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NO. COA11-761  
NORTH CAROLINA COURT OF APPEALS

Filed: 18 October 2011

IN THE MATTER OF:

K.T., T.T., and  
A.T.

Wake County  
Nos. 09 JT 05-07

Appeal by respondent-mother from order entered 6 April 2011 by Judge James R. Fullwood in Wake County District Court. Heard in the Court of Appeals 26 September 2011.

*Kenneth R. Murphy, III, for petitioner-appellee Wake County Human Services.*

*Pamela Newell, for Guardian ad Litem.*

*Mercedes O. Chut, for respondent-appellant mother.*

CALABRIA, Judge.

Respondent-mother ("respondent") appeals from the trial court's order terminating her parental rights to her three children, K.T. ("Kate"), T.T. ("Tony"), and A.T. ("Albert") (collectively "the children").<sup>1</sup> We affirm.

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<sup>1</sup> The father of Kate and Tony did not appeal the trial court's order. In addition, the parental rights of Albert's father were not adjudicated in the instant case. As a result, the

I. Background

Kate and Tony lived with their maternal grandmother in Alabama from 2004 until 2008, when their maternal grandmother brought them to respondent in Wake County. In the summer of 2008, Wake County Human Services ("WCHS") received reports that respondent struggled to maintain adequate food, housing and utilities for the family, as well as adequate diabetes testing supplies for Tony. The family was provided assistance in October 2008 for rent, food, and utilities.

On 12 January 2009, WCHS filed a juvenile petition alleging that the children were neglected. After nonsecure custody of the children was ordered, WCHS initially placed the children with their maternal grandmother and then placed them in foster care.

Each of the children was diagnosed with various health issues. Kate was initially diagnosed with psychosis in February 2009. Later, she was also diagnosed with adjustment disorder, post-traumatic stress disorder, reactive attachment disorder and dysthymic disorder. Kate also demonstrated stalker-like behavior at school, heard voices, and purported to talk to an

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children's respective fathers are not parties to this appeal.

imaginary friend named "Amanda." Kate was hospitalized on multiple occasions as a result of her mental health issues.

Tony was diagnosed with Type I diabetes and requires insulin injections for the rest of his life. While Tony was in respondent's custody, he managed his own diabetes care, which included monitoring his blood sugar and giving himself insulin injections. During this time, Tony required hospitalization due to dangerously high blood sugar levels. In addition, Albert was diagnosed with an adjustment disorder and anxiety.

On 25 February 2009, the trial court adjudicated all three children neglected juveniles, continued custody of the children with WCHS and granted supervised visitation to respondent. The trial court ordered respondent to obtain and maintain housing and employment, comply with all recommendations of her psychological evaluation, participate in intensive reunification services and parenting education, and maintain regular contact with WCHS. After a timely permanency planning hearing, the trial court ordered adoption as the permanent plan for all three children.

On 28 June 2010, WCHS filed a petition to terminate respondent's parental rights alleging that grounds existed to terminate her parental rights under N.C. Gen. Stat. § 7B-

1111(a)(1) (2009) (neglect); N.C. Gen. Stat. § 7B-1111(a)(2) (2009) (failure to make reasonable progress); and N.C. Gen. Stat. § 7B-1111(a)(3) (2009) (failure to pay reasonable portion of child care). The trial court held a hearing on the termination petition on 11 February 2011. On 6 April 2011, the trial court entered an order terminating respondent's parental rights on the basis of all three grounds alleged in the termination petition. Respondent appeals.

## II. Standard of Review

In order to terminate a respondent's parental rights, the trial court must "adjudicate the existence" of one or more of the statutory grounds for termination set forth in N.C. Gen. Stat. § 7B-1111(a). N.C. Gen. Stat. § 7B-1109(e) (2009). The trial court must support its adjudication by findings of fact based upon clear, cogent, and convincing evidence. *Id.* § 7B-1109(f). Our task in reviewing a termination order is to determine whether the "findings of fact are based upon clear, cogent and convincing evidence and whether the findings support the conclusions of law." *In re Huff*, 140 N.C. App. 288, 291, 536 S.E.2d 838, 840 (2000) (internal quotations and citation omitted).

