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NO. COA07-744

NORTH CAROLINA COURT OF APPEALS

Filed: 18 December 2007

IN THE MATTER OF

J.C., K.B., L.B.,
and S.B.

Wake County
No. 05 JT 555

Appeal by Respondent-Mother from order entered 30 March 2007
by Judge Monica Bousman in Wake County District Court. Heard in
the Court of Appeals 14 November 2007.

Janna D. Allison for Respondent-Appellant.

*Wake County Attorney's Office, by Suzanne Padgett and Corinne
G. Russell, for Petitioner-Appellee Wake County Human
Services.*

A. Hal Morris for Guardian ad Litem-Appellee.

STEPHENS, Judge.

I. FACTS and PROCEDURE

On or about 8 August 2005, Respondent-Mother ("Respondent") was arrested and incarcerated for worthless checks. On 17 August 2005, the relatives with whom her four children, J.C., seven years old, K.B., four years old, L.B., three years old, and S.B., seven months old, were living following their mother's arrest informed Wake County Human Services ("WCHS") that they could no longer provide housing and care for the juveniles. On 19 August 2005, WCHS filed a Juvenile Petition alleging the children were neglected

and dependent, and an order granting WCHS nonsecure custody was issued on that day. After a hearing on 6 October 2005, at which Respondent stipulated that she had failed to provide her children with a safe home, to provide financial support for her children, and to have L.B. immunized, an order adjudicating the juveniles neglected and dependent was filed on 4 November 2005. The order required Respondent to undergo a complete psychological evaluation, participate in therapy weekly, follow through with referrals to obtain employment and stable housing, and participate in parenting education, if she desired reunification with her children.

At a three-month review hearing on 21 December 2005, the trial court found that Respondent was on track for reunification with the children. In January and February 2006, J.C. and K.B. exhibited increasingly angry, aggressive, and violent behavior, and on 4 March 2006, J.C. was placed in a psychiatric hospital. At a review and permanency planning hearing on 6 June 2006, the trial court found that Respondent was making progress on her case plan and that it was likely the children would return home within six months of that hearing. However, the trial court ordered Respondent to be able to "[a]rticulate the effects of physical abuse on her children."

On 5 September 2006, a permanency planning hearing was held. The trial court found that J.C., K.B., and S.B. were all diagnosed with Post Traumatic Stress Disorder and were engaged in therapy. The trial court further found that Respondent's denial and refusal to accept what had happened to her children made it difficult for

her to be able to assist the children to overcome their mental health issues. The trial court ordered that WCHS be relieved of reunification efforts with Respondent and that if Respondent desired reunification she must, among other things, address the issues of abuse and neglect that have traumatized her children, and become educated regarding her children's diagnoses and the treatment and care they need to begin to heal.

At a subsequent hearing on 2 November 2006, the trial court ordered all visits between Respondent and J.C. to cease, based on the recommendation of J.C.'s therapist. On 18 December 2006, WCHS filed a motion to terminate Respondent's parental rights to her children. Following a hearing on 20 and 28 February 2007, Respondent's parental rights were terminated. From the trial court's order terminating her parental rights, Respondent appeals.

II. DISCUSSION

Respondent assigns error to the trial court's ultimate finding that grounds exist for the termination of her parental rights pursuant to N.C. Gen. Stat. § 7B-1111, in that (1) she neglected the minor children and it is probable that there would be a repetition of the neglect if the children were returned to her care; and that (2) she willfully left the children in foster care for more than 12 months without showing to the satisfaction of the court that reasonable progress has been made in correcting the conditions which led to the removal of the children. For the reasons stated below, we affirm.

Proceedings to terminate parental rights occur in two phases: (1) the adjudication phase, and (2) the disposition phase. *In re Baker*, 158 N.C. App. 491, 581 S.E.2d 144 (2003). In the adjudication phase, findings made by the trial court must be supported by clear, cogent, and convincing evidence, and the findings must support a conclusion that at least one statutory ground for the termination of parental rights exists. *In re Shermer*, 156 N.C. App. 281, 576 S.E.2d 403 (2003). A trial court is only required to find one statutory ground for termination before proceeding to the disposition phase. N.C. Gen. Stat. § 7B-1111(a) (2005). In the disposition phase, the trial court must determine whether termination of parental rights is in the best interests of the child. *In re Blackburn*, 142 N.C. App. 607, 543 S.E.2d 906 (2001).

The standard of review on appeal is whether the trial court's findings of fact are supported by clear, cogent, and convincing evidence and whether the conclusions of law are supported by the findings of fact. *In re Huff*, 140 N.C. App. 288, 536 S.E.2d 838 (2000), *disc. review denied and appeal dismissed*, 353 N.C. 374, 547 S.E.2d 9 (2001). Findings of fact supported by competent evidence are binding on appeal, even though there may be evidence to the contrary. *In re Williamson*, 91 N.C. App. 668, 373 S.E.2d 317 (1988).

