NO. COA09-838

NORTH CAROLINA COURT OF APPEALS

Filed: 8 December 2009

IN THE MATTER OF:

M.K.M., C.R.M. & S.S.M.

Caldwell County
Nos. 00 JA 27
01 JA 17
02 JA 1

Appeal by Respondent-Mother and Respondent-Father from orders entered 4 February and 30 March 2009 by Judge L. Suzanne Owsley in District Court, Caldwell County. Heard in the Court of Appeals 9 November 2009.

Lauren Vaughan for Caldwell County Department of Social Services, Petitioner-Appellee.

Richard Croutharmel for Respondent-Mother-Appellant.

Mary McCullers Reece for Respondent-Father-Appellant.

Pamela Newell Williams for Guardian Ad Litem, Respondent-Appellee.

McGEE, Judge.

Respondent-Mother and Respondent-Father (together Respondents) appeal from orders terminating their parental rights to M.K.M., C.R.M. and S.S.M. For the following reasons, we affirm.

Factual Background and Procedural History

Respondent-Mother and Respondent-Father (Respondents) were foster care parents licensed by the Caldwell County Department of

Social Services (DSS). In 2001, Respondents adopted two biological siblings, M.K.M. and C.R.M. About a year later, Respondents adopted S.S.M., a biological sibling of M.K.M. and C.R.M. In September 2004, staff at C.R.M.'s preschool noticed marks and bruises on C.R.M., who told staff that the bruises were inflicted by Respondents. S.S.M. started attending the same preschool in January 2006, and on 2 February 2006, the staff noticed a severe burn mark on S.S.M.'s hand and a small cut on her head. S.S.M. told the preschool staff that Respondent-Mother had inflicted the burn. S.S.M. also told the staff that C.R.M. had been absent from school because Respondent-Father had bruised C.R.M.'s leg. The preschool contacted DSS about its concern for the safety of the children.

The next day, C.R.M. and S.S.M. were taken to Mission Memorial Children's Clinic (the Clinic) for a Child Maltreatment Evaluation. S.S.M. later told DSS staff that the burn on her hand was caused by Respondent-Mother and that Respondent-Father had hit C.R.M. with a belt. The Clinic's examiners determined that the bruises on C.R.M.'s leg were intentionally inflicted injuries. The Clinic's evaluation noted a history of unexplained injuries for both C.R.M. and S.S.M.; developmental delays for both children that "appear to be improving over time"; and the children's small size. Respondents denied inflicting injuries on the children.

Subsequently, a DSS social worker spoke with the children and Respondents. Respondent-Mother initially denied any knowledge of C.R.M.'s bruising; however, on 6 February 2006, Respondent-Mother

admitted Respondent-Father had spanked C.R.M. with a belt. Respondent-Father admitted to DSS on 10 February 2006 that he had spanked C.R.M. with a belt. M.K.M. disclosed to DSS that Respondents would tape the hands and feet of C.R.M. and S.S.M., put them in their room, and "then she, mom[m]a and daddy would go shopping[.]" M.K.M. also disclosed to DSS that C.R.M., with his feet and hands bound, had hopped from his room and fell and cut his lip. On 27 February 2006, DSS filed juvenile petitions alleging that C.R.M. and S.S.M. were abused, neglected and dependent juveniles and that M.K.M. was a neglected and dependent juvenile. DSS took nonsecure custody of the children. Respondents were offered case plans after the children were removed from the home, but they refused to sign the plans.

The trial court conducted adjudication hearings in May, June, August, September, October and November of 2006. Respondents were again offered case plans in October 2006, but Respondents again declined to sign the plans. By order filed 30 November 2006, the trial court adjudicated the children neglected. Based upon testimony from Respondents, the preschool staff, the Clinic's pediatrician, the forensic interviewer, and the children's pediatrician, the trial court found: (1) C.R.M.'s injuries on 3 February 2006 were intentionally inflicted by Respondent-Father and that this was not the first time C.R.M. sustained intentionally inflicted injuries in Respondents' home; (2) S.S.M.'s burn was intentionally inflicted and this was not the first time S.S.M. sustained intentionally inflicted injuries in the Respondents'

home; (3) Respondent-Mother's explanation of how S.S.M.'s burn happened was not credible; and (4) M.K.M. had resided in the home where these intentional injuries were inflicted upon her brother and sister and she had been aware of the nature, extent and cause of these injuries.

