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NO. COA12-439  
NORTH CAROLINA COURT OF APPEALS

Filed: 18 September 2012

IN RE: M.R.G., a Minor Juvenile,  
WILLIAM W. SEBASTIAN,  
Petitioner,

v.

Wilkes County  
No. 10 JT 92

JENNIFER DIANE M., JAMES ANDRE  
FRANKLIN G., and M.R.G., minor  
child, by and through her Guardian  
ad Litem, TAMARA LAKEY,  
Respondents.

Appeal by respondent mother from order entered 10 February  
2012 by Judge Michael D. Duncan in Wilkes County District Court.  
Heard in the Court of Appeals 14 August 2012.

*No brief filed on behalf of petitioner-appellee.*

*Harrington, Gilleland, Winstead, Feindel & Lucas, LLP, by  
Anna S. Lucas, for respondent-appellant.*

*Womble Carlyle Sandridge & Rice, L.L.P., by Whitney  
Passmore, for guardian ad litem-appellee.*

GEER, Judge.

Respondent mother appeals from the district court's order  
terminating her parental rights. On appeal, respondent mother

does not challenge the trial court's determination that grounds existed to terminate her parental rights. Rather, she challenges only the trial court's conclusion that termination was in the best interests of the child. Respondent mother does not contend that the trial court failed to make the necessary findings of fact or that any of those findings were unsupported by the evidence. Instead, she argues that the trial court should have weighed the evidence differently. Because the trial court's best interest determination was not manifestly unreasonable, we affirm.

#### Facts

The Wilkes County Department of Social Services ("DSS") became involved with M.R.G. ("Missy")<sup>1</sup> and her parents in December 2009, based on reports of serious acts of domestic violence and substance abuse. At the time of the initial reports, Missy resided with respondent mother, respondent father, her maternal grandmother, and her maternal aunt. However, upon respondent mother's testing positive for controlled substances, Missy was placed with her paternal grandmother in March 2010.

On or about 8 September 2010, DSS filed a juvenile petition alleging that Missy was a neglected juvenile. In an order

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<sup>1</sup>The pseudonym "Missy" is used throughout this opinion to protect the minor's privacy and for ease of reading.

entered 18 October 2010, the trial court adjudicated Missy neglected based on the fact that respondent parents engaged in domestic violence, respondent mother had failed two drug tests, and respondent mother had made little, if any, progress with respect to mental health and drug treatment therapy. The trial court gave DSS custody of Missy, but maintained placement with Missy's paternal grandmother. Respondent mother entered into a family services case plan with DSS on or about 25 October 2010.

The trial court relieved DSS of reunification efforts in an order entered on 9 May 2011, based on respondent mother's failure to make progress on her case plan. Specifically, the court found respondent mother had not participated in parenting classes, had not paid child support, had not participated in random drug screenings, had not had a psychiatric evaluation, and had not participated in Narcotics Anonymous. The trial court changed Missy's permanent plan to adoption in an order entered on 9 June 2011. On 13 July 2011, DSS filed a petition to terminate both parents' rights to Missy based on the following grounds: (1) neglect pursuant to N.C. Gen. Stat. § 7B-1111(a)(1) (2011); (2) willful failure to pay a reasonable portion of the cost of care for the juvenile pursuant to N.C. Gen. Stat. § 7B-1111(a)(3); and (3) willful abandonment pursuant to N.C. Gen. Stat. § 7B-1111(a)(7).

Following a hearing on 19 and 23 January 2012, the trial court entered an order in which it found the existence of all three grounds for termination alleged against respondent mother. The trial court also concluded that termination of respondent mother's parental rights was in the juvenile's best interest. Respondent mother timely appealed from the order.<sup>2</sup>

#### Discussion

Termination of parental rights involves a two-stage process. *In re Blackburn*, 142 N.C. App. 607, 610, 543 S.E.2d 906, 908 (2001). At the adjudicatory stage, "the petitioner has the burden of establishing by clear and convincing evidence that at least one of the statutory grounds listed in N.C. Gen. Stat. § 7B-1111 exists." *In re Anderson*, 151 N.C. App. 94, 97, 564 S.E.2d 599, 602 (2002).