Parental rights may be terminated if the juvenile has been neglected. N.C. Gen. Stat. § 7B-1111(a)(1) (2005). A neglected juvenile is one "who does not receive proper care, supervision, or

discipline from the juvenile's parent, guardian, custodian, or caretaker[.]” N.C. Gen. Stat. § 7B-101(15) (2005). When a child has not been in the custody of the parent for a significant period of time prior to the termination hearing, the requisite finding of neglect at the time of the hearing may be based upon a showing of a “history of neglect by the parent and the probability of a repetition of neglect.” *Shermer*, 156 N.C. App. at 286, 576 S.E.2d at 407. Prior adjudications of neglect may be admitted and considered by the trial court, although they will rarely be sufficient, standing alone, to support a termination of parental rights. *In re Ballard*, 311 N.C. 708, 319 S.E.2d 227 (1984). Furthermore, the trial court must also consider any evidence of changed conditions in light of the history of neglect and the probability of a repetition of neglect. *Id.*

Respondent argues there were changed conditions since the time the children were adjudicated neglected. Specifically, she secured a job and housing, and she attended therapy with a licensed therapist, in compliance with the orders of the court. While these were indeed positive changes, they were not the most significant changed conditions. As the underlying juvenile case progressed, it became apparent that the extent of the neglect the children suffered in the care of their mother was far greater than was known at the time of the juvenile petition and subsequent adjudication of neglect. The extent of the children's neglect was evidenced by the serious mental health needs of the three oldest children, including the extreme mental health needs of the oldest child, J.C.,

categorized by his therapist as one of the top 50 most disturbed children in North Carolina. Although Respondent was continuously made aware of the children's mental health concerns, and admitted that J.C. had started having major problems when he was three years old, she did nothing to address those issues before or after the children were removed from her custody.

In the order terminating Respondent's parental rights, the trial court made the following relevant, unchallenged findings of fact:

17. That due to the children's serious psychological issues, it was further ordered at a review hearing conducted in June 2006 that the mother be able to articulate the affects (sic) of physical abuse on children; become educated on her children's current mental health diagnoses and their required care; address the issues of abuse and neglect that her children suffered; draft and follow a budget; and visit [J.C.] at the Yahweh Center.

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25. That during the course of her therapy, the mother did not make any significant progress dealing with the matters that would improve her ability to parent, including issues from her own past, grief issues, and parenting education.

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28. That the therapist provided the mother with a number of free resources she could use to educate herself about her children's mental health issues, but the mother demonstrated no initiative or motivation to do so.

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30. That the mother has done nothing to educate herself about her children's mental health needs.

31. That the mother has not asked any of the children's service providers what her children's needs are, what she needs to know to tend to her children's needs, or anything else that would enable her to provide them with the care they need.

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36. That [J.C., K.B., and S.B.] all have significant psychological issues. [J.C.'s] psychological issues are extreme.

. . . .

39. That [J.C.] has been diagnosed with Post Traumatic Stress Disorder and reactive attachment disorder.

40. That [K.B.] has been diagnosed with Adjustment Disorder with Mixed Disturbance of Emotion and Conduct. In January 2006, [K.B.] was not found to be in need of any therapeutic services; in May 2006, he experienced a significant escalation in aggressive and non-compliant behaviors.

41. That [S.B.] has been diagnosed with Adjustment Disorder, not Otherwise Specified. He demonstrates a significant amount of anxiety.

. . . .

45. That the mother would not acknowledge or discuss [J.C.'s] diagnoses or treatment needs with the social worker. The most she would say about his issues was that she did not do anything to cause the children's problems; and that [J.C.] began having behavioral problems when he was three, and that she did not have anything to do with that.

46. That when the mother would visit with the children, her mood would be very depressed and angry. She had very little emotional energy for the children.

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48. That during visitation with the children, the mother demonstrated no parenting skills

learned in therapy. When asked what she learned in therapy, the mother would state that she could not remember.

. . . .

50. That the mother has not demonstrated any improvement in her parenting skills or in her understanding of the children's mental health diagnoses and needs.

Furthermore, when asked at the hearing, "What have you done to try to learn about [J.C.'s] condition and his needs?", Respondent replied, "Nothing." When asked, "Do you know what [K.B. and S.B.'s] mental health issues are?", she replied, "No." Finally, when asked, "What have you done to try to learn about [K.B. and S.B.'s mental health issues]?", she replied, "Well, I didn't know they had any."

Respondent had seventeen months from the time the children were removed from her care until the time of the termination of parental rights hearing to demonstrate the ability to provide for the care of her children. Furthermore, she had more than eight months from the time she was specifically ordered by the court to inquire into and become educated about her children's mental health issues. Without Respondent's acknowledgment and understanding of her children's exceptional needs and the events that created those needs, she is unable to provide for the needs of her children.

Accordingly, in light of the history of neglect by Respondent and the probability of a repetition of neglect, there is clear, cogent, and convincing evidence that the children remain neglected juveniles, thereby supporting termination of Respondent's parental rights. Although Respondent also challenges a second ground found

by the trial court to support its conclusion to terminate Respondent's rights, we need not review that challenge since we affirm the trial court's conclusion of neglect as a ground for the termination of Respondent's parental rights.

For these reasons, the decision of the trial court is
AFFIRMED.

Judges CALABRIA and ARROWOOD concur.

Report per Rule 30(e).