



The Durham County Department of Social Services ("DSS") obtained custody of the juveniles and filed a juvenile petition on 10 December 2010, alleging the juveniles were neglected and dependent. A hearing was conducted on 2 February 2011, and the trial court entered an order concluding that all three juveniles were neglected and that Z.A. was also dependent. The trial court initially set reunification as the permanent plan for the juveniles, with a concurrent plan of guardianship with a court-appointed caretaker. However, by order entered 19 March 2012, the trial court changed the permanent plan for the juveniles to adoption, with a concurrent plan of reunification.

DSS filed a motion and petition to terminate parental rights to the juveniles on 20 February 2012. After hearings held on 20 September and 7 November 2012, the trial court entered an order on 7 January 2013, terminating Respondent's parental rights to the juveniles. The trial court concluded, based on Respondent's neglect of the juveniles, her failure to make reasonable progress to correct conditions that led to removal of the juveniles, her failure to pay a reasonable portion of the cost of care for the juveniles while they were in the custody of DSS, and her incapability to provide for the proper care and supervision of the juveniles, that grounds

existed to terminate Respondent's parental rights. N.C. Gen. § 7B-1111(a)(1)-(3), (6) (2011). Respondent appeals from the order terminating her parental rights.

On appeal from an order terminating parental rights, this Court reviews the order for "whether the findings of fact are supported by clear, cogent and convincing evidence and whether these findings, in turn, support the conclusions of law." *In re Shepard*, 162 N.C. App. 215, 221-22, 591 S.E.2d 1, 6 (2004) (citation and quotation marks omitted). "Findings of fact supported by competent evidence are binding on appeal even though there may be evidence to the contrary." *In re S.R.G.*, 195 N.C. App. 79, 83, 671 S.E.2d 47, 50 (2009) (citation omitted). The trial court's findings of fact that an appellant does not specifically dispute on appeal "are deemed to be supported by sufficient evidence and are binding on appeal." *In re M.D., N.D.*, 200 N.C. App. 35, 43, 682 S.E.2d 780, 785 (2009) (citations omitted). However, "[t]he trial court's conclusions of law are fully reviewable *de novo* by the appellate court." *In re S.N., X.Z.*, 194 N.C. App. 142, 146, 669 S.E.2d 55, 59 (2008) (citation and quotation marks omitted).

Respondent argues the trial court erred in concluding grounds exist to terminate her parental rights. We first

address Respondent's arguments regarding the ground of dependency. Respondent concedes that her mental health issues render her incapable at times of providing for the proper care and supervision of the juveniles. She argues, however, that her substance abuse problems do not contribute to a conclusion of dependency and that her mother should have been found to be an appropriate alternative child care arrangement for the juveniles. We disagree.

Pursuant to N.C. Gen. Stat. § 7B-1111(a)(6), a trial court may terminate parental rights where it finds:

That the parent is incapable of providing for the proper care and supervision of the juvenile, such that the juvenile is a dependent juvenile within the meaning of G.S. 7B-101, and that there is a reasonable probability that such incapability will continue for the foreseeable future. Incapability under this subdivision may be the result of substance abuse, mental retardation, mental illness, organic brain syndrome, or any other cause or condition that renders the parent unable or unavailable to parent the juvenile and the parent lacks an appropriate alternative child care arrangement.

N.C. Gen. Stat. § 7B-1111(a)(6) (2011).

The trial court, pursuant to section 7B-1111(a)(6), made the following findings of fact that support its conclusion that grounds exist to terminate Respondent's parental rights:

24. [Respondent] was first diagnosed for cocaine dependence in February 2010. [She] enrolled in a substance abuse treatment program at Duke Family Care with Andrea Winkler on February 17, 2011, where she was receiving treatment for substance abuse and mental health issues. . . .

25. [Respondent] was also enrolled in the Family Drug Treatment Court (FDTC) until July 2011 and was making progress.

26. Prior to 2011, [Respondent] had participated in other substance abuse treatment, including, but not limited to: DART, STAR, and Freedom House.

27. [Respondent] has mental health issues related to bipolar disorder and kleptomania, which was diagnosed in March 2011. She was seeing a psychiatrist and prescribed medication for management.

28. On July 6, 2011, [Respondent] had a relapse related to cocaine use. She was taken to Durham Access Center due to severe depression and suicidal feelings. . . .

29. On December 6, 2011, [Respondent] had another relapse related to cocaine use. This resulting in her receiving inpatient treatment with ADATC in Butner, North Carolina. . . .

30. The July 6, 2011 and December 6, 2011 relapses included aspects of noncompliance with her psychiatric medications.

31. [Respondent] stopped attending with Duke Family Care after May 24, 2012, due to her incarceration in Wake County.

32. [Respondent] had a pattern of going into substance abuse recovery housing programs to

assist her with her substance abuse, not completing the programs, and returning to her mother's home. She most recently had been staying at First Endeavors substance abuse recovery housing before her arrest in May 2012.

. . . .

34. [Respondent] has had over 100 arrests related to shoplifting over the course of her lifetime.

