's engagement in mental health services just before the second trial, one year after the department recommended the service, combined with her suicidal ideation following the first trial supports the court's determination that the respondent failed to rehabilitate based on her mental health and failure to complete and benefit from counseling and services.

As to the court's reliance on the respondent's intimate partner violence and parenting deficits, the record adequately supports the court's finding that the respondent failed to rehabilitate with respect to these areas of concern. Not only did the respondent fail to inform the department of her romantic relationships as required, but her relationships raised concerns about her decision making and judgment. In November, 2021, the respondent was arrested together with a convicted felon, Vieira, with whom she was in an undisclosed relationship at the time of her arrest. In July, 2022, the respondent was in another undisclosed relationship with a "live-in" boyfriend, a person who was associating with parties allegedly involved in the sale of illicit substances, and one who had a history of possessing firearms. As we have discussed, Officer Mendes also testified that he gave the respondent a victim services card in accordance with the police department's policy for incidents that involve, or potentially involve, intimate partner violence. Moreover, as mentioned previously in this opinion, the court noted that "[t]he July, 2022 incident at [the respondent's] apartment raises concerns about who [the respondent] is associating with and whether she would be able to provide a safe environment for her children. The November, 2021 arrest raises similar concerns."

We conclude that the evidence, viewed in the manner most favorable to sustaining the judgments, sufficiently

supports the court's conclusion that the respondent failed to achieve a sufficient degree of rehabilitation necessary to encourage a belief that now, or within a reasonable time, she could assume a responsible position in Aurora's and Jueliexa's lives.

II

The respondent next claims that the court erred in considering the specific step that the respondent "[n]ot get involved with the criminal justice system" because § 17a-112 (j) (3) (B) as applied to the respondent is void for vagueness and, therefore, violates federal due process principles.[10] Specifically, the respondent argues that, although the court-ordered specific steps are not statutes, they are statutorily mandated in rehabilitation cases and function as an elements test toward reunification. The petitioner argues that the respondent has waived any challenge to the validity of the specific steps because she did not adequately raise the claim below and before this court and has failed to distinctly brief her entitlement to review of the unpreserved claim. We agree that the respondent's constitutional claim is unpreserved, as it is being raised for the first time on appeal. We disagree that the respondent has waived her entitlement to have the claim considered on its merits in this appeal by means of an inadequate brief. We conclude that the claim is reviewable 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), but that it nonetheless fails under *Golding*'s third prong because the alleged constitutional violation does not exist.

"Claims are inadequately briefed when they are merely mentioned and not briefed beyond a bare assertion. . . . Claims are also inadequately briefed when they . . . consist of conclusory assertions . . . with no mention of relevant authority and minimal or no citations from the record . . . ." (Internal quotation marks omitted.) *Scalora* v. *Scalora*, 189 Conn. App. 703, 735, 209 A.3d 1 (2019). The respondent's brief with respect to this constitutional claim includes a standard of review, a discussion of relevant legal principles and authorities, and citations to the record. We recognize, as the petitioner observes, that the respondent has not provided this court with an analysis of the reviewability of the unpreserved claim, let alone an invocation of any extraordinary type of review such as an analysis under *Golding*; yet we recognize that our Supreme Court has held that "the defendant's failure in his main brief . . . to (1) identify or address any issues related to the reviewability of the claim, (2) state that any extraordinary level of review is requested, (3) refer to the *Golding* opinion either by name or in substance [or] address the issue of the adequacy of the record to review the claim, or (4) present an analysis that, if the claim was not preserved, it nevertheless should be reviewed, *did not*

*preclude consideration of his federal constitutional claim*, which otherwise was properly briefed, identified relevant constitutional authorities, and was founded on an adequate record for review." (Emphasis added; internal quotation marks omitted.) *State* v. *Elson*, 311 Conn. 726, 755, 91 A.3d 862 (2014).

"Under *Golding*, a [respondent] can prevail on a claim of constitutional error not preserved at trial only if all of the following conditions are met: (1) the record is adequate to review the claim of error; (2) the claim is of constitutional magnitude alleging the violation of a fundamental right; (3) the alleged constitutional violation . . . exists and . . . deprived the [respondent] of a fair trial; and (4) if subject to harmless error analysis, the state has failed to demonstrate harmlessness of the alleged constitutional violation beyond a reasonable doubt. . . . The respondent must meet all four prongs of the *Golding* analysis to be successful. . . . We are free, however, to dispose of the claim by focusing on the condition that appears most relevant under the circumstances of the case. . . . The first two steps in the *Golding* analysis address the reviewability of the claim, while the last two steps involve the merits of the claim." (Citations omitted; internal quotation marks omitted.) *In re Shane M.*, 148 Conn. App. 308, 325, 84 A.3d 1265 (2014), aff'd, 318 Conn. 569, 122 A.3d 1247 (2015). We are persuaded that the respondent's analysis of her void for vagueness claim satisfies the first two prongs of *Golding* because the record is sufficient for our review and a constitutional right is involved. We now turn to the third prong of *Golding* and consider whether the respondent's constitutional right has been violated.

