

Services ("DSS") filed a petition alleging that Luke and Roger,¹ the children, were neglected. DSS alleged:

The family resides in a mobile home that is in a state of serious disrepair. There are holes in the floor. The residence is also filthy, cluttered and roach-infested. There are roaches throughout, including in the refrigerator. . . . The juveniles have no place to sleep due to the clutter. On 7/29/2011, the parents became involved in a physical altercation wherein [the mother] struck [respondent] and was charge[d] with simple assault.

(Original in all caps.) At a hearing held in September of 2011, respondent's and the children's mother's attorneys advised the court that they "would not resist a finding that the allegations contained in the petition were true and that the juveniles therefore were dependent." On 29 September 2011, the district court found the facts alleged by DSS in its petition and entered an adjudication of dependency as to both juveniles; as to the disposition the trial court noted that DSS was "conducting home studies of the homes of several relatives[.]" Ultimately in the 29 September 2011 order, the trial court continued custody of the children with DSS and approved of the children's existing foster care placement.

¹ Pseudonyms will be used protect the identity of the minors involved.

On 30 August 2012, the district court found that due to respondent's "extremely difficult to treat" personality disorder, as well as his "substance abuse issues" and "extensive history of involvement with [DSS,]" he was not "capable of appropriately parenting the juveniles." The district court further found that "[n]o appropriate relatives are known for possible placement of the juveniles[,]" and ultimately established a permanent plan of adoption for the children and directed DSS to "take all steps necessary to achieve the plan." On 18 September 2012, the district court amended its 30 August 2012 order to require respondent to obtain psychiatric and parenting evaluations.

On 1 October 2012, DSS filed a motion to terminate respondent's and the children's mother's parental rights alleging as grounds for termination, *inter alia*, (1) willful failure to pay a reasonable portion of the children's cost of care in the six months that preceded the motion's filing pursuant to North Carolina General Statute § 7B-1111(a)(3) (2011) and (2) dependency pursuant to North Carolina General Statute § 7B-1111(a)(6) (2011). In support of its claim pursuant to North Carolina General Statute ss 7B-1111(a)(3), DSS alleged the following:

Respondent father claims to be gainfully employed in the landscaping field but refuses to provide the Department with documentation on which to base a reasonable child support order. Respondent father is currently under a minimal child support order of \$50.00 per month. Although Respondent father is currently paying his child support order on time, \$50.00 per month is an unreasonable portion of the total cost of care for the minor children.

In support of its claim pursuant to North Carolina General Statute § 7B-1111(a)(6), DSS alleged that respondent's mental illness, diagnosed as personality disorder with borderline features, rendered him incapable of caring for his children, as follows:

These psychiatric issues have resulted in his hospitalizations previously; his failure to address his parenting issues; and his previous suicidal thoughts and behaviors. . . . Respondent father has elevated scores in the areas of anxiety, mania, paranoia and antisocial behavior. Respondent father lacks an understanding of how his choices and actions impact the minor children. Respondent father continues to deny any problems with his parenting skills/style. Respondent father lacks an appropriate alternative childcare arrangement.

In April of 2013, the trial court heard DSS's motion to terminate parental rights, on 5 July 2013 it entered its judgment terminating respondent's parental rights pursuant to both North Carolina General Statute § 7B-1111(3) and (6).

Respondent appeals.

II. Termination of Parental Rights

Respondent challenges the district court's order terminating his parental rights. Respondent challenges both grounds for termination as found by the trial court, but since only one ground is necessary to support a termination of parental rights, we will address only respondent's argument as to dependency. *In re B.S.D.S.*, 163 N.C. App. 540, 546, 594 S.E.2d 89, 93-94 (2004) ("Having concluded that at least one ground for termination of parental rights existed, we need not address the additional ground of neglect found by the trial court"). Although respondent makes some argument regarding some of the findings of fact regarding the dependency, his primary argument is that DSS failed to prove and the trial court failed to make a finding of fact regarding a lack of appropriate alternative child care. We disagree.

The standard of review in termination of parental rights cases is whether the findings of fact are supported by clear, cogent and convincing evidence and whether these findings, in turn, support the conclusions of law. Findings of fact supported by competent evidence are binding on appeal even though there may be evidence to the contrary. However, the trial court's conclusions of law are fully reviewable *de novo* by the appellate court.

In re D.T.L., ___ N.C. App. ___, ___, 722 S.E.2d 516, 517 (2012) (citations, quotation marks, and brackets omitted).

North Carolina General Statute § 7B-1111(a)(6) allows termination of parental rights if "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." N.C. Gen. Stat. § 7B-1111(a)(6) (2011). A dependent juvenile is one "in need of assistance or placement because the juvenile has no parent, guardian, or custodian responsible for the juvenile's care or supervision or whose parent, guardian, or custodian is unable to provide for the care or supervision and lacks an appropriate alternative child care arrangement." N.C. Gen. Stat. § 7B-101(9) (2011). "Under this definition, the trial court must address both (1) the parent's ability to provide care or supervision, and (2) the availability to the parent of alternative child care arrangements." *In re P.M.*, 169 N.C. App. 423, 427, 610 S.E.2d 403, 406 (2005).

A social worker testified as to respondent's mental health issues and that there was no alternative child care available.

The district court then made extensive findings of fact regarding respondent's "mental health issue" rendering respondent "incapable of providing care for the minor children" and also found that DSS had "proven the allegations in Paragraph 11 of the Motion to Terminate Parental Rights[.]" Paragraph 11 of the motion to terminate parental rights specifically alleged that that "Respondent father lacks an appropriate alternative childcare arrangement." The judgment would be more clear if it addressed this finding directly by simply making the finding of the lack of an alternate child care arrangement instead of referring to the motion, but the judgment did specifically refer to the appropriate allegation in the motion and found that DSS had proven this fact. The finding of fact regarding alternative childcare is supported by the evidence and there is no indication that the trial court improperly shifted the burden of proof on this issue to respondent. We conclude that the evidence supported the findings of fact which in turn supported the conclusion of law that there were grounds to terminate respondent's parental rights based on dependency. This argument is overruled.

III. Conclusion

As we conclude that the district court could properly

terminate respondent's parental rights on the ground of dependency, we affirm.

AFFIRMED.

Chief Judge MARTIN and Judge GEER concur.

Report per Rule 30(e).