35. At the time of the adjudication of the matter, [Respondent] was incarcerated in the Durham County Jail. Since then, [she] has been incarcerated on several occasions related to shoplifting and drug court violations.

36. [Respondent] was incarcerated in the Durham County Jail from August 3, 2011 to August 19, 2011, due to a Drug Treatment Court violation.

37. [Respondent] was arrested on December 17, 2011 for misdemeanor larceny and possession of drug paraphernalia and violation of probation. She was released to the residential substance abuse treatment in Butner where she stayed until January 25, 2012.

38. [Respondent] was arrested in May 2012 for stealing and was convicted in June 2012. She is currently serving a nine month sentence.

39. Due to [Respondent's] history of intermittent treatment, it is unlikely that she will persist in treatment consistently in the near future, sufficient to regain custody of the children.

. . . .

43. In January 2011, there was a request that [Respondent's mother] be considered for placement of the children. However, [Respondent's mother] never had appropriate housing for the children nor implemented a plan to obtain appropriate housing. In May 2012, [Respondent's mother] moved to assisted living housing and would not be able to have the children with her.

Respondent does not challenge any of the above findings of fact and, thus, they are binding on this Court on appeal. We hold these findings fully support the trial court's conclusion that Respondent is incapable of providing for the proper care and supervision of the juveniles, such that the juveniles are dependent within the meaning of N.C. Gen. Stat. § 7B-101, and that there is a reasonable probability that such incapability will continue for the foreseeable future, and that Respondent lacked an appropriate alternative child care arrangement for the juveniles. Accordingly, we hold the trial court did not err in concluding grounds existed to terminate Respondent's parental rights pursuant to N.C. Gen. Stat. § 7B-1111(a)(6), and we need not address Respondent's arguments regarding the trial court's conclusion that grounds also existed to terminate her parental rights under N.C. Gen. Stat. § 7B-1111(a)(1), (2), and (3). *In re P.L.P.*, 173 N.C. App. 1, 8, 618 S.E.2d 241, 246 (2005)

("[W]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." (citation and quotation marks omitted)), *aff'd per curiam*, 360 N.C. 360, 625 S.E.2d 779 (2006)).

Respondent also argues the trial court abused its discretion in concluding that it is in the juveniles' best interests to terminate parental rights. We disagree.

"After an adjudication that one or more grounds for terminating a parent's rights exist, the court shall determine whether terminating the parent's rights is in the juvenile's best interest." N.C. Gen. Stat. § 7B-1110(a) (2011). When determining whether it is in the best interests of a child to terminate parental rights, the trial court must consider the factors set forth in N.C. Gen. Stat. § 7B-1110, which include the likelihood of the adoption of the juvenile, the bond between the juvenile and the parent, and the quality of any relationship between the juvenile and any potential adoptive parent. N.C. Gen. Stat. § 7B-1110(a)(2), (4), (5) (2011). "We review the trial court's decision to terminate parental rights for abuse of



discretion." *In re Anderson*, 151 N.C. App. 94, 98, 564 S.E.2d 599, 602 (2002).

The trial court's order in this case contains findings of fact that address each of the factors set forth in N.C.G.S. § 7B-1110. Respondent does not challenge the trial court's findings and thus they are binding on this Court on appeal. Respondent does argue, however, that the trial court gave improper weight to the factors involving the likelihood of the adoption of the juveniles, the juveniles' relationship with their respective potential adoptive parents, and the juveniles' bond with Respondent. Respondent effectively asks that this Court substitute its judgment on the weight of these factors for that of the trial court, which this Court does not do. *In re Whisnant*, 71 N.C. App. 439, 441, 322 S.E.2d 434, 435 (1984) (holding "when a trial judge sits as both judge and juror, as he or she does in a non-jury proceeding, it is that judge's duty to weigh and consider all competent evidence, and pass upon the credibility of the witnesses, the weight to be given their testimony and the reasonable inferences to be drawn therefrom" (quotation marks omitted)).

Respondent further contends that the trial court could not properly consider whether termination of parental rights was in

the best interests of the juveniles because DSS did not present any evidence regarding possible custody placements or guardianship for the juveniles. However, when moving to terminate parental rights, DSS is not required to show that other dispositional alternatives for the juveniles are completely foreclosed. See, e.g., *In re M.M.*, 200 N.C. App. 248, 258, 684 S.E.2d 463, 469 (2009) (citation omitted) ("A trial court may, but is not required to, consider the availability of a relative placement during the dispositional phase of a hearing to terminate parental rights."). Moreover, Respondent was free to present any evidence to the trial court regarding dispositional alternatives to termination of her parental rights. The trial court's findings of fact show that it carefully considered whether terminating Respondent's parental rights was in the best interests of the juveniles, and we conclude that the trial court's decision to terminate Respondent's parental rights did not constitute an abuse of discretion. We affirm the trial court's order terminating Respondent's parental rights to her minor children.

Affirmed.

Judges BRYANT and STROUD concur.

Report per Rule 30(e).