"If the trial court determines that grounds for termination exist, it proceeds to the dispositional stage, and must consider whether terminating parental rights is in the best interests of the child." *Id.* at 98, 564 S.E.2d at 602. The trial court's decision to terminate parental rights is reviewed under an abuse of discretion standard. *In re Nesbitt*, 147 N.C. App. 349, 352, 555 S.E.2d 659, 662 (2001). "An abuse of discretion occurs when the trial court's ruling is so arbitrary that it could not

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<sup>2</sup>The trial court also terminated the parental rights of respondent father, but he has not appealed.

have been the result of a reasoned decision.'" *In re Robinson*, 151 N.C. App. 733, 737, 567 S.E.2d 227, 229 (2002) (quoting *Chicora Country Club, Inc. v. Town of Erwin*, 128 N.C. App. 101, 109, 493 S.E.2d 797, 802 (1997)).

Findings of fact supported by competent evidence are binding on appeal even if evidence has been presented contradicting those findings. *In re N.B., I.B., A.F.*, 195 N.C. App. 113, 116, 670 S.E.2d 923, 925 (2009). "Where no exception is taken to a finding of fact by the trial court, the finding is presumed to be supported by competent evidence and is binding on appeal." *Koufman v. Koufman*, 330 N.C. 93, 97, 408 S.E.2d 729, 731 (1991).

Respondent mother contends that the trial court abused its discretion by concluding that Missy's best interests would be served by termination of her parental rights. We disagree.

The trial court considered all of the factors required by N.C. Gen. Stat. § 7B-1110(a) (2011). Specifically, the trial court found that Missy has resided with the paternal grandmother for 26 out of 31 months of her life; the paternal grandmother wished to adopt Missy; the bond between the paternal grandmother and Missy was strong; the bond between Missy and her parents was weak; the paternal grandmother had been the primary, if not sole, source of support, both financial and otherwise, since

March 2010; and termination of parental rights would best facilitate adoption.

Respondent mother does not dispute that the trial court properly addressed the statutorily-mandated factors or that the findings are supported by the evidence. She points, however, to the progress she made on her DSS case plan following the filing of the termination petition, including her sobriety, and argues that her circumstances at the time of the termination hearing warranted a finding that termination was not in Missy's best interest.

The trial court, however, after considering respondent mother's post-petition progress, ultimately determined that such progress was "not sufficient to persuade the Court that the return of the child to the home of a parent would not expose the child to the same acts/omissions which caused the child to be declared neglected in October, 2010." It was for the trial court to decide whether respondent mother's evidence of progress should outweigh the evidence of the statutorily-mandated factors.

Respondent mother also urges that pursuant to N.C. Gen. Stat. § 7B-1110(a)(6), the trial court should have weighed more heavily the possibility of ordering guardianship with the paternal grandmother. She has not shown, however, that the

trial court's decision to order termination of parental rights as opposed to guardianship with a relative to be manifestly without reason. See *In re J.D.L.*, 199 N.C. App. 182, 191, 681 S.E.2d 485, 491 (2009) (affirming trial court's decision to terminate mother's parental rights to facilitate placement with paternal grandparents). The trial court was "entitled to give greater weight to other facts that it found," *In re C.L.C., K.T.R., A.M.R., E.A.R.*, 171 N.C. App. 438, 448, 615 S.E.2d 704, 709 (2005), *aff'd and disc. review improvidently allowed*, 360 N.C. 475, 628 S.E.2d 760 (2006), including (1) respondent only visiting Missy three times between October 2010 and January 2012; (2) respondent mother not providing any financial support to Missy except for a recent contribution of \$180.00; and (3) respondent mother's history of failing to make progress on her case plan.

Accordingly, we conclude that the dispositional portion of the trial court's order demonstrates that the trial court weighed the evidence and made a reasoned decision that termination of respondent mother's parental rights was in the best interests of Missy. We find no abuse of discretion and, therefore, affirm.

Affirmed.

Judges McGEE and McCULLOUGH concur.

Report per Rule 30(e).