

Respondent-mother and respondent-father A.E. are the biological parents of Alex (born March 2006) and Betsy (born December 2007). On 24 March 2006, when Alex was one week old, the Chatham County Department of Social Services ("DSS") removed him from respondents' home and filed a juvenile petition, alleging that respondents' history of domestic violence, drug use, and drug dealing placed Alex at risk of harm. After a permanent planning conference on 28 March 2006, Alex was returned to respondents' custody.

DSS received a new referral regarding respondents in October 2006 about an incident of domestic violence. After investigating the referral, DSS left Alex in respondent-mother's custody since "Respondent father agreed to leave the home, live elsewhere, and therefore alleviate the concern of future domestic violence."

On 20 March 2007, DSS filed a second juvenile petition alleging that Alex was a neglected juvenile. DSS asserted that the second petition had been filed "as a result of the Respondent's [sic] having been recently charged with possession of marijuana and prescription drugs[,] and that "[g]iven the Respondent's [sic] continuing use and/or sale of illegal drugs, and their obvious lack of progress, the juvenile is at risk in their custody." DSS obtained non-secure custody of Alex that same day.

On 29 February 2008, the trial court entered an order adjudicating Alex to be a neglected juvenile. Respondents appealed the trial court's order and this Court vacated and remanded the matter to the trial court on the basis that while "the trial court

made sufficient findings of fact relating to whether [Alex] met the statutory definition of a neglected juvenile[,] the court "failed to make any finding that respondents' neglect had resulted in any impairment or substantial risk of impairment to [Alex]." *In re A.E.*, 193 N.C. App. 454, 667 S.E.2d 340, 2008 N.C. App. LEXIS 1823, *7-8, 2008 WL 4635387, *3 (Oct. 21, 2008) (unpublished). On remand, the trial court decided not to receive additional evidence and, on 4 December 2008, entered an amended adjudication order. The trial court determined that Alex "was impaired and at a substantial risk of impairment" due to respondents' neglect. Accordingly, the trial court again adjudicated Alex to be a neglected juvenile and continued placement and custody with DSS. The trial court also entered a permanency planning order on 4 December 2008, in which it ceased reunification efforts with respect to Alex and established adoption as the permanent plan. Respondent-mother appealed the trial court's amended adjudication order and this Court affirmed that order. *See In re A.B.E.*, ___ N.C. App. ___, 680 S.E.2d 270, 2009 N.C. App. LEXIS 717, 2009 WL 1664651 (June 16, 2009) (unpublished).²

During the initial adjudication and disposition proceedings involving Alex, Betsy was born. DSS filed a juvenile petition alleging that Betsy was a neglected and dependent juvenile on 9 January 2008. DSS alleged that, among other things, respondents' "history of domestic violence and drug activity" indicated that

²Respondent-father did not appeal from the trial court's 4 December 2008 adjudication order.

"[Betsy] is at significant risk of harm if allowed to remain in [respondent's] home." DSS assumed non-secure custody of Betsy by order entered 25 January 2008. In an order entered 29 April 2009, the trial court adjudicated Betsy as a neglected and dependent juvenile and ordered that she remain in DSS custody. After conducting a permanency planning hearing on 28 May 2009, the trial court entered an order on 11 August 2009 ceasing reunification efforts as to Betsy and setting adoption as her permanent plan.

DSS subsequently filed motions in the cause to terminate respondents' parental rights with respect to both Alex and Betsy. The trial court consolidated the motions and conducted a hearing on 8-9 September 2009. On 30 October 2009, the trial court entered separate orders in which it determined that grounds existed to terminate respondents' parental rights. The trial court further concluded that termination was in the best interest of the juveniles, and, consequently, terminated respondents' parental rights with respect to both Alex and Betsy. Respondent-mother timely appealed the trial court's orders to this Court. Respondent-father, however, did not appeal the trial court's orders terminating his parental rights.

Discussion

Respondent-mother argues that the trial court's determination that grounds existed to terminate her parental rights is not supported by findings of fact that are supported by clear, cogent, and convincing evidence. The trial court determined that grounds for termination existed under N.C. Gen. Stat. §§ 7B-1111(a)(1)

(2009) (neglect) and N.C. Gen. Stat. § 7B-1111(a)(6) (incapacity to parent). On appeal, we review the trial court's orders to determine whether the court's findings of fact are supported by clear, cogent, and convincing evidence and whether these findings, in turn, support the court's conclusions of law. *In re S.N.*, 194 N.C. App. 142, 146, 669 S.E.2d 55, 58-59 (2008), *aff'd per curiam*, 363 N.C. 368, 677 S.E.2d 455 (2009). Appellate courts are bound by the trial court's findings of fact "where there is some evidence to support those findings, even though the evidence might sustain findings to the contrary." *In re Montgomery*, 311 N.C. 101, 110-11, 316 S.E.2d 246, 252-53 (1984). The trial court's conclusions of law, however, are reviewed de novo on appeal. *S.N.*, 194 N.C. App. at 146, 669 S.E.2d at 59.

