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NO. COA09-793

NORTH CAROLINA COURT OF APPEALS

Filed: 20 October 2009

IN THE MATTER OF:  
H.R.H.,  
A Minor Child.

Catawba County  
No. 07 JT 83

Appeal by Respondent from order entered 8 April 2009 by Judge C. Thomas Edwards in Catawba County District Court. Heard in the Court of Appeals 28 September 2009.

*Catawba County Department of Social Services, by Lauren Vaughan, for Petitioner-Appellee.*

*Susan J. Hall, for Respondent-Appellant.*

*Pamela Newell Williams, for Guardian Ad Litem.*

BEASLEY, Judge.

Respondent appeals from an order terminating her parental rights in her daughter, "Helen."<sup>1</sup> We affirm.

On 2 March 2007 the Catawba County Department of Social Services (DSS) filed a juvenile petition alleging that Helen was neglected. Following a July 2007 hearing, the trial court entered an order in September 2007 adjudicating Helen as neglected. The trial court found that Respondent left Helen in the care of a teenager while Respondent engaged in sexual relations with a fourteen-year-old female in a motel room. A year later, the trial

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<sup>1</sup>To protect the privacy of the minor, we refer to her in this opinion by the pseudonym "Helen."

court entered a permanency planning order that changed the permanent plan for Helen from reunification with Respondent to adoption. On 16 October 2008 DSS filed a motion to terminate Respondent's parental rights. Following hearings conducted in January, February, and March, 2009, the trial court on 8 April 2009 entered an order terminating Respondent's parental rights in Helen. From this order, Respondent appeals.

Standard of Review

"Termination of parental rights is a two-step process. In the first phase of the termination hearing, the petitioner must show by clear, cogent and convincing evidence that a statutory ground to terminate exists." *In re S.N.*, \_\_\_ N.C. App. \_\_\_, \_\_\_, 669 S.E.2d 55, 58 (2008), *aff'd*, 363 N.C. 368, 677 S.E.2d 455 (2009) (citing *In re Blackburn*, 142 N.C. App. 607, 610, 543 S.E.2d 906, 908 (2001), and *In re Young*, 346 N.C. 244, 247, 485 S.E.2d 612, 614 (1997)).

A finding of any one of those grounds is sufficient to support termination of parental rights. If the petitioner succeeds in establishing the existence of any one of the statutory grounds listed in N.C. Gen. Stat. § 7B-1111, the trial court moves to the second, or dispositional, stage, where it determines "whether it is in the best interests of the child to terminate the parental rights."

*In re Shepard*, 162 N.C. App. 215, 221, 591 S.E.2d 1, 5-6 (2004) (quoting *Young*, 346 N.C. at 247, 485 S.E.2d at 615 and citing *In re Williamson*, 91 N.C. App. 668, 678, 373 S.E.2d 317, 322-23 (1988)) (other citations omitted).

"On appeal, our standard of review for the termination of parental rights is whether the [trial] court's findings of fact

are based upon clear, cogent and convincing evidence and whether the findings support the conclusions of law." *In re Baker*, 158 N.C. App. 491, 493, 581 S.E.2d 144, 146 (2003) (internal quotations and citations omitted). "Additionally, the trial court's findings of fact to which an appellant does not assign error are conclusive on appeal and binding on this Court." *In re S.C.R.*, \_\_\_ N.C. App. \_\_\_, \_\_\_, 679 S.E.2d 905, 909 (2009) (citing *In re J.D.S.*, 170 N.C. App. 244, 250-51, 612 S.E.2d 350, 354-55 (2005)). "The trial court's conclusions of law 'are fully reviewable de novo by the appellate court.'" *S.N.*, \_\_\_ N.C. App. at \_\_\_, 677 S.E.2d at 59 (quoting *Mann Contrs., Inc. v. Flair with Goldsmith Consultants-II, Inc.*, 135 N.C. App. 772, 775, 522 S.E.2d 118, 121 (1999)).

"It is within the trial court's discretion to terminate parental rights upon a finding that it would be in the best interests of the child. We review the trial court's decision to terminate parental rights for abuse of discretion." *In re Shermer*, 156 N.C. App. 281, 285, 576 S.E.2d 403, 406-07 (2003) (citations omitted). "A ruling committed to a trial court's discretion is to be accorded great deference and will be upset only upon a showing that it was so arbitrary that it could not have been the result of a reasoned decision." *White v. White*, 312 N.C. 770, 777, 324 S.E.2d 829, 833 (1985).

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On appeal, Respondent argues that the trial court "abused its discretion" by concluding that grounds existed for termination of

parental rights, and contends that "there was insufficient evidence for the trial court to make such conclusions of law." We disagree.