"The void for vagueness doctrine is a procedural due process concept that originally was derived from the guarantees of due process contained in the fifth and fourteenth amendments to the United States constitution. . . . The doctrine [of void for vagueness] requires statutes to provide fair notice of the conduct to which they pertain and to establish minimum guidelines to govern law enforcement. . . . [T]he minimum guidelines prong is applicable only where a statute is being challenged as unconstitutional on its face . . . .[11]

"Legislative enactments carry with them a strong presumption of constitutionality, and a party challenging the constitutionality of a validly enacted statute bears the weighty burden of proving unconstitutionality beyond a reasonable doubt. . . . A statute is not unconstitutional merely because a person must inquire further as to the precise reach of its prohibitions, nor is it necessary that a statute list the exact conduct prohibited. . . . The constitution requires no more than a reasonable degree of certainty. . . . [B]ecause we assume that a man is free to steer between lawful and unlawful conduct, we insist that laws give the person of ordinary intelligence a reasonable opportunity

to know what is prohibited, so that he may act accordingly. . . . [A] statute gives fair warning of what conduct it prohibits if it is reasonably specific and direct enough so that a person of ordinary intelligence has a reasonable opportunity to govern his or her behavior by reference to the words of the statute together with available judicial gloss." (Citations omitted; footnote added; footnote omitted; internal quotation marks omitted.) Id., 328–29.

As previously mentioned in part I of this opinion, "[§] 17a-112 (j) (3) (B) allows for the termination of parental rights due to a respondent's failure to achieve personal rehabilitation only after the respondent has been issued specific steps to facilitate rehabilitation. Specific steps provide notice . . . to a parent as to what should be done to facilitate reunification and prevent termination of rights. . . . The specific steps are a benchmark by which the court will measure the respondent's conduct to determine whether termination is appropriate pursuant to § 17a-112 (j) (3) (B). . . . We acknowledge that the court need not base its determination purely on the respondent's compliance with the specific steps. . . . It is well established judicial gloss, however, that a court may consider whether a parent has corrected the factors that led to the initial commitment, regardless of whether those factors were included in specific expectations ordered by the court or imposed by the department." (Citations omitted; internal quotation marks omitted.) Id., 329.

The record reflects, and there is no dispute, that on April 26, 2019, and June 22, 2020, the respondent signed the court-ordered specific steps for Aurora and Jueliexa, respectively, that included the provision ordering her to "[n]ot get involved with the criminal justice system." Moreover, the specific steps stated that "[the respondent] understand[s] that if [she] do[es] not follow these specific steps it will increase the chance that a petition may be filed to terminate [her] parental rights permanently so that [her] child may be placed in adoption." As noted in part I of this opinion, the respondent did not fully comply with many of her specific steps for either child. Specifically, the respondent was arrested for serious felony charges, as evidenced by the police report submitted by the petitioner as a full exhibit, in violation of her specific step that she was not to get involved with the criminal justice system. The specific steps issued to the respondent provided adequate notice with respect to what was needed to achieve such degree of rehabilitation as required by § 17a-112 (j) (3) (B). Furthermore, this court has previously determined that the trial court can properly rely on a parent's arrest in concluding that they have violated their specific step and failed to rehabilitate. See *In re Brian P.*, supra, 195 Conn. App. 572–73. We conclude that a person of reasonable intelligence would have known that being arrested on serious felony gun

charges could be properly considered in terminating her parental rights under these circumstances. Thus, the respondent has failed to prove beyond a reasonable doubt that § 17a-112 (j) (3) (B) was unconstitutionally vague as applied to her. The respondent has failed to meet the third requirement of *Golding* that a constitutional violation exists and her claim must, therefore, fail. Accordingly, the court did not err in terminating the respondent's parental rights.

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.

** November 6, 2023, the date that this decision was released as a slip opinion, is the operative date for all substantive and procedural purposes.

