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IN RE FAYTH C.*
(AC 46100)

Moll, Seeley and Pellegrino, Js.

Syllabus

The respondent father appealed to this court from the judgment of the trial court terminating his parental rights with respect to his minor child. The child had been adjudicated neglected and committed to the custody of the petitioner, the Commissioner of Children and Families. The court found, inter alia, that the petitioner had proven by clear and convincing evidence that the father, who was incarcerated at the time of trial, failed to achieve sufficient personal rehabilitation pursuant to the applicable statute (§ 17a-112 (j) (3) (B) (i)) and that termination of his parental rights was in the best interest of the child. On appeal, the father claimed, inter alia, that the court applied an incorrect legal standard in making its determination that he had failed to rehabilitate by misinterpreting the phrase “assume a responsible position in the child’s life” in § 17a-112 (j) (3) (B) (i). *Held* that the trial court’s analysis of the father’s failure to achieve sufficient personal rehabilitation demonstrated that the court used the correct legal standard and that there was sufficient evidence to support its determination that the petitioner had proven, by clear and convincing evidence, that the respondent father had failed to achieve the degree of personal rehabilitation that would encourage the belief that, within a reasonable time, considering the age and needs of the child, he could assume a responsible position in the child’s life: the court correctly recited the statutory standard in its analysis and detailed the father’s failure to comply with any of the court-ordered specific steps, including taking part in counseling, making progress toward developing parenting skills to provide adequate and safe supervision for the child and submitting to substance abuse evaluation and following recommendations concerning treatment, and it was clear from the decision, as a whole, that the court required that it be foreseeable within a reasonable time that the father be able to assume a responsible position in the child’s life and the court did not state that it was assessing whether the father could assume full-time responsibility for the child; moreover, the court indicated that the father’s motivation while incarcerated to complete programs aimed at addressing his mental health and substance abuse issues had nothing to do with being reunited with his child but was instead based entirely on obtaining his freedom early.

Argued May 9—officially released June 29, 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 Fairfield, Juvenile Matters at Bridgeport, and tried to the court, *McLaughlin, J.*; judgment terminating the respondents’ parental rights, from which the respondent father appealed to this court. *Affirmed.*

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

Rosemarie T. Weber, 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

PELLEGRINO, J. The respondent father, Makai C., appeals from the judgment of the trial court terminating his parental rights with respect to his minor child, Fayth C. (Fayth).¹ On appeal, the respondent claims that the trial court improperly determined that he had failed to rehabilitate sufficiently. We disagree and, accordingly, affirm the judgment of the trial court.²

The following facts, which were found by the court, and procedural history are relevant. The Department of Children and Families (department) became involved when Fayth was born in August, 2019, and her mother tested positive for marijuana. Subsequently, there were several physical altercations between the respondent and the mother, wherein the respondent was the aggressor. Two such incidents, which occurred in 2020 and 2021, resulted in a restraining order and a protective order in favor of the mother and against the respondent, which orders were extended to protect Fayth.³ The respondent was incarcerated on certain criminal charges in August, 2021, and his release date was set for September, 2023.

On October 19, 2021, the petitioner, the Commissioner of Children and Families, filed a petition seeking the termination of the respondent's parental rights with respect to Fayth. Following a trial, the court rendered judgment on October 19, 2022, terminating the respondent's parental rights with respect to Fayth. The court noted that Fayth had been adjudicated neglected on February 26, 2020, and found that the petitioner had proven by clear and convincing evidence that the respondent failed to achieve sufficient personal rehabilitation pursuant to General Statutes § 17a-112 (j) (3) (B) (i). The court further determined that termination of the respondent's parental rights was in Fayth's best interest. This appeal followed.⁴

The respondent claims that the court's finding that he had failed to achieve sufficient personal rehabilitation is in error on the merits and that, in making its determination, the court applied an incorrect legal standard. We are not persuaded.

