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NO. COA14-588  
NORTH CAROLINA COURT OF APPEALS

Filed: 18 November 2014

IN THE MATTER OF:

Durham County  
Nos. 12 JT 156-59

A.G., M.G., G.T., S.T.

Appeal by respondent from order entered 3 February 2014 by Judge Brian C. Wilks in Durham County District Court. Heard in the Court of Appeals 20 October 2014.

*Robin K. Martinek for petitioner-appellee Durham County Department of Social Services.*

*Battle Winslow, Scott & Wiley, P.A., by M. Greg Crumpler, for guardian ad litem.*

*Edward Eldred for respondent-appellant.*

ELMORE, Judge.

Respondent, the mother of the juveniles A.G., M.G., G.T., and S.T., appeals from an order terminating her parental rights. After careful review, we affirm.

**I. Background**

On 17 August 2012, Durham County Department of Social Services ("DSS") filed a petition alleging that A.G., M.G.,

G.T., and S.T. were dependent and neglected juveniles. DSS alleged that respondent had a history of substance abuse, mental health issues, and difficulties maintaining stable housing that interfered with her ability to care for her children. DSS also noted that on 6 December 2011, it received a report regarding an incident where G.T. and S.T., who were then under five years old, were found to be left alone in a hotel room.

DSS further stated that respondent became homeless in June 2012. At that time, she placed the juveniles with various relatives and sought inpatient drug treatment at the Durham Recovery House. She did not, however, complete the program. Respondent, who was pregnant at the time, then went to inpatient treatment at Walter B. Jones Alcohol and Drug Treatment Center. Respondent denied, however, having any substance abuse issues and instead claimed to be at the treatment center for depression. DSS alleged that respondent intended to leave the treatment center upon the birth of her child, and at that time would remove her children from their placements.

DSS further alleged that respondent and M.G.'s father ("Mr. G.") had a history of domestic violence while in the same home as the children, that Mr. G. had been abusive towards the juveniles, and respondent had made claims that Mr. G. was

sexually inappropriate with A.G. DSS claimed that the children were in need of services, and if respondent regained physical custody, they would be exposed to a substantial risk of serious injury or sexual abuse. DSS asserted that non-secure custody was the only means available to protect the children. Accordingly, orders granting DSS non-secure custody were entered. On 14 February 2013, the juveniles were adjudicated neglected and dependent.

An order was entered on 9 September 2013 following a permanency planning review hearing held on 10 July 2013. The trial court found that respondent had completed an intake assessment for mental health, but was inconsistent in complying with recommendations. Respondent also admitted to using prescribed opioids, the use of which gave the court concern due to her history of substance abuse involving opioids. Respondent also had recently married a man who had a history of domestic violence and assaults on females. Respondent was aware of this history, but nevertheless believed that it did not present a problem, despite her own previous issues with domestic violence. The trial court also found that respondent had continued her pattern of having inconsistent housing. Accordingly, based on the limited progress made by respondent towards addressing the

issues which led to the removal of the juveniles, as well as the length of time the children had been removed from her care, the court ceased reunification efforts. The permanent plan for the juveniles was changed to adoption, with an alternative plan of guardianship with a relative or court-approved caretaker.

On 11 September 2013, DSS filed a "petition and motion" to terminate respondent's parental rights. DSS alleged grounds existed to terminate respondent's parental rights pursuant to N.C. Gen. Stat. § 7B-1111(a) (1) (neglect), (2) (failure to make reasonable progress), and (3) (failure to pay a reasonable portion of the cost of care). On 3 February 2014, the trial court entered an order terminating respondent's parental rights after concluding that grounds existed pursuant to N.C. Gen. Stat. § 7B-1111(a) (1), (2) and (3). Respondent appeals.

## **II. Analysis**

Respondent argues that the trial court erred by concluding that grounds existed to terminate her parental rights. We disagree.

N.C. Gen. Stat. § 7B-1111 sets out the statutory grounds for terminating parental rights. A finding of any one of the separately enumerated grounds is sufficient to support termination. *In re Taylor*, 97 N.C. App. 57, 64, 387 S.E.2d 230,

233-34 (1990). "The standard of appellate review is whether the trial court's findings of fact are supported by clear, cogent, and convincing evidence and whether the findings of fact support the conclusions of law." *In re D.J.D.*, 171 N.C. App. 230, 238, 615 S.E.2d 26, 32 (2005).