The trial court held a dispositional hearing on 14 February 2007 and filed a written dispositional order on 7 March 2007. The trial court found: (1) that Respondent-Mother had asked a family friend to come to court on her behalf and provide false testimony to the court; (2) that the friend declined to do so; and (3) that Respondent-Mother acknowledged she had asked the friend to lie for her in court. The trial court also found that the persistent low weights of C.R.M. and S.S.M. while in the care of Respondents, and their significant weight gains during the first five weeks in foster care, was evidence of "psychosocial failure to thrive" and maltreatment of C.R.M. and S.S.M. The trial court next found that the children reported that Respondents taped C.R.M. and S.S.M. as a means of discipline and that Respondents placed feces in the faces of C.R.M. and S.S.M. when they had toilet accidents. The trial court further found that the children lived in an emotionally abusive environment with Respondents; that all three children have mental health diagnoses; and that a return of the children to Respondents "would cause all progress in counseling to be undone." The trial court continued custody with DSS, ceased reunification efforts, and ordered no visitation for Respondents. Respondents appealed from the disposition and adjudication orders.

After the trial court ceased reunification efforts, Respondents began voluntarily seeking services through providers of their own choosing. Specifically, Respondents entered therapy with Margaret Doerle at Carpe Diem Counseling Practice; participated in a Tweeners Parenting/Nurturing Class; and received mental health assessments by Jan Richardson, who worked with Respondents for approximately one and one-half years. Respondent-Mother was offered another case plan in January 2007, but she refused to sign it. The trial court entered review orders in March, April, October and November of 2007. In its March 2007 order, the trial court declined to enter a permanent plan because of the appeal, but it did "adopt[] the Family Services Case Plan." This Court affirmed the trial court's disposition and adjudication orders in an unpublished opinion filed on 18 December 2007, *In re M.K.M.*, 187 N.C. App. 812, 654 S.E.2d 83 (2007).

The trial court conducted a permanency planning hearing on 9 April 2008. By order filed 9 April 2008, the trial court found that prior to adopting the children, Respondents were provided numerous services to assist the parents in meeting the needs of the children. In its April 2008 order, the trial court noted Respondents' efforts, including obtaining psychological evaluations, anger management counseling, parenting sessions and paying child support for the minor children. However, the trial court also noted: (1) depositions of the children "detailing horrific discipline methods;" (2) the children's pediatrician's description of the intentional burn inflicted on S.S.M.; (3) the

"untruthful dialogue presented by Respondents to the [DSS] which was later recanted by them;" and (4) Respondent-Father's guilty plea to misdemeanor child abuse. The trial court found that the children had found stability and security that had been lacking in Respondents' home and had shown excellent progress in dealing with the trauma experienced at the hands of Respondents. The trial court ordered that the permanent plan be adoption.

On 4 June 2008, DSS filed a motion for termination of parental rights based upon grounds under N.C. Gen. Stat. § 7B-1111(a)(1), (a)(2), and (a)(3). The adjudication hearings on the motion for termination of parental rights were conducted in October and November 2008 and January 2009. At the adjudication hearings, Respondents presented evidence from their parenting instructor, their counselor, and their anger management/marriage counselor. Jan Richardson, Respondents' counselor, testified that Respondents had appropriate parenting abilities and should have the children returned to them. Respondents' parenting instructor, Jill Duffy, testified that Respondent-Father had shown growth on all aspects of his parenting assessment; and that Respondent-Mother had successfully completed the class, performing in the average to above-average range on the class's assessment. Margaret Doerle, Respondents' anger management/marriage counselor, opined in her reports received by the trial court that she did not observe anger issues, abuse issues, psychological issues or emotional issues present in either Respondent; that Respondents appear to be "loving" parents; and that the children should be returned to

Respondents. The trial court also heard testimony from Respondents and DSS social workers, and received into evidence the February 2007 depositions of the children and the February 2006 photographs of C.R.M. and S.S.M. The trial court found grounds existed to terminate the parental rights of Respondents under N.C. Gen. Stat. § 7B-1111(a)(1) and (a)(2).

