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NO. COA11-732
NORTH CAROLINA COURT OF APPEALS

Filed: 6 December 2011

IN THE MATTERS OF:

E.C.G., L.J.G., S.M.G., Caldwell County
and D.A.G. Nos. 09 JA 122, 123, 124 & 125
MINOR CHILDREN.

Appeal by respondent-mother from orders entered 8 December 2010, 7 January 2011, 11 March 2011, and 21 April 2011 by Judge C. Thomas Edwards in Caldwell County District Court. Heard in the Court of Appeals 7 November 2011.

Lauren Vaughan for petitioner-appellee Caldwell County Department of Social Services.

Harrington, Gilliland, Winstead, Feindel & Lucas, LLP, by Anna S. Lucas, for respondent-appellant mother.

Pamela Newell, for the Guardian ad Litem.

THIGPEN, Judge.

Respondent-mother (hereinafter "respondent") appeals from orders adjudicating her minor children, D.G., S.G., L.G., and E.G. ("the juveniles"), to be neglected juveniles. Because amendment of the juvenile petitions to add a new allegation that

the juveniles were abused does not deprive the trial court of subject matter jurisdiction over the juvenile proceedings, we affirm.

On 25 September 2009, the Caldwell County Department of Social Services ("DSS") filed petitions alleging the juveniles to be neglected and dependent. DSS filed new petitions alleging each juvenile to be abused and neglected, but not dependent, on 2 December 2009. On 15 July 2010, DSS filed amended petitions alleging each juvenile was abused, neglected and dependent. On 8 December 2010, the trial court entered a combined adjudication order regarding all four juveniles, which the court amended by order entered 7 January 2011. The trial court concluded that all four juveniles were neglected juveniles and dismissed the allegations of abuse and dependency as to each juvenile. The trial court entered its combined disposition order on 21 April 2011. Respondent filed timely notice of appeal.

Respondent's sole argument on appeal is that the trial court lacked subject matter jurisdiction to enter its adjudication and disposition orders because DSS improperly amended the juvenile petitions to change the nature of the conditions alleged. Respondent's argument is misplaced.

"A trial court's subject matter jurisdiction over all stages of a juvenile case is established when the action is initiated with the filing of a properly verified petition." *In re T.R.P.*, 360 N.C. 588, 593, 636 S.E.2d 787, 792 (2006). At the time DSS filed its petitions in this case, the North Carolina Juvenile Code provided that a trial court may permit a juvenile petition "to be amended when the amendment does not change the nature of the conditions upon which the petition is based." N.C. Gen. Stat. § 7B-800 (2009). Respondent contends the amendment of the petitions in this case to add the condition of abuse changed the nature of the conditions upon which the petitions were based, thus depriving the trial court of subject matter jurisdiction over the juvenile proceedings. However, this Court has never held that an amendment changing the nature of the conditions upon which the petition is based deprives the trial court of subject matter jurisdiction over the juvenile case, and we decline to do so now.¹ Additionally, in *In re M.G.*,

¹We note that subject matter jurisdiction has been implicated in cases in which there was no amendment to a petition. This Court has held that a trial court is without subject matter jurisdiction to enter an order adjudicating a juvenile delinquent on grounds other than those alleged in the petition. *In re Davis*, 114 N.C. App. 253, 441 S.E.2d 696 (1994). Likewise, it is error for a trial court to enter an order adjudicating a juvenile to be a neglected juvenile when DSS did not allege neglect in its petition. *In re D.C.*, 183

187 N.C. App. 536, 653 S.E.2d 581, (2007), *rev'd in part on other grounds*, 363 N.C. 570, 681 S.E.2d 290 (2009), this Court affirmed the trial court's adjudication of neglect, but reversed the order as to abuse, of one of the children because the trial court erred in allowing DSS to amend the petition to add allegations regarding sexual abuse of that child. The trial court's error in *In re M.G.* in allowing the amendment adding the allegation of abuse to the petition did not affect the court's jurisdictional authority to enter an order adjudicating the child neglected. Thus, while an amendment of a juvenile petition changing the nature of the conditions upon which the petition is based may be reversible error,² it does not affect

N.C. App. 344, 644 S.E.2d 640 (2007). However, the foregoing cases are inapplicable to the present case for two reasons: (1) The cases do not involve amendments to a petition, and an order entered after an amendment to a petition is not synonymous with an order entered on grounds other than those alleged in the petition; and (2) the cases involved scenarios in which there was no notice to the parties. In this case, respondent does not contend that the order was entered on grounds other than those alleged in the amended petitions, or that she was deprived of sufficient notice of the amended petitions. In fact, respondent admits in her brief the amended petitions were "served on the parties."

²A reversible violation of N.C. Gen. Stat. § 7B-800 (2009) occurs when additional allegations in a petition change the "nature of the conditions upon which the petition is based." *In re M.G.*, 363 N.C. 570, 572, 681 S.E.2d 290, 291 (2009). Although respondent certainly contends on appeal that the petitions were erroneously amended, respondent limits her

the trial court's jurisdiction over the juvenile proceedings. Accordingly, we affirm the adjudication and disposition orders of the trial court.

AFFIRMED.

Judges Hunter and McCullough concur.

Report per Rule 30(e).

argument to the following: "The trial court did not have subject matter jurisdiction to enter the adjudication and dispositional orders where DSS filed amended petitions which changed the nature of the conditions alleged." Respondent further admits "there appears to be no authority on the issue of whether the trial court has subject matter jurisdiction to rule upon an improperly amended petition." Nonetheless, respondent prays that this Court conclude that "the trial court was without subject matter jurisdiction to enter [the] adjudication and dispositional orders on the Petitions." We have concluded the amendment to the petition did not affect the trial court's subject matter jurisdiction. We decline to address issues other than those presented in Respondent's brief. See *Powell v. City of Newton*, ___ N.C. ___, 703 S.E.2d 723, 732 (2010) ("The function of all briefs . . . is to define clearly the issues presented to the reviewing court and to present the arguments and authorities upon which the parties rely in support of their respective positions thereon. The scope of review on appeal is limited to issues so presented in the several briefs. Issues not presented and discussed in a party's brief are deemed abandoned") (quoting N.C. R. App. P. 28(a)).