In the instant case, the trial court concluded that grounds existed to terminate respondent's parental rights pursuant to N.C. Gen. Stat. § 7B-1111(a)(2). To terminate a parent's rights under N.C. Gen. Stat. § 7B-1111(a)(2), the trial court must perform a two-part analysis. The trial court must determine by clear, cogent and convincing evidence that: (1) a child has been willfully left by the parent in foster care or placement outside the home for over twelve months; and (2) the parent has not made reasonable progress under the circumstances to correct the conditions which led to the removal of the child. *In re O.C.*, 171 N.C. App. 457, 464-65, 615 S.E.2d 391, 396 (2005).

Here, in the order adjudicating the juveniles neglected and dependent, the trial court found that:

46. The following conditions in the home of the mother led to the court's decision to remove custody from the mother: Mother's mental health issues, Mother's substance abuse issues, Mother's unstable housing, Mother's unavailability to provide consents for necessary services, failure to support the children in their placements, exposing

the children to use of inappropriate discipline or inappropriate supervision.

Respondent did not appeal from the trial court's adjudication order. Therefore, she is bound by the doctrine of collateral estoppel from re-litigating the findings of fact regarding the conditions which led to the removal of her children. See *In re Wheeler*, 87 N.C. App. 189, 194, 360 S.E.2d 458, 461 (1987) ("Because no appeal was taken or other relief sought from the [adjudication] order, it remained a valid final order which was binding in the later proceeding on the facts regarding abuse and neglect which were found to exist at the time it was entered.").

To address the issues which led to the removal of the children, in its adjudicatory and dispositional order, the trial court ordered respondent to: (1) have a substance abuse evaluation and follow any recommendations for treatment; (2) have a mental health evaluation and follow any recommendations for treatment; (3) attend and complete a parenting class; (4) obtain and maintain stable housing; (5) refrain from substance abuse; and (6) enroll in anger management.

Regarding respondent's compliance with the trial court's dispositional order, the trial court found as fact in the termination order:

34. The Mother has completed a parenting class through Catholic Charities in Cumberland County. She was also referred for anger management and domestic violence classes but has not followed through to receive those services. The anger management and domestic violence classes were also through Catholic Charities. The Mother was aware of the classes and how to register for them.

. . . .

36. The Mother continues to have unstable housing. Since June 2012, the Mother has lived in six different locations.

. . . .

41. The Mother was referred for services by her substance abuse evaluator at Trust the Process, including group therapy for 4 hours per day, five days a week, regular individual therapy, a psychological evaluation, and medication management.

42. The Mother was inconsistent in her involvement in group therapy at Trust the Process, attending only six sessions of group therapy between November 1, 2013, and December 30, 2013.

43. The Mother has not participated in any individual therapy while working with Trust the Process.

44. The Mother has failed to participate effectively in substance abuse treatment.

45. The Mother has only had minor progress with Trust the Process.

46. There is only a small likelihood that the Mother will succeed in her substance

abuse treatment with Trust the Process as she has not been compliant with the recommendations for treatment and has not been regularly attending her sessions.

47. The Mother continued to use opioids even when she did not have a prescription for them and she has obtained them from other than legal means within recent months.

48. The Mother does not believe that she has a substance abuse issue, despite her significant history of drug use, which includes marijuana, cocaine, heroin, Oxycodone, and methadone.

49. The Mother has self-reported use of marijuana as recently as November 2013 and opioid use in December 2013.

50. The Mother has failed to effectively engage in mental health treatment. . . .

Respondent challenges finding of fact number 36, arguing that the evidence demonstrated that as of the date of the hearing, she had been living in the same home for six months and thus her housing situation was "perfectly stable[.]" Respondent does not, however, challenge that part of the court's finding that she had lived in "six different locations" since June 2012. Consequently, we conclude the trial court could properly find that respondent's housing situation was still unstable.

Respondent does not challenge any of the other findings of fact cited previously herein and they are therefore binding on

appeal. *Koufman v. Koufman*, 330 N.C. 93, 97, 408 S.E.2d 729, 731 (1991). Based on these findings, we hold that the trial court did not err by concluding that grounds existed to terminate respondent's parental rights pursuant to N.C. Gen. Stat. § 7B-1111(a)(2).

Respondent additionally argues that the trial court erred by concluding that grounds existed pursuant to N.C. Gen. Stat. § 7B-1111(a)(1) and (3) to terminate her parental rights. However, because we conclude that grounds existed pursuant to N.C. Gen. Stat. § 7B-1111(a)(2) to support the trial court's order, we need not address the remaining ground found by the trial court to support termination. *Taylor*, 97 N.C. App. at 64, 387 S.E.2d at 233-34. Accordingly, we affirm.

Affirmed.

Chief Judge McGEE and Judge Robert C. HUNTER, concur.

Report per Rule 30(e).