The disposition phase of the termination hearing was held in January, February and March of 2009. The trial court heard testimony from several witnesses, including a DSS social worker, the children's therapists, and Respondents. The trial court concluded that the best interests of the children would be served by terminating the parental rights of Respondents. Respondents appeal.

The issues on appeal are whether the trial court erred by: (1) relying on findings made at the initial March 2007 disposition to support its termination of parental rights adjudication order; (2) not specifically informing Respondent-Mother of the steps she needed to take to reunify with her children; (3) finding grounds existed to terminate Respondents' parental rights; and (4) concluding that it was in the children's best interests to terminate Respondent-Mother's parental rights.

Grounds for Termination of Parental Rights

We first address Respondents' arguments regarding grounds for termination of parental rights. Respondents contend the trial court erred by finding and concluding that sufficient grounds existed to terminate their parental rights. As we find it

dispositive, we review only the trial court's conclusion that grounds existed under N.C. Gen. Stat. § 7B-1111(a)(1), providing for termination of a respondent's parental rights when the parent has "abused or neglected the juvenile."

A termination of parental rights proceeding is conducted in two phases: (1) an adjudication phase that is governed by N.C.G.S. § 7B-1109; and (2) a disposition phase that is governed by N.C.G.S. § 7B-1110. *See In re Shepard*, 162 N.C. App. 215, 221, 591 S.E.2d 1, 5, *disc. review denied*, 358 N.C. 543, 599 S.E.2d 42 (2004). During the initial adjudication stage, the petitioner has the burden of proving by clear, cogent, and convincing evidence the existence of one or more of the statutory grounds for termination set forth in N.C.G.S. § 7B-1111. *Id.* The standard of review of the adjudication phase is whether the trial court's findings of fact are supported by clear, cogent, and convincing evidence and whether the findings of fact support its conclusions of law. *See In re Oghenekevebe*, 123 N.C. App. 434, 439-41, 473 S.E.2d 393, 397-99 (1996).

To prove neglect in a termination case, there must be clear and convincing evidence that (1) the juvenile is neglected within the meaning of N.C. Gen. Stat. § 7B-101(15), "and (2) the juvenile has sustained 'some physical, mental, or emotional impairment . . . or [there is] a substantial risk of such impairment as a consequence'" of the neglect. *In re Reyes*, 136 N.C. App. 812, 815, 526 S.E.2d 499, 501 (2000) (quoting *In re Safriet*, 112 N.C. App. 747, 752, 436 S.E.2d 898, 901-02 (1993)). N.C. Gen. Stat. § 7B-

101(15) (2007) provides in pertinent part that a child is neglected if the child "does not receive proper care, supervision, or discipline from the juvenile's parent, guardian, custodian, or caretaker[.]" If the child has been removed from the parents' custody before the termination hearing, and the petitioner presents evidence of prior neglect, including an adjudication of such neglect, 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) (citation omitted).

When, as here, children have not been in the custody of a parent for a significant period of time prior to the termination hearing, a trial court may also consider as grounds for termination a showing of a "history of neglect by the parent and the probability of a repetition of neglect." *In re Shermer*, 156 N.C. App. 281, 286, 576 S.E.2d 403, 407 (2003). With respect to Respondents, the trial court found that M.K.M., C.R.M., and S.S.M. had previously been adjudicated neglected, and there was a probability of future neglect if they were returned to Respondents' custody.

To support its conclusion that Respondents neglected the children, the trial court made the following pertinent findings of fact:

> 15. The [c]ourt found in the Permanency Planning Order that all three children have mental health diagnoses, likely resulting from their maltreatment, and that each of the children needs therapeutic intervention. The [c]ourt also found that Dr. Clapp, the

aforementioned pediatrician for the minor children, opined that each of the children needed a stable home with normal child-parent relations to assist in their therapeutic recovery and that in the more than two years since the children's removal from the Respondents' home, the children have found stability and security that had been lacking in the home of the Respondents and that the children have shown excellent progress in dealing with the trauma they experienced at the hands of the Respondent parents.

. . .