Preliminarily, we note that Respondent misstates the standard of review. As discussed above, this Court reviews *de novo*, rather than for abuse of discretion, a trial court's legal conclusion that grounds exist for termination of parental rights. Regarding Respondent's assertion that there was "insufficient evidence" for the court's conclusions of law, Respondent has not preserved for appellate review the sufficiency of the evidence presented at the hearing to support the trial court's findings of fact. "In this case, respondent, in her brief to this Court, does not argue that the findings of fact are unsupported by the evidence. Accordingly, those facts are deemed supported by competent evidence." *In re Padgett*, 156 N.C. App. 644, 648, 577 S.E.2d 337, 340 (2003) (citations omitted). Moreover, Respondent does not argue that the trial court abused its discretion by deciding, upon its conclusion that grounds existed, that termination of parental rights was in Helen's best interests. Our review is thus limited to whether the trial court's findings of fact support its conclusions of law.

We conclude that the trial court's findings of fact support its conclusions of law regarding grounds for termination of parental rights. We first address Respondent's contention that the trial court abused its discretion in concluding as a matter of law that grounds exist to terminate her parental rights pursuant to N.C. Gen. Stat. § 7B-1111(a)(1) on the basis of neglect. A parent's rights may be terminated on the ground that the child is

neglected. N.C. Gen. Stat. § 7B-1111(a)(1) (2007). A neglected juvenile is 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.

N.C. Gen. Stat. § 7B-101(15) (2007). "A finding of neglect sufficient to terminate parental rights must be based on evidence showing neglect at the time of the termination proceeding." *Young*, 346 N.C. at 248, 485 S.E.2d at 615. If the child is removed from the parent before the termination hearing, then "[t]he trial court must also consider any evidence of changed conditions in light of the evidence of prior neglect and the probability of a repetition of neglect." *In re Ballard*, 311 N.C. 708, 715, 319 S.E.2d 227, 232 (1984).

Respondent argues that the findings of fact do not support the court's conclusion that Respondent neglected Helen and that the neglect is ongoing. We disagree, and note the following pertinent findings of fact:

24. Karen Brown, a Licensed Psychological Associate then employed by Family Net, completed a psychological evaluation of the Respondent Mother beginning in August 2007. Said evaluation was based on multiple meetings and interviews with the Respondent Mother, a review of her psychiatric records from Catawba Valley Medical Center, Broughton Hospital, and Frye Regional Center, a review [of] the Department of Social Services records, and a battery of independent tests.

25. During her evaluation with Ms. Brown, the Respondent Mother denied much of her documented history, including her history of alcohol abuse, suicide attempts, sexual abuse as a child, and her sexual relationship with K.P. (the 14-year-old victim of her sex offense).
26. Ms. Brown's psychological evaluation of the Respondent Mother in the fall of 2007 suggested, and the Court finds, that she suffers from diagnoses of: (Axis I) Mood Disorder, Not Otherwise Specified, and Rule Out Delusional Disorder, (Axis II) Personality Disorder, Not Otherwise Specified, with schizoid, paranoid, and borderline traits; and (Axis IV) Problems with primary support and legal involvement.
27. The Respondent Mother has a chronic history of severe depression. The Respondent Mother's unwillingness to receive consistent treatment negatively impacts her ability to parent a minor child. The Respondent Mother has not received consistent treatment for her mood disorder, personality disorder, or depression, despite diagnoses as early as 1995.
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29. Personality disorders, such as that suffered by the Respondent Mother, are pervasive patterns of interacting, which are long-term, chronic, and resistant to change. Such disorders require years of treatment, and progress is unlikely unless the client is engaged and motivated. The Respondent Mother is not engaged and motivated. The Respondent Mother's particular personality disorder and other diagnoses are characterized by significant detachment from others around her, chronic self-destructive behaviors, poor judgment, chronic self-injurious behaviors, an inability to manage daily stressors, delusional thinking and skillfully manipulative behaviors. The nature of the Respondent Mother's disorder makes establishment of any therapeutic relationship problematic.

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32. Beginning on October 23, 2007, the Respondent Mother was under order by this Court to obtain a sex offender specific evaluation. The Respondent Mother completed a psychosexual assessment with Patricia Meredith, a Licensed Clinical Social Worker and then Family Services Clinical Program Manager, at Family Net in May and June 2008. Ms. Meredith noted many inconsistencies in the self-report of the Respondent Mother concerning her psychiatric history, her substance abuse history, her history of sexual abuse, and her history of domestic violence. The Respondent Mother reported to Ms. Meredith the unusual means by which she became pregnant with her second child, born during the pendency of this action. The Respondent Mother reported that the child's father masturbated nearly to the point of ejaculation before penetrating her. The Respondent Mother stated that she believed that her plan to become pregnant for the second time by a married man who had other children, while she herself had insufficient means of support, was 'okay.' Ms. Meredith testified, and the Court finds, that the Respondent Mother's dishonesty and inconsistency [sic] does not bode well for successful treatment in the future.

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34. Ms. Meredith testified, and the Court finds, that the Respondent Mother would require long-term mental health treatment, involving weekly sessions over a period of two to five years. The Respondent Mother is not likely to engage in or benefit from such treatment, as she does not appear motivated to make any change. Her want of motivation is reflected in the Respondent Mother's multiple psychiatric hospitalizations since 1997.

