



Note: In the case title, an asterisk () indicates an appellant and a double asterisk (**) indicates a cross-appellant. Decisions of a three-justice panel are not to be considered as precedent before any tribunal.*

ENTRY ORDER

FEBRUARY TERM, 2025

In re G.J., Juvenile	}	APPEALED FROM:
(S.M., Mother*)	}	
	}	Superior Court, Bennington Unit,
	}	Family Division
	}	CASE NO. 24-JV-00319
		Trial Judge: Howard A. Kalfus

In the above-entitled cause, the Clerk will enter:

Mother appeals from the trial court's determination that G.J. was a child in need of care or supervisions (CHINS).^{*} We affirm.

G.J. was born to mother in late February 2024. G.J. remained hospitalized until March 6, 2024, when the Department for Children and Families (DCF) filed a petition alleging he was CHINS and G.J. was placed in emergency DCF custody. Following a hearing, the court found that G.J. was CHINS in a May 2024 order.

The court made the following findings. Mother has three older children, none of whom are in her custody. One child lived with their father. The other children were in DCF custody, where they had been for several years. Those children were placed in DCF custody based on domestic-violence, substance-abuse, and mental-health concerns. Mother was not complying with the case plan requirements for those children and, as of May 2024, there was a pending motion to terminate her parental rights.

Mother hid her latest pregnancy from DCF because she feared that G.J. would be removed from her custody. Mother refused to engage in safety planning for G.J. The court concluded that mother's failure to comply with the case plan for her older children meant that she had not adequately addressed the parenting deficiencies that led to those children coming into DCF custody, and it followed that G.J. was CHINS at the time the petition was filed. The court added that, although mother engaged with some service providers, DCF could not gauge if she made sufficient progress to overcome her previously identified parenting deficiencies. It determined that G.J. was CHINS based on the combination of mother's failure to adequately

^{*} At the time of the trial court's order, G.J.'s father had not yet been conclusively identified.

address her parenting deficiencies with respect to her older children and her evasive behaviors in hiding the pregnancy and refusing to engage in safety planning for G.J. The court subsequently issued a disposition order, and this appeal followed.

Mother argues that G.J. was not neglected or at risk of harm at the time that the CHINS petition was filed. She relies on the definition of “risk of harm” and “harm” in 33 V.S.A. § 4912, which relates to the Child Protection Registry. According to mother, there was no evidence here of “imminent risk of physical harm to G.J.” and her failure to engage in safety planning with DCF does not establish that G.J. was CHINS.

A child is “in need of care or supervision” if he “is without proper parental care or subsistence, education, medical, or other care necessary for his or her well-being.” 33 V.S.A. § 5102(3)(B). The State’s burden of proof is a preponderance of the evidence. *Id.* § 5315(a). “Because the critical focus in a CHINS proceeding is on the child’s well-being, the State is not required to demonstrate that the child has suffered actual harm, but rather is subject to a risk of harm.” *In re J.C.*, 2016 VT 9, ¶ 7, 201 Vt. 192; see also *E.J.R. v. Young*, 162 Vt. 219, 223 (1994) (recognizing that “neglect or dependency proceeding is preventative as well as remedial” (quotation omitted)). The principal issue “is whether, given all of the circumstances, the child is without proper ‘parental’ care, such that the child’s well-being is threatened.” *In re J.C.*, 2016 VT 9, ¶ 7, 201 Vt. 192 (quotation omitted). “On review of the court’s CHINS decision, we will uphold the court’s findings of fact unless they are clearly erroneous; we will uphold the court’s legal conclusions where supported by its findings.” *In re M.L.*, 2010 VT 5, ¶ 8, 187 Vt. 291.

Mother fails to demonstrate error here. The definitions upon which she relies are not controlling in this juvenile proceeding. See *In re M.K.*, 2015 VT 8, ¶ 11, 198 Vt. 233 (“declin[ing] to adopt, for purposes of juvenile proceedings, the definition of abuse set forth in [33 V.S.A.] § 4912(1)”). As we explained in *M.K.*, “Section 4912 expressly states that the terms defined therein are for use in that particular subchapter, which deals with the reporting of child abuse for potential placement on the child protection registry” and the child-protection-registry statutes “have legislative goals, functions, and procedures completely different from those governing juvenile proceedings in family court.” *Id.* (quotation omitted). We have nonetheless recognized that “the statutory definition in § 4912(1) can provide some guidance in determining what conduct amounts to abuse sufficient to find a child in need of care or supervision.” *Id.* ¶ 12. We noted that “[d]efinitions of abuse—including those contained in § 4912(1), (6) and Black’s Law Dictionary—generally refer to acts that cause—or create a real risk of causing—physical, emotional, mental, or sexual injury.” *Id.* We emphasized that the terms in the “juvenile-proceedings chapters of Title 33” must be “liberally construe[d] . . . to carry out the central purpose of neglect and dependency proceedings—the protection of children.” *Id.*

As an initial matter, we reject mother’s assertion that G.J. was not CHINS because, on the day the petition was filed, he was safe in the hospital. It is well-established that, in conducting its CHINS analysis, the trial court may consider “the circumstances leading up to the filing of the CHINS petition” as “[t]his allows the court to have a full picture of the child’s well-being and to base its decision on all relevant information.” *In re L.M.*, 2014 VT 17, ¶ 20, 195 Vt. 637. The court engaged in that analysis here. It based its decision on mother’s failure to comply with an existing case plan for her older children, which led to the filing of a termination petition, her attempts to hide her latest pregnancy, as well as her refusal to engage in safety planning for newborn G.J. The court did not rely solely on mother’s “reluctance to allow DCF involvement in the family,” *In re A.O.*, 2023 VT 54, ¶ 17, __ Vt. __, as mother suggests. The court could properly rely on mother’s conduct toward G.J.’s siblings in reaching its conclusion.

See In re J.C., 2016 VT 9, ¶ 7, 201 Vt. 192 (“It is . . . well settled that ‘the family court may rely on evidence of the treatment of a sibling in concluding that a child is a CHINS.’” (quoting Young, 162 Vt. at 224)); see also In re J.J.P., 168 Vt. 143, 148 (1998) (“The court may rely on evidence of a parent’s treatment of siblings to show a pattern of abuse and neglect, and a general inability to protect the children from harm.”). It clearly considered mother’s conduct toward G.J.’s siblings probative of whether G.J. was CHINS. See In re K.B., 154 Vt. 647, 647 (1990) (“The juvenile court must determine on the facts of each case whether the treatment of siblings is probative of neglect or abuse of a juvenile under the court’s consideration.”). The court’s findings are supported by the record and they support the court’s conclusion that G.J. was at risk of harm in mother’s care. To the extent that mother argues that the evidence supports a contrary conclusion, we do not reweigh the evidence on appeal. “We leave it to the sound discretion of the family court to determine the credibility of the witnesses and to weigh the evidence.” In re A.F., 160 Vt. 175, 178 (1993). There was no error.

Affirmed.

BY THE COURT:

Harold E. Eaton, Jr., Associate Justice

Karen R. Carroll, Associate Justice

Nancy J. Waples, Associate Justice