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NO. COA13-568
NORTH CAROLINA COURT OF APPEALS

Filed: 5 November 2013

IN THE MATTER OF:

B.O. and C.O.

Orange County
Nos. 11 JT 91-92

Appeal by respondent-mother from orders entered 12 February 2013 by Judge Joseph Moody Buckner in Orange County District Court. Heard in the Court of Appeals 15 October 2013.

Holcomb & Cabe, LLP, by Carol J. Holcomb and Samantha H. Cabe, for petitioner-appellee Orange County Department of Social Services.

Windy H. Rose for respondent-appellant mother.

Robert C. Kerner, Jr. for the guardian ad litem.

HUNTER, JR., Robert N., Judge.

Respondent-mother appeals from orders terminating her parental rights to her minor children, B.O. and C.O. Because the trial court's orders sufficiently identify the grounds upon which it terminated respondent's parental rights, we affirm.

On 9 November 2011, the Orange County Department of Social Services ("DSS") filed a juvenile petition alleging that B.O. was abused, neglected, and dependent and that C.O. was neglected and dependent. DSS obtained non-secure custody of the juveniles that same day. After a hearing on 15 December 2011, the trial court entered an order adjudicating the juveniles neglected and dependent on 31 January 2012. By order entered 16 April 2012, the trial court set the permanent plan for the juveniles as reunification with their father with a concurrent plan of adoption. The trial court further ordered reunification efforts with respondent to cease and directed DSS to file petitions to terminate respondent's parental rights to the juveniles. By order entered 18 September 2012, however, the court ceased reunification efforts with the juveniles' father, set the permanent plan for the juveniles as adoption, and directed DSS to file petitions to terminate the father's parental rights.

On 20 July 2012, DSS filed motions in the cause to terminate respondent's parental rights to the juveniles. DSS alleged that grounds existed to terminate respondent's parental rights in that she neglected the juveniles and was incapable of providing for the proper care and supervision of the juveniles such that they were dependent juveniles. DSS filed similar

motions to terminate the father's parental rights, but also alleged that he had abandoned the juveniles. After a hearing on 17 January 2013, the trial court entered orders terminating the parental rights of both respondent and the father on 12 February 2013. In both orders, the trial court made the following findings of fact that are unchallenged in this Court:

6. The report . . . that gave rise to the filing of the petition included the following: On October 16, 2011 Respondent mother and the juvenile, [B.O.], were living in a motel room with Respondent mother's boyfriend when the boyfriend died from a drug overdose. Details of the referral included that the boyfriend sold illegal drugs from the room; that illegal drugs were found in the room within reach of [B.O.]; that the boyfriend was dead for about fifteen (15) hours while the mother slept. According to information received by [DSS], [B.O.] was awake in close proximity to the dead body while his mother slept. According to police reports, the boyfriend died around 2:30 a.m. and Respondent mother called the police at 5:49 p.m. Between 2:30 a.m. and 5:49 p.m., Respondent mother got up once to turn the TV on for [B.O.] but she did not notice that her boyfriend was dead. At the time of this event, [C.O.] was with his paternal grandmother. Upon Respondent mother's arrest, she placed the children with her brother
7. On November 7, 2011, [the brother] brought the children to [DSS] because he was unable to take care of them

8. On November 7, 2011, when the children were brought to [DSS], they were pale, had dark circles under their eyes, cuts and bruised [sic] on their body and were in adequately [sic] clothed. Neither child had on socks. [B.O.] wore a short sleeve T-Shirt with no underwear and no jacket. They were extremely hungry and thirsty and quickly consumed juice and crackers given to them by the Social Worker. Both children said they had not eaten for some time.
9. There is a history of child protective service reports to both Durham and Orange Counties between 2003 and 2009. According to Durham County records, [B.O.] was born positive to cocaine and [C.O.] was born positive for marijuana and methadone. Further information from Durham County includes that the children are left with relatives and both Respondent parents abuse drugs. . . .
10. Referrals to [DSS] were similar to the ones to Durham County DSS. Reports include the children are left with "unsavory" people; the parents use drugs; the children are unsupervised; and that Respondent mother has other children she has not been able to care for. . . .
11. After the November [9], 2011 juvenile petition was filed, Respondent mother's contact with [DSS] was sporadic. Respondent mother was released from jail on or about December 1, 2011 and was then living in Durham. After the adjudication hearing on December 15, 2011, she signed a services agreement, but it was unclear where she was living as she would not provide an address to the Social Worker.
12. Respondent mother was assessed for Family

