

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

SUPREME COURT DOCKET NO. 2018-186

SEPTEMBER TERM, 2018

In re S.L., Juvenile (M.M., Mother*)	} } } } } }	APPEALED FROM: Superior Court, Franklin Unit, Family Division DOCKET NO. 123-8-17 Frjv Trial Judge: Nancy J. Waples
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In the above-entitled cause, the Clerk will enter:

Mother appeals from the trial court’s determination that S.L. was a child in need of care or supervision (CHINS). She argues that the court erred in basing its decision on S.L.’s testimony. We affirm.

S.L. was born in October 2004. In August 2017, the Department for Families and Children (DCF) alleged that S.L. was CHINS because she was “without or beyond the control of” her parents and “without proper parental care or subsistence, education, medical, or other care necessary for . . . her well-being” 33 V.S.A. §§ 5102(3)(B), (C).¹

Neither mother nor S.L.’s putative father appeared at the CHINS merits hearing, nor did parents take advantage of the court’s offer to continue the hearing to allow them to testify.² S.L. was the sole witness at the December 2017 hearing. The court found her credible and made the following findings. Parents used drugs openly at home. S.L. observed parents smoking marijuana and snorting crushed pills. S.L. knew that the pills were not prescribed to parents because no one in the family ever visited the doctor. Parents routinely took the children with them to buy drugs. The drug-buying trips occurred just after stepfather was paid and S.L. observed parents taking baggies of pills out of their wallets or pockets after arriving home. S.L. further stated that parents frequently spent all of their money on drugs, leading the children to seek food from neighbors. S.L. also testified that mother physically abused her and her sisters. Additionally, she stated that mother neglected the children, leaving S.L. to care for her sisters. Although S.L. was only twelve years old at the time, she described herself as “technically like [her siblings’] mom.”

The court acknowledged that S.L. and mother had frequent conflicts while living together. When S.L. became upset, she would throw things, pound on walls, kick mother’s door, and scream.³ These

¹ S.L.’s siblings, twins born in February 2008, were also subjects of the CHINS petition. The trial court had not issued a disposition order with respect to these siblings at the time S.L. appealed, so this appeal does not relate to their cases.

² Another man has since been identified as S.L.’s biological father. We refer to S.L.’s putative father as stepfather here, and mother and stepfather collectively as “parents.”

³ The incidents that immediately precipitated this petition and CHINS-C count involved S.L. running away and traveling from Georgia to Milton, where she was picked up by police in the early hours

behaviors ceased when S.L. came into DCF custody. S.L. explained that her prior behavior stemmed from depression and frustration, which she did not experience in her foster home. Finally, the court found that several nights before the CHINS merits hearing, mother told S.L. that she was upset that S.L. would be testifying and that she would no longer speak to S.L. if she did so.

Based on these and other findings, the court concluded that S.L. was CHINS as beyond her parents' control and without proper parental care. The court explained that S.L. felt angry about her parents' behavior and she was burdened by responsibilities that parents had abdicated. S.L. responded by lashing out and running away. Additionally, the court found that parents' drug use had a negative impact on S.L., including depriving the family of money for food. S.L. also suffered physical abuse and neglect. Thus, for all of these reasons, the court concluded that S.L. was CHINS. Following the issuance of a disposition order establishing a goal of reunification with a parent, mother appealed.

Mother does not challenge any of the court's findings as clearly erroneous. Instead, she argues that the court was not entitled to rely on S.L.'s testimony without "corroborating evidence." According to mother, S.L.'s testimony was self-serving and vague, and it was insufficient to meet the State's burden of proof.

We reject this argument. As noted above, a child is "in need of care or supervision" when, among other possibilities, she is "without proper parental care or subsistence, education, medical, or other care necessary for . . . her well-being" or "without or beyond the control of . . . her parent . . ." 33 V.S.A. § 5102(3)(B), (C). The State must establish its case by a preponderance of the evidence. 33 V.S.A. § 5315(a). On review of a CHINS decision, the court's findings will stand unless clearly erroneous, and its legal conclusions will stand when supported by the findings. *In re M.L.*, 2010 VT 5, ¶ 8, 187 Vt. 291. To be "clearly erroneous," a finding must lack any credible support in the record. *In re D.B.*, 2003 VT 81, ¶ 4, 175 Vt. 618 (mem.). We have never held that the trial court must have corroborating evidence before crediting a child witness's testimony and mother offers no legal support for this proposition. We emphasize that it is for the trial court alone to weigh the evidence and evaluate the credibility of witnesses. *Cabot v. Cabot*, 166 Vt. 485, 497 (1997). In this case, S.L. testified in detail about parents' drug use and other behavior and the negative effect that it had on her well-being. The trial court found S.L. credible. S.L.'s testimony supports the court's findings and the findings in turn support the court's conclusion that S.L. is CHINS. We find no error.

Affirmed.

BY THE COURT:

Paul L. Reiber, Chief Justice

Marilyn S. Skoglund, Associate Justice

Beth Robinson, Associate Justice

of the morning and returned home. Mother subsequently threatened to smash S.L.'s phone with a hammer, and S.L. took the hammer and threatened to hit mother with it.