33. During the course of the [DSS] investigation and subsequent proceeding [sic], the children have reported to social workers, law enforcement officers, foster care providers and to the attorneys at their depositions a consistent account of maltreatment by [Respondents]. The maltreatment reported by the children included reports that both [Respondents] struck the two youngest children with "sticks", electrical cords or a belt; that [Respondent-Mother] burned [S.S.M.'s] hand with a curling iron; that [Respondent-Mother] bound one or more of the children's hands and feet with duct tape as a means of discipline; and that [Respondent-Mother], on more than one occasion, placed feces in the faces of the youngest two children as a method of toilet-training.

34. Both Respondent[s] initially denied all of the allegations of mistreatment reported by the children.

35. [Respondents] eventually admitted that the severe bruising discovered in February, 2006 on [C.R.M.'s] legs, side and back was caused by [Respondent-Father] when he "spanked" [C.R.M.] with a belt. [Respondent-Father] voluntarily moved out of the family home following this admission. The children remained in the family home with [Respondent-Mother] until February 24, 2006 when they were placed in the custody of the Department as aforesaid.

36. Both Respondent[s] were charged with

criminal child abuse as a result of [C.R.M.'s] injuries. [Respondent-Mother's] criminal charges were dismissed by the District Attorney and [Respondent-Father] was convicted of child abuse and received a probationary sentence. He has testified that he does not remember the terms of his probationary sentence and does not know whether he is still on probation.

37. Both Respondent[s] have repeatedly asserted to the [c]ourt and to their therapist that [Respondent-Father] just "lost his temper" on that occasion and it was a one-time event. The Court heard extensive testimony from the therapist during this hearing. However, [Respondent-Father] has admitted during his testimony at this hearing, and the [c]ourt so finds, that he struck [C.R.M.] on more than one occasion with a belt as a means of discipline. The [c]ourt notes that this is the first time during the almost three year history of this case that [Respondent-Father] has acknowledged this. [Respondent-Mother] has never acknowledged that either of them struck their children as a means of discipline. She has now admitted that she spanked the children with her hand and admitted that [Respondent-Father] struck [C.R.M.] one time with a belt.

38. Both Respondent[s] continue to, and have always, denied all other reports of intentional mistreatment of the children.

39. The [c]ourt has received photographs of the children which show severe bruising to [C.R.M.'s] arms, legs, hips, side and back; a scar on [C.R.M.'s] face; a bruise on [S.S.M.'s] face; a cut to the back of [C.R.M.'s] head and a cut on the back of [S.S.M.'s] head. The cut on [C.R.M.'s] head and [S.S.M.'] head appear to be the same size, shape and location on each child. The [c]ourt also received the photograph of the burn on [S.S.M.'s] hand.

40. [Respondent-Mother] has offered more than one (inconsistent) explanation of the origin of the burn on [S.S.M.'s] hand. [Respondents] have explained the other injuries observed on the children as injuries suffered by them as a result of their "clumsiness". In response to

the report by the children that feces were held in their faces as a means of toilet training, [Respondent-Mother] admits (and [Respondent-Father] acknowledges seeing her) that she "held up" feces from [C.R.M.'s] dirty diaper to "show" him during the toilet training process while telling him that he should learn to use the toilet like a "big boy". The [c]ourt notes that the school staff reported [that] [C.R.M.] did not have "toilet accidents" at school.

41. [Respondent-Mother] attempted to solicit perjured testimony from a friend during the underlying adjudication proceeding in an attempt to corroborate her own untruthful testimony.

. . .

44. [C.R.M.] and [S.S.M.] had abnormally low body-weights and wore pull-ups when they were removed from the home of [Respondents]. Both children gained significant weight within weeks of removal, and both children became toilet trained within two to three months of removal. After they came into the custody of the Department, their pediatrician, Dr. Clapp, diagnosed [C.R.M.] and [S.S.M.] with psychosocial failure to thrive as a result of physical maltreatment, restricted play and other activity, and insufficient food. [Respondents] assert that they always fed the children properly and allowed them appropriate "play" activity and that the children's low body-weights were due to their respective medical problems. The [c]ourt notes that more than a year before the children were removed from the home of [Respondents], Ms. Waydell Bicking of the Caldwell County Health Department had identified the potential for developmental delays in the two youngest children as a result of an evaluation which showed that the children were not allowed appropriate (for their ages) free play activity, and that the CDSA evaluation of [C.R.M.] in 2002 recommended that he be sent to "mother's morning out" or another similar out of home daily activity to promote developmental progress. [Respondents] did not place [C.R.M.] in any out of home activities with other children until he entered pre-

kindergarten two years later in 2004. The [c]ourt further finds that many of the medical problems reported by [Respondents] have not been substantiated by subsequent medical diagnoses since the children's removal from the home of [Respondents].