Pursuant to N.C. Gen. Stat. § 7B-1111(a)(1), parental rights may be terminated where the parent has neglected the juvenile. The Juvenile Code defines a neglected juvenile as:

A juvenile 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) (2009). In determining "whether a child is neglected for purposes of terminating parental rights, the dispositive question is the fitness of the parent to care for the child 'at the time of the termination proceeding.'" *In re L.O.K.*, 174 N.C. App. 426, 435, 621 S.E.2d 236, 242 (2005) (quoting *In re*

Ballard, 311 N.C. 708, 715, 319 S.E.2d 227, 232 (1984)). "[A] prior adjudication of neglect may be admitted and considered by the trial court in ruling upon a later petition to terminate parental rights on the ground of neglect." *Ballard*, 311 N.C. at 713-14, 319 S.E.2d at 231. However, as "[t]ermination of parental rights for neglect may not be based solely on past conditions which no longer exist[,] " *In re Young*, 346 N.C. 244, 248, 485 S.E.2d 612, 615 (1997), the 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[,] " *Ballard*, 311 N.C. at 715, 319 S.E.2d at 232. Where, as here, the children have not been in the custody of the parent for a significant period of time prior to the termination hearing, although "there is no evidence of neglect at the time of the termination proceeding . . . parental rights may nonetheless be terminated if there is a showing of a past adjudication of neglect and the trial court finds by clear and convincing evidence a probability of repetition of neglect if the juvenile[s] were returned to [their] parents." *In re Reyes*, 136 N.C. App. 812, 815, 526 S.E.2d 499, 501 (2000).

Here, there is no dispute that Alex and Betsy were previously adjudicated neglected due, in part, to respondents' history of domestic violence, their illicit drug use, and respondent-mother's inability to control her anger. In its order terminating respondent-mother's parental rights, the trial court specifically found that "[t]here is a reasonable probability that [the juveniles] [are] at risk of continuing and repeated neglect, if

returned to the home of Respondent parents and that such neglect would result in a risk of harm and subsequent impairment." In support of this determination, the trial court found:

24. Respondent mother's ability to parent her children is significantly impaired by her inability to control her anger. Although there are no recent reported incidences of violence between Respondent mother and Respondent father, they have a history of domestic violence which has occurred while the children were in the home.

. . . .

26. Respondent mother's anger has been experienced by many who have tried to help her throughout this action. This Court has witnessed Respondent mother's anger at this and other hearings and has witnessed her inability to control and modulate her anger.

27. Respondent mother's anger and her inability to control her anger, puts her children at risk of harm.

. . . .

32. Respondent mother has not attended DBT (Dialectical Behavior Therapy) classes since May, 2009. These classes were previously ordered by the court and were ordered for the purpose of assisting Respondent mother in managing her anger. While attending DBT classes, it appeared that she had made progress, at least within the class. The teacher of the class, Jon Mader, was hopeful that she would continue to make progress and learn to control her anger. Mr. Mader predicted that she would need to attend classes consistently (weekly) for about a year in order for real progress to occur. Respondent mother did not attend for this period of time, nor did she attend consistently.

. . . .

37. Respondent mother has always maintained that she does not use illegal drugs and that

she was angry that Respondent father became involved with drugs. However, on the date of this hearing, a substance appearing to this court and to the law enforcement present to be marijuana was found in Respondent mother's purse as it was searched upon entry to the courtroom.

. . . .

50. Respondent mother and Respondent father have engaged in intimidating behaviors towards service providers. This behavior has continued throughout DSS involvement and has not improved over time.

. . . .

53. On September 9, 2009, this hearing was interrupted when, while being searched for security purposes, Officer Stacey Deese found a knife and a suspicious substance in Respondent mother's handbag. The deputy asked Respondent father to take the knife to his car. Rather than taking the knife to his car, Respondent father placed it outside of the courtroom behind a trash bin and returned to the courtroom. The deputy discovered the knife behind the bin and again asked Respondent father to take it to the car.

54. Later in the day, Officer Garbarino, a deputy who specializes in drug related crime, assisted Officer Deese in questioning Respondent mother about the suspicious substance found in her purse. Respondent mother granted the deputy permission to search her purse. Officer Garbarino found a green leaf-like substance in Respondent mother's glasses case. Upon examination of the substance, Officer Garbarino, was of the opinion that the substance was marijuana. The substance found consisted of two buds of marijuana and marijuana residue which Officer Garbarino described as more than a trace amount of marijuana. Officer Garbarino heard Respondent make a vague reference to having just been at the beach.

55. Officer Garbarino has received training in the identification of marijuana. He is a member of the narcotics team for the Chatham

County Sheriff's Department. He has identified marijuana in the past and participated in investigations that yielded large amounts of marijuana.