Drug Treatment Court, but failed to comply. Even after opting into Family Drug Treatment Court, she continued to test positive for drug [sic]. She admitted to using marijuana and cocaine. Ultimately, Respondent mother was terminated from Family Drug Treatment Court. She told the Social Worker that she was overwhelmed and could not meet the requirements of Family Drug Treatment Court.

13. Respondent mother was recommended by Horizons, an outpatient drug treatment program for inpatient treatment to address her drug addiction, but she failed to go. She denied that she had a drug problem that required such treatment.
14. From the time the juvenile petition was filed, Respondent mother has been sporadic in her contact with [DSS]. Several Permanency Planning Action Team meetings (PPAT) were held which Respondent mother failed to attend. . . .
15. Between February 17, 2012 and July 18, 2012, Respondent mother failed to make any contact with [DSS]. During that period of time, her whereabouts are unknown.
16. Respondent mother last visited with her children in December, 2011.
17. Throughout the history of this case, Respondent mother consistently refused to provide her address to the Social Worker.

Respondent now argues the trial court erred in terminating her parental rights without stating the grounds upon which it based the termination. Respondent's argument is misplaced.

In its orders terminating respondent's parental rights, the trial court concludes as a matter of law that "Grounds exist to terminate Respondent parent's [sic] parental rights in the juvenile named above." Respondent is correct that this conclusion of law, standing alone, does not identify which grounds the court found exist to terminate respondent's parental rights. However, in each order, the court found that:

45. Grounds exist to terminate Respondent parent's [sic] parental rights under N.C.G.S. § 7B-1111[(a)](1) in that Respondent parents have neglected the juvenile, and this court finds that the juvenile is a neglected juvenile within the meaning of G.S. 7B-101 in that he does not receive the proper care, supervision, or discipline from the juvenile's parent or who lives in an environment injurious to the juvenile's welfare.

. . . .

49. Grounds exist to terminate Respondent parent's [sic] parental rights under N.C.G.S. § 7[B-]1111[(a)](6) in that Respondent parents are 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; there is a reasonable probability that such

incapability will continue for the foreseeable future; and Respondent parents lack an appropriate alternative childcare arrangement.

Both of these findings are more properly classified as conclusions of law because they require the exercise of judgment and the application of legal principles. *In re Helms*, 127 N.C. App. 505, 510, 491 S.E.2d 672, 675 (1997); see also *In re M.R.D.C.*, 166 N.C. App. 693, 697, 603 S.E.2d 890, 893 (2004) (noting that where a "finding of fact is essentially a conclusion of law . . . it will be treated as a conclusion of law which is reviewable on appeal" (citations and quotation marks omitted)), *disc. review denied*, 359 N.C. 321, 611 S.E.2d 413 (2005). Thus, the trial court properly concluded that specific grounds exist to terminate respondent's parental rights. Moreover, we hold these grounds are supported by the trial court's unchallenged findings of fact detailing respondent's history of drug abuse and inability to parent the juveniles, and the court's mislabeling of its conclusions is inconsequential in this case. *In re R.A.H.*, 182 N.C. App. 52, 60, 641 S.E.2d 404, 409 (2007). Accordingly, we affirm the trial court's orders terminating respondent's parental rights to her minor children, B.O. and C.O.

Affirmed.

Judges HUNTER, Robert C., and CALABRIA concur.

Report per Rule 30(e).