. . .

49. Approximately one year after the children came into care and after the Court ceased reunification efforts, the Respondents began voluntarily seeking the services enumerated in the prior proposed case plans through providers of their own choosing. Since that time, both Respondents have completed all tasks set forth in each of the proposed case plans. [Respondent-Mother] signed a Voluntary Support Agreement on December 8, 2006 and her support obligation has been paid by [Respondent-Father] since that date; she had an anger management assessment in November, 2006 and participated in marriage/family counseling at Carpe Diem from November, 2006 until February, 2008; she had a mental health assessment in March, 2007 at Life Works; she started individual counseling at Life Works in June, 2007 which continues as of the hearing in this matter; she had a further evaluation in September, 2007 at Life Works and a psychological evaluation in November, 2007 at Life Works; she participated in and completed Parenting Classes in April, 2007. [Respondent-Father] signed a Voluntary Support Agreement on December 8, 2006 and had paid his support obligation since that date; he obtained an anger management assessment in November, 2006 and attended anger management classes; he participated in marriage/family counseling at Carpe Diem from November, 2006 until February, 2008; he had a mental health assessment in March, 2007 at Life Works; he started individual counseling at Life Works in June, 2007 which continued until February, 2008; he had a further evaluation in September, 2007 at Life Works and a psychological evaluation in November, 2007 at Life Works; he participated in and completed Parenting Classes in April, 2007. Neither of the Respondent[s] . . . signed releases of information with any of their service providers.

. . .

58. The "treatment plan" for [Respondent-Father] included recommendations that he participate in on-going counseling and that he seek a medical evaluation for possible need for prescription medication. He has not followed through with either recommendation. The [c]ourt finds that he has not successfully addressed his treatment goals.

59. Despite the services provided to [Respondent-Father], he appears to have limited insight onto [sic] the effect of the physical mistreatment the children suffered in their home. He particularly lacks insight into how such mistreatment impacted the children's emotional well-being. In response to repeated questions about what he would change if the children were allowed to return to his home, his answer was that he "would not whip them".

60. [Respondent-Mother] has regularly engaged in counseling since June, 2007 and continues to do so. She has remained at "stage four" of the grieving process and has not achieved any "acceptance" of her current situation or that of her children. Her therapy sessions deal primarily with grief and anxiety and there is a great focus in each session about her frustration with the court process and the persons and agencies involved in the court process. [Respondent-Mother] spends a great deal of time denying the underlying allegations of neglect and explaining why they are not true and how they have not been "proved" in the court proceedings. . . .

61. The "treatment plan" for [Respondent-Mother] included recommendations to obtain employment or volunteer her time outside the home, to learn breathing and relaxation techniques, to learn self-forgiveness, to read and study books about the grieving process, to try to engage with friends and acquaintances, to refocus her attention on independent action, to continue counseling, and to seek a medical evaluation for the possible need for prescription medication. As recommended, [Respondent-Mother] did see a physician about her depression and received samples of

> Cymbalta, but she did not take the prescription samples or return to the doctor's office for further assistance, and she still reports depression and inability to sleep.
>
> 62. Despite the many services provided to [Respondent-Mother], and more than one and one-half years of counseling, she cannot articulate to the [c]ourt what she has learned to make her a better parent or what changes she has made in her life that would ensure the safety and emotional stability for the children. In response to examination of these issues by the attorney for the Department, the Attorney Advocate and her own attorney, [Respondent-Mother] has repeatedly answered by saying "it's hard to put into words" or "it's hard to explain". After many questions of this nature, [Respondent-Mother] finally testified that she would "be a better parent" and that she would change her methods of discipline by using "time-out". In response to questions about what is different in her life now, she responded by saying "she misses the kids" and "there is a big hole in her life". The [c]ourt notes that, during the many hours of testimony she provided, [Respondent-Mother], like [Respondent-Father], never articulated any concern or understanding of the impact that the mistreatment of the children in their home had as to the children either in the past or the future.
>
> 63. [Respondent-Mother] appears to be predominately focused on her own anger, grief and loss, and that she is unable to perceive or articulate any real understanding of the children's needs or their experience. The [c]ourt further finds that [Respondent-Mother] appears to have made only limited progress toward her own treatment goals.