56. With the discovery of the marijuana, Respondent father left the courtroom and did not return. Respondent mother became angry and belligerent with Officer Deese and threatened her. This behavior was witnessed by all who were in the court room.

With respect to respondent-mother's anger management issues, the trial court's findings are largely based on the testimony of respondent-mother's therapists, Paula Browder and John Marter. Ms. Browder testified that respondent-mother has "difficulty controlling her anger" and that her anger can be "pretty explosive at times." Ms. Browder also stated that, although respondent-mother stopped coming to therapy sessions in May 2009, she would continue to need "regular" therapy sessions to work on her anger and insecurity issues, as well as the "stress that normally comes in raising children." Ms. Browder also indicated that respondent-mother "continuous[ly]" voiced her anger toward DSS, the trial court, the guardian *ad litem*, and the foster parents. She also gave her opinion that respondent-mother's "difficulty in controlling [her] anger" and "her difficulty in looking at her role in her behavior towards her own children and how that may affect them" would "impact her children."

Mr. Marter, the psychotherapist that conducted the dialectical behavior therapy ("DBT") classes, also testified. Mr. Marter stated that in order for the program to be effective in helping respondent-mother control her anger, she would need to attend 50

weekly classes for approximately one year. Mr. Marter indicated that although respondent-mother had a "slow start" in the program, she had made a "dramatic shift" and had "increased [her] participation" during the nine months preceding the 28 May 2009 permanency planning hearing at which the trial court ceased reunification efforts. However, Mr. Mater also stated that respondent-mother stopped attending DBT classes after the permanency planning hearing and had not returned, despite leaving her two messages expressing his "concerns." This evidence is sufficient to support the trial court's ultimate finding that "Respondent mother's anger and her inability to control her anger, puts her children at risk of harm." See *In re M.N.C.*, 176 N.C. App. 114, 121, 625 S.E.2d 627, 632 (2006) (upholding determination of neglect where evidence indicated that father was unemployed, did not have stable housing, was wanted on outstanding warrants, used illegal drugs, engaged in domestic violence, and failed to complete anger management classes).

Similarly, there is ample evidence in the record to support the trial court's findings regarding respondent-mother's continued involvement with illicit drugs and its potential impact on her children. Prior orders of the trial court document respondent-mother's history of drug involvement, including growing marijuana, selling and transporting drugs, and abusing illegal and prescription drugs. The police raided respondent-mother's house in August 2005, finding marijuana, pain killers, and a loaded gun within reach of the children.

Respondent-mother nonetheless contends that there is no evidence that she is currently involved with drugs, pointing to several negative drug screening results. Contrary to respondent-mother's argument, Deputy Stacy Deese, with the Chatham County Sheriff's Department, testified that when she searched respondent-mother's purse when she entered the courthouse for the termination proceedings, she found what appeared to be marijuana in respondent-mother's glasses case. Deputy Michael Garbarino, also with the Chatham County Sheriff's Department, testified that Deputy Deese showed him the substance and it appeared to be less than half an ounce of marijuana. When the deputies asked her about the substance, respondent-mother simply responded that she had "'forgot[ten]'" that it was in her purse.

The trial court's prior orders in this case and the evidence of the events occurring during the termination proceeding itself support the trial court's finding that "Respondent parents have not ceased their drug use and have made minimal progress, if any, in their efforts at recovery from their drug addictions and/or dependency." See *In re Blackburn*, 142 N.C. App. 607, 612, 543 S.E.2d 906, 909 (2001) (concluding evidence was sufficient to support determination of neglect where evidence showed that mother repeatedly failed to comply with required services, used illegal drugs, was involved in criminal activity, engaged in domestic violence, and exposed daughter to dangerous situations).

The trial court's findings regarding respondent-mother's failure to continue with her mental health and anger management

therapy and her continuing involvement with illegal drugs support the trial court's conclusion that there is a probability of repetition of neglect if the juveniles were returned to respondent-mother and that returning the juveniles to respondent-mother's care would place them at a substantial risk of suffering some physical, mental, or emotional impairment. Accordingly, the trial court did not err in concluding that grounds existed to terminate respondent-mother's parental rights to the juveniles pursuant to N.C. Gen. Stat. § 7B-1111(a)(1). Where, as here, "the trial court finds multiple grounds on which to base a termination of parental rights, and 'an appellate court determines there is at least one ground to support a conclusion that parental rights should be terminated, it is unnecessary to address the remaining grounds.'" *In re P.L.P.*, 173 N.C. App. 1, 8, 618 S.E.2d 241, 246 (2005) (quoting *In re Clark*, 159 N.C. App. 75, 78 n.3, 582 S.E.2d 657, 659 n.3 (2003)), *aff'd per curiam*, 360 N.C. 360, 625 S.E.2d 779 (2006). We, therefore, affirm the trial court's orders terminating respondent-mother's parental rights.

Affirmed.

Chief Judge MARTIN and Judge BEASLEY concur.

Report per Rule 30(e).