We begin by setting forth the following relevant legal principles and standard of review. "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. [See General Statutes § 17a-112 (j) (3) (B) (i).]"⁵ (Internal quotation marks omitted.) *In re G. Q.*, 158 Conn. App. 24, 25, 118 A.3d 164, cert. denied, 317 Conn. 918, 118 A.3d 61 (2015). In regard to the failure to achieve personal rehabilitation, § 17a-112 (j) (3) (B) provides, in relevant part, for the termination of parental rights when "the child (i) has been found . . . to have been neglected, abused or uncared for in a prior proceeding . . . and the par-

ent 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”

“Personal rehabilitation as used in [§ 17a-112 (j) (3) (B) (i)] refers to the restoration of a parent to [his] former constructive and useful role as a parent. . . . [I]n assessing rehabilitation, 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.” (Internal quotation marks omitted.) *In re Eric M.*, 217 Conn. App. 809, 829, 290 A.3d 411, cert. denied, 346 Conn. 921, 291 A.3d 1040 (2023). “An inquiry regarding personal rehabilitation requires us to obtain a historical perspective of the respondent’s child-caring and parenting abilities.” (Internal quotation marks omitted.) *In re Tremaine C.*, 117 Conn. App. 590, 597, 980 A.2d 330, cert. denied, 294 Conn. 920, 984 A.2d 69 (2009). “Although the standard is not full rehabilitation, the parent must show more than any rehabilitation. . . . Successful completion of the petitioner’s expressly articulated expectations is not sufficient to defeat the petitioner’s claim that the parent has not achieved sufficient rehabilitation. . . . [E]ven if a parent has made successful strides in [his] ability to manage [his] life and may have achieved a level of stability within [his] limitations, such improvements, although commendable, are not dispositive on the issue of whether, within a reasonable period of time, [he] could assume a responsible position in the life of [his] children.” (Citations omitted; internal quotation marks omitted.) *In re Alejandro L.*, 91 Conn. App. 248, 260, 881 A.2d 450 (2005).

“[T]he appropriate standard of review is one of evidentiary sufficiency, that 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.” (Internal quotation marks omitted.) *In re G. H.*, 216 Conn. App. 671, 685, 286 A.3d 944 (2022).

“Whether the trial court applied the proper legal standard is subject to plenary review on appeal.” (Internal quotation marks omitted.) *In re Eric M.*, supra, 217 Conn. App. 836. “The interpretation of a trial court’s judgment presents a question of law over which our review is plenary. . . . As a general rule, judgments are to be construed in the same fashion as other written instruments. . . . The determinative factor is the intention of the court as gathered from all parts of the judg-

ment. . . . Effect must be given to that which is clearly implied as well as to that which is expressed. . . . The judgment should admit of a consistent construction as a whole.” (Internal quotation marks omitted.) *In re James O.*, 322 Conn. 636, 649, 142 A.3d 1147 (2016).

The respondent states that he was not seeking to regain custody of Fayth upon his release from prison and argues that the court applied an incorrect legal standard by misinterpreting the phrase “assume a responsible position in the child’s life” in § 17a-112 (j) (3) (B) (i) by requiring him to assume full-time responsibility and custody of Fayth, rather than simply requiring him to assume a responsible position in her life. He contends that the court stated “plainly that it was assessing only whether the respondent could assume full-time parenting responsibilities in determining that he had failed to rehabilitate.”

The court, however, did not state that it was assessing whether the respondent could assume full-time responsibility for Fayth. Rather, it began its analysis of whether the respondent had failed to achieve sufficient personal rehabilitation by quoting the relevant language from § 17a-112 (j) (3) (B) (i). The court stated that § 17a-112 (j) (3) (B) “provides for the termination of parental rights when the child (i) has been found by the Superior Court . . . to have been neglected, abused or uncared for in a prior proceeding . . . and [the respondent] 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.” (Internal quotation marks omitted.) The court then quoted *In re Sarah Ann K.*, 57 Conn. App. 441, 448, 749 A.2d 77 (2000), for the proposition that, in assessing personal rehabilitation, “the critical issue [for the court] 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.” (Internal quotation marks omitted.)

Despite the court’s correct recitation of the legal standard, the respondent focuses in isolation on the following sentences from the court’s detailed analysis to support his claim that the court applied an incorrect legal standard: “[The respondent] is not any closer to being able to care for the child today than from the day he signed the specific steps. The [respondent] does not know when he will be released from prison. He does not have known employment or housing upon his release. His rehabilitation to care for the child is not foreseeable. Finally, and most telling, the [respondent] testified that he wants the child’s foster parents to adopt her. He testified that the foster parents have done a good job raising the child. The court has viewed this as an admission that the [respondent] is not a viable

custodian for the child and that he has not rehabilitated to care for the child.”