Respondents do not challenge the findings of fact. Rather, both Respondents argue that there was no probability of future neglect. To support their argument, Respondents cite to their therapists' testimony that the children should be returned to them.

The trial court made findings of fact regarding past abuse and

the effect of the abuse on the children. The trial court also made findings regarding the probability of future neglect by finding Respondent-Mother's refusal to acknowledge that Respondents struck the children; Respondent-Father's final acknowledgment at the termination hearing that he struck C.R.M. on more than one occasion; Respondents' denial of all other reports of intentional mistreatment of the children; and Respondents' inability to comprehend how the mistreatment of the children impacted the children's well-being. All of these findings are sufficient to support the trial court's conclusion that grounds existed to terminate the parental rights of Respondents based upon neglect. "Having concluded that at least one ground for termination of parental rights existed, we need not address the additional ground[s] . . . found by the trial court." *In re B.S.D.S.*, 163 N.C. App. 540, 546, 594 S.E.2d 89, 93-94 (2004).

Reliance on Previous Findings

Respondent-Father contends the trial court "erroneously relied upon findings made at disposition to support its [Termination of Parental Rights] adjudication order." Respondent-Father specifically challenges the trial court's findings of fact ten and eleven in which the trial court reiterated from the initial dispositional order that the dispositional evidence revealed additional allegations of maltreatment, including the taping of the children's ankles and wrists and their "psychosocial failure to thrive." Respondent-Father argues he was prejudiced by these findings because the findings of fact in the initial disposition

order were based upon the evidentiary standard of competent evidence, and not upon the higher evidentiary standard of clear, cogent, and convincing evidence.

This Court has held that a trial court may take judicial notice of earlier proceedings in the same case. *See In re W.L.M.*, 181 N.C. App. 518, 523, 640 S.E.2d 439, 442 (2007); *see also In re J.B.*, 172 N.C. App. 1, 16, 616 S.E.2d 264, 273 (2005) (the "respondent cites no authority for the contention that 'judicial notice is inappropriate where the other orders have a lower evidentiary standard'"). Further, there is a "well-established supposition that the trial court in a bench trial 'is presumed to have disregarded any incompetent evidence.'" *In re J.B.*, 172 N.C. App. at 16, 616 S.E.2d at 273 (quoting *In re Huff*, 140 N.C. App. 288, 298, 536 S.E.2d 838, 845 (2000), *appeal dismissed and disc. review denied,* 353 N.C. 374, 547 S.E.2d 9 (2001)).

We have held that when a trial court terminates parental rights on grounds of neglect and considers a prior adjudication of neglect, "the court must make an independent determination of whether neglect authorizing the termination of parental rights existed at the time of the hearing." *In re McDonald*, 72 N.C. App. 234, 241, 324 S.E.2d 847, 851 (1985). The record on appeal in the present case reveals that the trial court did, in fact, make the requisite independent determination. *See In re Ballard*, 311 N.C. at 715-16, 319 S.E.2d at 232-33.

The trial court specifically found in its Termination of Parental Rights Adjudication Order:

> 22. In addition to reviewing prior orders of the Court, the Court has had an opportunity to hear witnesses, including each of the Respondent parents, and to examine the documentary and photographic evidence introduced during the hearing of the Motion. *The Court has made and hereby makes its findings of fact as recited herein independently of any findings made by the Court in earlier proceedings*.