[1] Elijah H. is the biological father of both Aurora and Jueliexa. In the underlying proceeding, the petitioner also sought to terminate Elijah H.'s parental rights as to Jueliexa, which the court granted after he was defaulted for failing to appear on August 3, 2022. On April 19, 2021, in a separate proceeding, the court terminated the parental rights of Elijah H. as to Aurora, with his consent. Elijah H. is not participating in this appeal. All references in this opinion to the respondent are to Alexandrea B. only.

[2] In this appeal, the respondent distinctly claims that the court, in concluding that she had failed to rehabilitate, improperly relied on the fact that the respondent had been arrested. We view this issue as being subsumed in the respondent's claim that the evidence was insufficient to demonstrate that she had failed to rehabilitate and, thus, in this opinion we will address these issues together in the context of the respondent's first claim.

We note that the petitioner argues that the respondent has waived her claim to challenge the court's reliance on her arrest because it was not raised below, and it is now being challenged for the first time on appeal. We are not persuaded that the respondent has waived this claim because the court expressly relied on the respondent's arrest as one of several factors in support of its ultimate finding that she had not rehabilitated, and, therefore, the respondent properly may challenge the court's reliance on that finding.

[3] The record reflects that Alyssa Jasunas was the social worker employed by the department to oversee the respondent's case. She also testified for the petitioner in the underlying proceeding.

[4] Elijah H., the biological father of both children, was listed only on the petition as to Jueliexa. The parental rights of Elijah H. as to Aurora had been terminated previously in a separate proceeding. See footnote 1 of this opinion.

[5] The court also terminated the parental rights of Elijah H., the children's biological father, as to Jueliexa. See footnote 1 of this opinion.

[6] In this appeal, the respondent challenges only the court's finding that she failed to rehabilitate pursuant to § 17a-112 (j) (3) (B) (i). She does not challenge the court's findings that the department made reasonable efforts to reunify her with the children or that the termination of her parental rights was in the best interests of the children.

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

[8] In the June 15 social study, Jasunas reported that the respondent denied having any suicidal ideations since age seventeen, however, there was evidence that she made a statement reflecting a suicidal ideation on social media in July, 2021.

[9] Santana is not the respondent's prescriber of her medication. Another treatment provider at CMHA prescribed the medication for the respondent.

[10] Before this court, the respondent couches her claim as whether the specific step that the respondent "[n]ot get involved with the criminal justice system" is void for vagueness. As the respondent correctly recognizes, however, the void for vagueness doctrine applies only to statutes, and specific steps are not statutes. "The purpose of the vagueness doctrine is twofold.

The doctrine requires *statutes* to provide fair notice of the conduct to which they pertain and to establish minimum guidelines to govern law enforcement." (Emphasis added; internal quotation marks omitted.) *State* v. *Bloom*, 86 Conn. App. 463, 466, 861 A.2d 568 (2004), cert. denied, 273 Conn. 911, 870 A.2d 1081 (2005).

Having carefully reviewed the analysis of the claim in the respondent's brief, we are satisfied that, in substance, it presents a void for vagueness challenge with respect to the manner in which § 17a-112 (j) (3) (B) has been *applied* to her in terms of the specific step imposed by the court that she "[n]ot get involved with the criminal justice system." In our consideration of claims raised on appeal, this court is customarily mindful to evaluate their substance rather than to be bound by imprecise form. See, e.g., *State* v. *Jodi D.*, 340 Conn. 463, 475 n.6, 264 A.3d 509 (2021) ("failure [by the appellant] to label her argument using the correct technical rubric does not render the claim unreviewable"); *In re Stacy G.*, 94 Conn. App. 348, 352 n.5, 89 A.2d 1034 (2006) (analyzing substance of claim rather than adhering to imprecise statement of issues). Moreover, we do not conclude that reframing the claim will prejudice the petitioner. Beyond arguing that the present claim should not be reviewed, a contention that we address in the body of this opinion, the petitioner argues before this court that the respondent is unable to demonstrate that a *specific step* is void for vagueness and, in the alternative, cited authority in support of the proposition that this court should decline to conclude that § 17a-112 (j) (3) (B) is void for vagueness *as applied* to the respondent by virtue of the specific step at issue in this claim.

[11] In this appeal, the respondent is not challenging § 17a-112 (j) (3) (B) as unconstitutional on its face but, rather, she is challenging whether the statute *as applied* to her is void for vagueness. Therefore, our analysis of the respondent's claim will concentrate on the fair notice requirement of the void for vagueness doctrine. See footnote 10 of this opinion.