In those highlighted statements, the court first mentions that it is not foreseeable that the respondent will be able to care for the child. The court’s discussion of the respondent’s ability to care for and meet the needs of Fayth within a reasonable time does not evince the application of an incorrect legal standard. As correctly stated and applied by the court, the critical issue in assessing rehabilitation is whether the parent “has gained the ability to care for the particular needs of the child at issue.” (Internal quotation marks omitted.) *In re Sarah Ann K.*, supra, 57 Conn. App. 448. The court also noted that it viewed the respondent’s testimony as an admission that he was not a viable custodian for Fayth.⁶ It is well established that personal rehabilitation as used in § 17a-112 (j) does not require a parent to prove that he will be able to assume full responsibility for his child, unaided by available support systems. See *In re Eric M.*, supra, 217 Conn. App. 829; see also *In re Migdalia M.*, 6 Conn. App. 194, 206, 504 A.2d 533 (parent not required to “either assume a full time responsibility for a child’s care, or suffer a termination of parental rights”), cert. denied, 199 Conn. 809, 508 A.2d 770 (1986). It is clear, when the decision is read as a whole, that the court required that it be foreseeable within a reasonable time that the respondent be able to assume a responsible position in Fayth’s life.

In its analysis, the court noted that, on February 26, 2020, Fayth was adjudicated neglected, and the court ordered specific steps, which the respondent signed, and which required the respondent to take part in counseling and make progress toward developing parenting skills to provide adequate and safe supervision for the child; to submit to substance abuse evaluation and follow recommendations concerning treatment, including inpatient treatment if necessary, aftercare and relapse prevention; to submit to random drug testing; to avoid using illegal drugs or abusing alcohol or medicine; to cooperate with service providers recommended for parenting and/or substance abuse assessment/treatment; to attend and complete an appropriate domestic violence program; and not to become involved with the criminal justice system. The court then stated that the respondent did not maintain consistent contact with the department until he was incarcerated, refused any in-home support services through the department and told the department that he did not need such services because he was not at fault for Fayth’s removal, did not comply with scheduled drug testing although he admitted to using marijuana and alcohol in the past, and continued to accrue criminal charges after signing and acknowledging the specific steps. The court further noted that the respondent denied that he needed any mental health or substance abuse services until December, 2020, after the restraining order was in place. In

December, 2020, the respondent asked the department to assist him in finding services, and the department referred him to Wheeler Clinic for a mental health evaluation. Although he completed an intake in May, 2021, as a result of which he was diagnosed with post-traumatic stress disorder, bipolar disorder and attention deficient/hyperactivity disorder, was prescribed medication, and received a recommendation of engaging in biweekly services, he failed to follow through and was discharged in June, 2021. Upon requesting another referral from the department, he was provided with new referrals to Wheeler Clinic but failed to follow through. The department referred the respondent to eight different service providers for parenting, mental health, and substance abuse, but he failed to enter or complete any services until May, 2022, while he was incarcerated.⁷ The court noted that the respondent “never complied with any of the specific steps,” and, therefore, “[h]is unaddressed mental health and substance use issues remain unchanged.”⁸ Moreover, the court indicated that the respondent’s motivation to complete the programs had nothing to do with being reunited with Fayth but, instead, was based entirely on obtaining his freedom early. The court then concluded, while reciting the correct standard, that “[the petitioner] proved by clear and convincing evidence that [the respondent] ha[d] failed to achieve rehabilitation that would encourage the belief that he could assume a responsible position in the child’s life within a reasonable time.”

The court’s analysis of the respondent’s failure to achieve sufficient personal rehabilitation evinces the use of a correct legal standard, as the court detailed the respondent’s lack of engagement in services that were aimed at rehabilitation and inability to care for the needs of Fayth within a reasonable time, cited the correct legal standard, and repeated that standard in its conclusion.⁹ See *In re Jason R.*, 306 Conn. 438, 453, 51 A.3d 334 (2012) (“if it is not otherwise clear from the record that an improper standard was applied, the appellant’s claim will fail on the basis of inadequate support in the record” (internal quotation marks omitted)). We conclude, on the basis of the court’s decision as a whole, that the court used the correct legal standard and that there is sufficient evidence to support its determination that the petitioner had proven, by clear and convincing evidence, that the respondent had failed to achieve the degree of personal rehabilitation that would encourage the belief that, within a reasonable time, considering the age and needs of the child, he could assume a responsible position in Fayth’s 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 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, a protective order, or a restraining order that was issued or applied for, or others through whom that person's identity may be ascertained.

** June 29, 2023, the date that this decision was released as a slip opinion, is the operative date for all substantive and procedural purposes.

¹ The court also terminated the parental rights of the minor child's mother, who consented to the termination of her parental rights and has not appealed from the judgment of the trial court. We refer in this opinion to the respondent father as the respondent.