(emphasis added). The trial court independently made the findings of fact discussed above, in which the trial court found sufficient evidence of neglect to support termination of parental rights. After hearing the testimony of witnesses, receiving documentary evidence at the termination hearing, and independently making the cited findings of fact, the trial court made, *inter alia*, the following conclusions of law:

> 2. The minor children were previously adjudicated neglected as defined by NCGS §7B-1-1(15)[sic].
>
> 3. This [c]ourt is bound by the findings of fact and conclusions of law made by Judge Edwards in his Orders of Adjudication and Disposition, as the same were affirmed by the North Carolina Court of Appeals.
>
> 4. In *this* adjudication phase of the Termination of Parental Rights proceeding, the Caldwell County Department of Social Services/Movant *has proved through clear, cogent, and convincing evidence* that [M.K.M., C.R.M., and S.S.M.] are neglected as defined by NCGS §7B101(15) in that they did not receive proper care, supervision or discipline and that they lived in an environment that was injurious to their welfare. The [c]ourt so concludes.
>
> . . .
>
> Therefore, the [c]ourt concludes as a matter of law that grounds exist to terminate the parental rights of [Respondent-Father]

> pursuant to NCGS §7B-1111(a)(1) and (2) in and to the minor children [M.K.M., C.R.M., and S.S.M.].
>
> Therefore, the [c]ourt concludes as a matter of law that grounds exist to terminate the parental rights of [Respondent-Mother] pursuant to NCGS §7B-1111(a)(1) and (2) in and to the minor children [M.K.M., C.R.M., and S.S.M.].

Reviewing the order of the trial court, we conclude the trial court made sufficient independent findings of fact and conclusions of law based on appropriate evidentiary standards. The trial court therefore did not improperly rely upon the initial disposition findings. Accordingly, Respondent-Father's argument is without merit.

Reunification Plan

Respondent-Mother contends the trial court violated her constitutional rights by failing to specify what actions she needed to take to reunify with her children. Respondent-Mother argues that the development of a reunification plan is a judicial function and the trial court was required to tell her what actions to take. Respondent-Mother, however, cites no case law to support this argument. The trial court's authority over the parents of juveniles adjudicated neglected is governed by N.C. Gen. Stat. § 7B-904. "If the court finds that the best interests of the juvenile require the parent . . . undergo treatment, it *may* order that individual to comply with a plan of treatment approved by the court[.]" N.C. Gen. Stat. § 7B-904(c) (2007) (emphasis added). Thus, it is within the trial court's discretion to require the parent to comply with the plan. More importantly, Respondent-

Mother was made aware of the steps she needed to take toward reunification. DSS offered Respondent-Mother a case plan in February 2006, October 2006, and January 2007. The trial court adopted DSS's case plan as part of its March 2007 Order. This argument is without merit.

Determination of the Children's Best Interests

Respondent-Mother also assigns error to the trial court's determination of the children's best interests pursuant to N.C. Gen. Stat. § 7B-1110. In determining whether termination of a parent's rights is in the juvenile's best interests, the court is to consider the following:

> (1) The age of the juvenile.
>
> (2) The likelihood of adoption of the juvenile.
>
> (3) Whether the termination of parental rights will aid in the accomplishment of the permanent plan for the juvenile.
>
> (4) The bond between the juvenile and the parent.
>
> (5) The quality of the relationship between the juvenile and the proposed adoptive parent, guardian, custodian, or other permanent placement.
>
> (6) Any relevant consideration.

N.C. Gen. Stat. § 7B-1110 (2007).

In the case before us, the trial court made findings of fact to support the court's determination that it was in the best interests of M.K.M., C.R.M. and S.S.M. to terminate Respondent-Mother's parental rights.

> 12. [Respondents], pursuant to the previous

Adjudication Order and Disposition Order entered by the [c]ourt on the original petitions in this matter, have not seen the minor children since May, 2006. Such Orders were appealed by [Respondents] to the North Carolina Court of Appeals and the Orders were affirmed by the Court of Appeals by a unanimous decision. As a result, it has been almost three years since there was contact between the minor children and these adoptive parents. These three years have been in very critical and important developmental stages in the lives of these three children. [M.K.M.] was six at the time of removal; she is now nine. [C.R.M.] was five at the time of removal; he is now eight. [S.S.M.] was four at the time of removal and she is now seven.

13. The minor children [C.R.M.] and [S.S.M.] have been placed together in the same foster home since October, 2007. This is a potential adoptive home for the minor children. [M.K.M.], who had previously resided in her prior foster home since coming into the custody of the Department, was moved into this same potential adoptive home to be with her siblings in June, 2008. The children are now all placed together and this family has expressed the desire to adopt all three children if they become legally free for adoption.