35. Ms. Meredith's prognosis for the Respondent Mother is poor, and the Court so finds. She noted, and the Court finds, that the Respondent Mother has difficulty coming up with any criteria she utilizes to evaluate individuals who are safe for her and her child, that [t]he Respondent Mother's behavior indicates that she does not have the skills to recognize danger and protect herself or her children, that the Respondent Mother's

understanding of trust and boundaries is significantly impaired, and that the Respondent Mother has poor decision making skills. Ms. Meredith noted that the personality disorder, which has been a consistent diagnosis during the last decade or so, is not impacted by medication and rarely by therapy.

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38. Despite over 13 years of psychiatric treatment and numerous hospitalizations, the Respondent Mother has not moved forward in her ability to select safe individuals to associate with or to improve her decision making skills.

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42. The Respondent Mother did not begin participating in any mental health treatment until the fall of 2008, following her criminal conviction, when she obtained certain assessments and began counseling with DonLin Counseling. Such assessment and treatment is a requirement of the Respondent Mother's criminal probation. The value of that assessment and treatment is minimal, if at all, given the Respondent Mother's continued dishonesty and manipulation, as set forth below.
43. On September 24, 2008, the Respondent Mother obtained a Mental Health Sex Offender Specific Evaluation from Don Farris of DonLin Counseling in North Wilkesboro, North Carolina. Mr. Farris was not aware of the specific facts surrounding the Respondent Mother's sexual offense with the minor K.P., as found by this Court, including the presence of the minor child [Helen] in the same hotel room where the offense took place.
44. During the Respondent Mother's evaluation by Mr. Farris, she initially denied any mental health history. Mr. Farris did not review any records related to the Respondent Mother's mental health history. He did not review the prior psychological evaluation completed by Karen Brown or the psychosexual evaluation completed by Patricia Meredith. When he later confronted the Respondent Mother about her



mental health history during a second interview, she mentioned some hospitalizations as a teenager at Frye, Broughton, and Baptist hospitals, but continued to deny significant portions of her mental health history. In addition, the Respondent Mother denied her history of suicidal ideation and attempts, her history as a victim of physical and sexual abuse and portions of her criminal history. Mr. Farris did not seek other verification of the Respondent Mother's self-report. The value of the evaluations completed in Alexander County and by DonLin Counseling, in light of the Respondent Mother's failure to disclose significant history, is minimal if at all. Mr. Farris testified, and the Court finds, that the Respondent Mother's failure to be truthful about her history does not bode well for the success or value of any treatment she has received.

45. The Respondent Mother's explanations to Mr. Farris about her sexual offense, including her statements that she was unaware at the time of the offense that the victim was 14 years old, were deceptive and dishonest.
46. Mr. Farris also evaluated the Respondent Mother's mother, C.G., as a potential supervisor for the Respondent Mother's contact with children. Mr. Farris was not aware of significant portions of the history of sexual abuse or allegations of sexual abuse involving Ms. C.G. and her children.
47. Nancy Joyce of DonLin Counseling completed a Brief Psychological Evaluation of the Respondent Mother in October 2008. Her evaluation also was based on the self-report of the Respondent Mother. Again, the Respondent Mother's accounting of her history was inaccurate and incomplete. Ms. Joyce reviewed none of the Respondent Mother's mental health history or prior evaluations. Ms. Joyce's evaluation indicated that the Respondent Mother tends to be easily influenced and is prone to shallow and rapidly changing emotions. She also noted the Respondent Mother's tendency toward theatrical reactions in crises, creating a greater potential for substance abuse. Ms. Joyce testified, and the Court finds, that the

psychological evaluation completed by Karen Brown is a more comprehensive assessment of the Respondent Mother's psychological functioning and prognosis.

48. As a result of her own manipulative and deceptive behaviors, the Respondent Mother has not, to this day, engaged in any effective treatment for her mental health problems or for her sexual offense since she first married as a teenager in 1995.

In summary, these findings demonstrate that Respondent's failure to complete treatment and counseling for sexual abuse and her mental health problems make it more probable that there will be a repetition of neglect. We hold the findings support a conclusion that Helen was neglected at the time of the termination hearing. *See In re Parker*, 90 N.C. App. 423, 430, 368 S.E.2d 879, 884 (1988) (findings regarding neglect that existed prior to removal of the children from the home and the conduct of the mother while the children were in foster care supported the conclusion of the trial court that at the time of the termination proceeding, the children were neglected).

Having upheld this ground for termination of parental right, it is not necessary for us to consider Respondent's arguments concerning the other grounds upon which her parental rights were terminated. *In re D.B.*, 186 N.C. App. 556, 562, 652 S.E.2d 56, 60 (2007), *aff'd per curiam*, 362 N.C. 345, 661 S.E.2d 734 (2008).

The order is affirmed.

Affirmed.

Chief Judge MARTIN and Judge ELMORE concur.

Report per Rule 30(e).