

Respondents are the adoptive parents of R.H. Respondent-Mother appeals from a permanency planning order and a permanency planning review order awarding legal guardianship to the foster parents of R.H. Respondent-Father appeals from a permanency planning review order. Respondents jointly contend in separate briefs that the trial court failed to make sufficient findings of fact in compliance with N.C. Gen. Stat. § 7B-907. Respondent-Father additionally contends the trial court violated N.C. Gen. Stat. § 7B-906(c)(6) "by failing to adopt an appropriate visitation plan." We affirm.

This matter has previously been before this Court and, by unpublished opinion filed 7 June 2011, this Court affirmed an order changing the permanent plan for R.H. to guardianship with a court-approved caretaker. *In re R.H., M.H.*, No. COA11-13 (7 June 2011), *disc. review denied*, ___ N.C. ___, ___ S.E.2d ___ (2012). Reference to that opinion is made for a procedural history and factual background to that point in time.

Subsequent to this Court's 7 June 2011 opinion, the trial court conducted a permanency planning review hearing on 15 December 2011 for the purpose of reviewing the progress made in finalizing the permanent plan of guardianship for R.H. The trial court thereafter signed the order granting legal

guardianship of R.H. to her foster parents, which order is the subject of this appeal.

An appellate court's review of a permanency planning order is limited to determining whether there is competent evidence in the record to support the findings of fact and whether the findings of fact support the conclusions of law. *In re J.C.S.*, 164 N.C. App. 96, 106, 595 S.E.2d 155, 161 (2004). The general purpose of a permanency planning hearing is to develop a plan to achieve a safe, permanent home for a juvenile within a reasonable period of time. N.C. Gen. Stat. § 7B-907(a) (2011).

At the conclusion of the hearing, if the juvenile is not returned home, the court shall consider the following criteria and make written findings regarding those that are relevant:

(1) Whether it is possible for the juvenile to be returned home immediately or within the next six months, and if not, why it is not in the juvenile's best interests to return home;

(2) Where the juvenile's return home is unlikely within six months, whether legal guardianship or custody with a relative or some other suitable person should be established, and if so, the rights and responsibilities which should remain with the parents;

(3) Where the juvenile's return home is unlikely within six months, whether adoption should be pursued and if so, any barriers to the juvenile's adoption;

(4) Where the juvenile's return home is unlikely within six months, whether the juvenile should remain in the current placement or be placed in another permanent living arrangement and why;

(5) Whether the county department of social services has since the initial permanency plan hearing made reasonable efforts to implement the permanent plan for the juvenile;

(6) Any other criteria the court deems necessary.

N.C. Gen. Stat. § 7B-907(b) (2011). Findings of fact as to every criterion listed above are not required, but the trial court must make findings of fact as to all of the relevant criteria. *In re J.S.*, 165 N.C. App. 509, 512, 598 S.E.2d 658, 660-61 (2004). If the findings of fact fail to address the relevant criteria, then remand for the making of the appropriate findings may be required. *In re Ledbetter*, 158 N.C. App. 281, 286, 580 S.E.2d 392, 395 (2003).

I.

Respondents argue that the trial court's findings are deficient because they fail to address the issue of whether R.H. could be returned to their home within the next six months. We disagree.

Although the findings do not use the express language that R.H. could not be returned to Respondents' home within six months, it is evident that the trial court reached this conclusion based upon its awarding guardianship to the foster parents and based upon the totality of the findings of fact. See *In re J.C.S.*, 164 N.C. App. at 106, 595 S.E.2d at 161 (by changing the permanent plan to adoption, the trial court found by implication that the child's return home within six months was not in the child's best interest). The trial court's findings reflect that reunification efforts with Respondents were ceased on 11 March 2010, and that since that time Respondents' circumstances have not changed or improved while, at the same time since November 2010, R.H. has been receiving appropriate and loving care in the home of the foster parents. While residing with the foster parents, R.H.'s academic performance has significantly improved. She is undergoing trauma-focused cognitive behavioral therapy through which she addresses feelings of anxiety emanating from events that occurred while she resided in Respondents' home. The trial court found that R.H. has been involved in community recreational activities as a cheerleader, in church activities as a member of a youth group, and in travel with her foster

parents as they have traveled to other states visiting members of her extended foster family. R.H. is happy, self-confident, and comfortable in her current foster home. She is more outgoing, and feels safe, secure and loved. R.H. considers herself a member of the foster family and she wishes to live with her foster parents permanently.

The trial court's findings further reflect that the foster parents understand the legal significance of guardianship, having discussed it at length with DSS personnel and its legal staff, with the attorney advocate for the child, and with the county attorney. The trial court found that the foster parents are "well adjusted, family oriented, church going, hardworking people who instill these attributes in their own children and [R.H.] to nurture a sense of self-worth and self-fulfillment that was neglected in her past placement with the [Respondents]." In contrast, as indicated by the guardian ad litem's report incorporated into the trial court's order, Respondents are not appropriate caregivers for R.H., are unwilling to acknowledge their roles in causing R.H. emotional distress and anxiety, and are unwilling to remedy the situation, prompting the guardian ad litem to recommend that R.H. not be returned to Respondents.

In the 9 January 2012 Permanency Planning Review Order, the trial court also denied Respondent-Father's motion to continue on the basis that Respondent-Father had "not been made aware of the real names of the foster parents/prospective guardians for [R.H.] prior to this hearing." The trial court denied Respondent-Father's motion

on the basis that the prior actions of . . . Respondent[s] . . . as found to be true in prior orders of this court in the matters involving [R.H.] and her sibling, justify the confidentiality of the true names of the prospective guardians, for the safety, protection, and best interest of [R.H.]

In conclusion, the trial court found that R.H. "is in the best place she could be and is where she needs to be," and that the "best plan of care to achieve a safe, permanent home for [R.H.] within a reasonable period of time is: guardianship with [R.H.'s] current foster parents." The trial court concluded that the plan of guardianship with the foster parents is in R.H.'s best interests. We therefore conclude that the trial court adequately addressed the relevant criteria listed in N.C. Gen. Stat. § 7B-907(c).

II.

We next address the contention of Respondent-Father that the trial court violated N.C. Gen. Stat. § 7B-906(c)(6) "by

failing to adopt an appropriate visitation plan." Respondent-Father contends the visitation plan is inappropriate because it permits the child to decide whether to allow visitation. He acknowledges that this Court rejected this argument in the prior appeal but raises it again in the current appeal for preservation purposes pending the decision of the North Carolina Supreme Court as to whether to allow his petition seeking discretionary review of this Court's opinion. Our Supreme Court, subsequent to the filing of the briefs in this appeal, entered an order denying Respondent-Father's petition for discretionary review. As the prior panel's ruling is final and binding, we are bound by our Court's prior decision. *See In re Appeal of Civil Penalty*, 324 N.C. 373, 384, 379 S.E.2d 30, 37 (1989) ("Where a panel of the Court of Appeals has decided the same issue, albeit in a different case, a subsequent panel of the same court is bound by that precedent, unless it has been overturned by a higher court.").

Affirmed.

Judges GEER and McCULLOUGH concur.

Report per Rule 30(e).