## III. Neglect

Respondent argues that the trial court erred by terminating her parental rights on the basis of neglect. We disagree.

A trial court may terminate parental rights based upon a finding that the parent has neglected the juvenile. N.C. Gen. Stat. § 7B-1111(a)(1) (2009). A neglected juvenile is defined as one

who does not receive proper care, supervision, or discipline from the juvenile's parent, guardian, custodian, or caretaker; or who has been abandoned; or who is not provided necessary medical care; or who is not provided necessary remedial care; or who lives in an environment injurious to the juvenile's welfare; or who has been placed for care or adoption in violation of law.

*Id.* § 7B-101(15).

When a child has been placed with a caretaker other than a parent for a significant period of time prior to a termination hearing, parental rights may be nonetheless terminated for neglect if 1) there has been a prior adjudication of neglect and 2) the trial court finds by clear and convincing evidence a probability of repetition of neglect if the juvenile were returned to the parent. See *In re Reyes*, 136 N.C. App. 812, 815, 526 S.E.2d 499, 501 (2000).

Respondent does not dispute that the children were previously determined to be neglected. Rather, respondent

challenges the trial court's conclusion that neglect would be repeated if the children were returned to respondent's care.

The trial court's findings of fact reflect respondent's inability to meet her children's needs, particularly Kate and Tony's medical needs. More importantly, the trial court's findings illustrate that it would be unlikely that respondent would be able to meet the children's needs in the future. Respondent challenges several of the trial court's findings which demonstrate respondent's inability to provide the appropriate medical care for Kate's psychosis and Tony's diabetes if they were returned to respondent's care. However, there is sufficient evidence in the record to support these findings.

At the TPR hearing, the children's mental health therapist, Michelle Tart ("Ms. Tart"), testified that in January 2010, she and respondent were present during a meeting at Holly Hill Hospital in which hospital personnel were discussing Kate's mental health after she had been hospitalized for her psychosis. Tart noted that at this meeting, respondent stated that she did not believe that Kate was psychotic. Respondent also stated that Kate's behavior was just a means to get attention. In addition to Ms. Tart, WCHS social worker Sonji Carlton ("Ms.

Carlton") testified that respondent "doesn't feel or believe [Kate] should be on medication" and "doesn't understand the severity of [Kate's] mental illness." Ms. Carlton also testified that she was concerned that Kate would be "pulled off her meds" if she were returned to respondent.

Dr. Bill Legard ("Dr. Legard"), Tony's pediatric endocrinologist, testified that Tony was not capable of managing his own diabetes care. He also testified that although respondent was present during some of Tony's doctor visits, Dr. Legard did not find her "to be very engaged" and there was a "disconnect" between what Dr. Legard and his staff attempted to teach her about Tony's diabetes management and what the respondent understood about his condition. Dr. Legard testified that there was "great potential" for Tony's diabetes to become uncontrolled again if he was returned to respondent.

Respondent also challenges the trial court's findings which reflect she is generally unable to parent the children. These findings were supported by testimony from the children's foster mother. She testified that during respondent's visitation with the children, she observed that respondent did not always engage with the children, and that when respondent did engage with them, her relationship with the children appeared to be more of

a peer relationship rather than a parent-child relationship. Finally, the foster mother testified that respondent failed to redirect the children's behavior during visits when they were not acting appropriately.

The trial court's findings of fact support its conclusion that there was a probable repetition of neglect if the children were returned to respondent's care. Thus, the trial court properly concluded that respondent's parental rights could be terminated on the basis of neglect. Since we have determined one ground exists for the termination of respondent's parental rights, we do not address respondent's remaining arguments regarding the additional grounds for termination found by the trial court. *See In re Humphrey*, 156 N.C. App. 533, 540, 577 S.E.2d 421, 426 (2003).

#### IV. Conclusion

The trial court's findings of fact were based on clear, cogent, and convincing evidence in the record. These findings supported the trial court's determination that respondent's parental rights be terminated on the basis of neglect. The trial court's order is affirmed.

Affirmed.

Chief Judge MARTIN and Judge McGEE concur.



Report per Rule 30(e).