

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority. Citation is disfavored, but may be permitted in accordance with the provisions of Rule 30(e)(3) of the North Carolina Rules of Appellate Procedure.

NO. COA12-778
NORTH CAROLINA COURT OF APPEALS

Filed: 4 December 2012

IN THE MATTER OF:

J.B.L.J.

Lincoln County
No. 10 JT 49

Appeal by respondent-father from order entered 11 April 2012 by Judge Larry J. Wilson in Lincoln County District Court.

Heard in the Court of Appeals 23 October 2012.

Carolyn Crouch for Lincoln County Department of Social Services, petitioner-appellee.

Robert W. Ewing for respondent-appellant father.

K&L Gates LLP, by Anne E. Reuben and John H. Culver III, for guardian ad litem.

THIGPEN, Judge.

Respondent-father appeals from an order terminating his parental rights. We affirm.

On 20 May 2010, the Lincoln County Department of Social Services ("DSS") filed a petition alleging that J.B.L.J. (hereinafter, "John") was a neglected juvenile. John was

subsequently adjudicated as a neglected juvenile and legal custody was awarded to DSS by an order filed 5 August 2010. Reunification efforts with respondent-father were ceased by a permanency planning order filed 13 October 2011. Respondent-father's parental rights were terminated by order entered 11 April 2012.

As grounds for termination of parental rights, the court concluded that respondent-father has: (1) neglected the child and it is probable that there would be a repetition of neglect if the child were returned to respondent-father's care, and (2) willfully left the child in foster care or placement outside the home for more than twelve months without showing to the satisfaction of the court that reasonable progress under the circumstances has been made in correcting the conditions which led to the removal of the child from his care. Respondent-father contends that these conclusions of law are not supported by the findings of fact.

An order terminating parental rights must be based upon findings of fact, supported by clear, cogent and convincing evidence, which establish the existence of a statutory ground for termination of rights. *In re Young*, 346 N.C. 244, 247, 485 S.E.2d 612, 614 (1997). Findings of fact are supported by

clear, cogent and convincing evidence "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). Findings of fact are also binding if the appellant does not challenge them on appeal. *Koufman v. Koufman*, 330 N.C. 93, 97, 408 S.E.2d 729, 731 (1991). We review the court's conclusions of law *de novo*. *In re S.N.*, 194 N.C. App. 142, 146, 669 S.E.2d 55, 59 (2008), *aff'd per curiam*, 363 N.C. 368, 677 S.E.2d 455 (2009).

Respondent-father contends that the court's conclusion of law that he neglected John and that the neglect would probably be repeated if John were returned to respondent-father is not supported by the findings of fact or evidence. He also argues the court erred in concluding that his neglect of the child continued up to the time of the termination of parental rights hearing. He submits that the evidence presented at the hearing shows he has improved his condition since the time of the original adjudication.

A neglected juvenile is one who does not receive proper care or supervision from his parent or guardian, who has been abandoned, who has not been provided necessary medical or remedial care or who lives in an environment injurious to his

welfare. N.C. Gen. Stat. § 7B-101(15) (2011). A parent who has neglected his child may have his parental rights to the child terminated on that basis. N.C. Gen. Stat. § 7B-1111(a)(1) (2011). "A finding of neglect sufficient to terminate parental rights must be based on evidence showing neglect at the time of the termination proceeding." *In re Young*, 346 N.C. at 248, 485 S.E.2d at 615. If the child is not in the parent's custody at the time of 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). The "court must assess whether there is a substantial risk of future abuse or neglect of a child based on the historical facts of the case." *In re McLean*, 135 N.C. App. 387, 396, 521 S.E.2d 121, 127 (1999).

Respondent-father consented to entry of the order adjudicating John as a neglected juvenile. The juvenile adjudication order reflects that domestic disturbances and illegal drug usage by John's parents created a dangerous environment in which John did not always receive proper care and supervision and that respondent-father did not have housing. The court's order directed respondent-father to undertake and

complete the following: (1) intensive outpatient treatment with a drug abuse treatment facility and follow all recommendations, (2) domestic violence treatment, (3) mental health assessment and follow all recommendations, (4) obtain and maintain appropriate housing, and (5) assessment with Vocational Rehabilitation or obtain gainful employment.

The court's findings of fact in the termination of parental rights order show that respondent-father failed to complete or satisfy all of the above mandates of the court. The findings reflect that during the time John has been in foster care, respondent-father has never: had adequate housing for himself and his son; maintained employment for any significant period of time; had adequate income or financial resources to support his child; had a driver's license; or been able to abstain from illegal drug usage for any extended period of time, having last tested negative on a drug screen on 3 May 2011 almost a year prior to the termination hearing on 19 March 2012. The court also found that there is no evidence that respondent-father will stop his drug usage at any time in the near future, that he will be able to establish a stable residence and maintain stable employment, or that he will be able to have transportation

permitting him to take John to school, medical appointments, or other places the child will need to go.

Respondent-father admitted at the termination hearing that: (1) he had smoked marijuana approximately one month prior to the hearing; (2) his current girlfriend also has an addiction to illegal drugs; (3) he has never established independent housing for himself and his child; (4) he has not had the financial resources to support his child; (5) he has only had temporary jobs; and (6) he has not sought to obtain a driver's license though he is eligible for reinstatement of a revoked license.

We have stated that a parent's failure to comply fully with court directives intended to help a parent reunite with a neglected child will support a conclusion that the neglect is likely to continue. See *In re Brim*, 139 N.C. App. 733, 742-43, 535 S.E.2d 367, 372 (2000). We hold that the court's findings of fact are supported by evidence and that they support the court's conclusion of law that respondent-father has neglected his child and that it is probable the neglect is likely to continue.

Respondent-father also contends that the court erred by concluding he has willfully left the child in foster care or placement outside the home for more than twelve months without

showing to the satisfaction of the court that reasonable progress has been made in correcting the conditions which led to the removal of the child. Because we are upholding termination of respondent-father's parental rights on the ground he neglected the juvenile, and only one ground is required to terminate parental rights, it is not necessary for us to consider arguments related to other grounds found by the court. *See In re B.S.D.S.*, 163 N.C. App. 540, 546, 594 S.E.2d 89, 93-94 (2004).

The order terminating parental rights is affirmed.

AFFIRMED.

Judges CALABRIA and BEASLEY concur.

Report per Rule 30(e).