14. The present foster parents are both employed. The foster father is a contractor and the foster mother is a registered nurse with both a bachelors [sic] and masters [sic] degree. They have sufficient income to support these minor children and to provide for their needs. The residential space is appropriate for these children. The foster family also consists of three other children whose ages are ten, seven and one-half, and four. The oldest one is a boy and the other two children are girls. The[y] have blended well with these three children and consider each other to be siblings. The minor children who are the subject of this action appear bonded with the foster parents and call them "Mom" and "Dad."

. . .

16. All three children are presently in counseling provided by the foster parents with the assistance of the Department. The foster parents regularly and consistently participate in such counseling with the minor children as recommended by the counselors.

17. The minor child, [M.K.M.] was placed in a foster home upon her coming into custody in February, 2006, and she remained in that foster home until June, 2008[,] when she was moved to be in the same home with her younger siblings. She had very few problems after coming into custody of the Department. In May, 2008 she began to express concerns regarding her siblings' safety and the fact that she was not placed with them. She restarted counseling which had previously been discontinued. She then was moved into the home with her siblings in June, 2008 and remains in that placement as of this hearing. Prior to this move, she expressed fears that her siblings would be hurt. She is presently working on these anxiety issues in counseling. The foster parents participate in counseling with her.

18. [M.K.M.] has said she does not want to go back to the home of [Respondents]. She is doing well in school with A's and B's on her report cards. She presently has no medical problems and she is not on any medications at this time.

19. [C.R.M.] was moved seven times since coming into the custody of the Department. He has been in a total of six placements since coming into the custody of the Department. Two of those placements were respite placements and of short duration. He has been in his current placement since mid-October, 2007. He has also been in counseling continuously since October, 2007. He was in counseling prior to that time, as well, but his moves interrupted that counseling. He is now being seen by the same therapist with whom he started counseling and he has been seeing her since October, 2007. He expresses fear and anxiety about being moved from his current placement. He desires to remain where he is. The behaviors he displayed in early childhood have declined significantly. He is presently

> prescribed medication for ADHD. There have been no reports of disruptive behaviors at school. He does have some difficulties with reading and math but the foster parents are working with him to address these issues. He has declared that he does not want to return to the home of the Respondent parents.
>
> 20. [S.S.M.] has been placed with her brother [C.R.M.] since she came into the custody of the Department except for very brief periods when he was transitioned into a new home ahead of her. She has also been in counseling continuously since October, 2007 and she is also being seen by the same therapist with whom she had counseling at the beginning of her custody with the Department. She expresses similar anxieties and fears regarding being moved that [C.R.M.] has expressed. She wants to stay with the foster parents and she does not want to return to the home of the Respondent parents. [S.S.M.] is doing well in school and she does not have any medical issues at this time.
>
> 21. All three children function well in their current environment. Their physical well being has improved. Their educational progress has improved. Their respective medical issues have improved. All three children exhibit trust and affection for the foster parents and their foster siblings.
>
> 22. The permanent plan for these children was established by the [c]ourt to be adoption in April, 2008 following the appeal by the Respondent parents of the adjudication and disposition orders and the resulting decision by the Court of Appeals. There are no other known barriers to adoption except for the parental rights of the Respondent parents. . .

Respondent-Mother does not argue in her brief that these findings of fact are unsupported by the evidence and therefore they are deemed binding on appeal. Consequently, Respondent-Mother has abandoned her assignments of error on these issues. *See In re P.M.*, 169 N.C. App. 423, 424, 610 S.E.2d 403, 404-05 (2005)

(concluding the respondent had abandoned factual assignments of error when she "failed to specifically argue in her brief that they were unsupported by evidence"). Based upon the trial court's unchallenged findings, which reflect a rational reasoning process, we conclude that the trial court did not abuse its discretion in its determination that terminating the parental rights of Respondent-Mother was in the best interests of the children.

We affirm the trial court's order terminating Respondents' parental rights to the children.

Affirmed.

Judges GEER and HUNTER, JR. concur.

Report per Rule 30(e).