² The respondent also claims that the court improperly determined that he had abandoned Fayth and that there was no ongoing parent-child relationship. In light of our conclusion affirming the court's determination that the statutory ground for termination of parental rights of failure to rehabilitate under General Statutes § 17a-112 (j) was satisfied, we decline to address the respondent's additional claims concerning the court's finding of the statutory grounds of abandonment and lack of an ongoing parent-child relationship. "[T]he statutory grounds necessary to grant a petition for termination of parental rights are expressed in the disjunctive, and the court, therefore, needs to find only one ground to grant a petition to terminate parental rights." *In re Jermaine S.*, 86 Conn. App. 819, 822 n.3, 863 A.2d 720, cert. denied, 273 Conn. 938, 875 A.2d 43 (2005).

³ In December, 2020, the respondent physically attacked the mother in her home, forced her into his car, drove to a dark area, pulled her out of the car by her hair and continued his physical attack. After the attack, the respondent left the mother and drove away. The restraining and protective orders stemmed from this incident. In January, 2021, another physical altercation occurred. The respondent denied involvement in the physical altercation but conceded that he had been with the mother, which constituted a violation of the restraining order.

⁴ Pursuant to Practice Book §§ 67-13 and 79a-6 (c), the attorney for the minor child filed a statement adopting in its entirety the brief filed by the petitioner and supporting the affirmation of the judgment terminating the respondent's parental rights.

⁵ "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." (Internal quotation marks omitted.) *In re Phoenix A.*, 202 Conn. App. 827, 837, 246 A.3d 1096, cert. denied, 336 Conn. 932, 248 A.3d 1 (2021).

⁶ The respondent testified: "I think every day where she's at. I have nothing to say but she's being, you know, taken care of. When I see her, she's well groomed. She looked happy. She's growing. She's smart. And I just want to be in her life as her father and I support her. But I don't mind that she lives with them. They can have the final say. I just want to be in her life. . . . I don't know how I can say it, but all I want is for her to be where she's at and to be raised and to live there, but I have a, not a say, but I could still be in her life as well. You know, take her to see her family, bring her back. She goes to school. I'll be there for her graduations. You know, the simple stuff."

⁷ Although these events occurred after the petitioner had filed the termination petition in October, 2021, the trial court has discretion concerning whether to consider events and behavior that occurred after the filing of the petition to determine whether the respondent had failed to achieve sufficient personal rehabilitation to allow him to assume a responsible position in his child's life. See *In re Jennifer W.*, 75 Conn. App. 485, 495, 816 A.2d 697, cert. denied, 263 Conn. 917, 821 A.2d 770 (2003); see also Practice Book § 35a-7 (a).

⁸ Specifically, the court found that, "[s]ince 2019, [the department] has referred [the respondent] to at least eight different programs to address his mental health, substance abuse, parenting, and intimate partner violence, including: (1) Clifford Beers Community Care Center (the [respondent] did not attend any of the three intakes scheduled); (2) Gary Vertula, LPC (the [respondent] attended the intake and never participated in the recommended follow-up treatment); (3) HELP 24/7 Dads (the [respondent] did not attend

the three scheduled meetings); (4) Family ReEntry's Fatherhood Engagement Services (the [respondent] attended three sessions and then stopped going and answering calls). The [respondent] told [the department] that 'he is a busy man and the worker needs to work around his schedule, which is 7 a.m. -10 a.m.' When attempts were made to contact the [respondent] during these hours, they were unsuccessful); (5) Southwest Community Health Center (the [respondent] reported to [the department] that he made an intake appointment for intensive outpatient treatment. [The department] came to learn that no such appointment was ever scheduled); (6) Wheeler Clinic (the [respondent] completed an intake and failed to follow up with the recommended treatment); (7) Beacon Health Options (the [respondent] never engaged); and (8) Wheeler Clinic New Haven and Meriden (the [respondent] never followed up with referrals). The [respondent] failed to complete any program. Each time a program released the [respondent], the [department] found another suitable program to assist him. He was not interested. [The department] made great efforts to reunite the [respondent] with the child without success due to the [respondent's] refusal to engage in much needed services."

⁹ It was not improper for the court to determine that the respondent's engagement in services following his incarceration was insufficient to demonstrate personal rehabilitation given the court's uncontested finding that those actions were not motivated by a desire to reunify with Fayth. See *In re Shane M.*, 318 Conn. 569, 589, 122 A.3d 1247 (2015) (claim that parent's personal motivating factors for participating in programs play no role under § 17a-112 (j) (3) (B) is "stunningly contrary to common sense").
