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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA15-524

Filed: 1 December 2015

Guilford County, No. 13 JT 100

IN THE MATTER OF: S.E.M.

Appeal by respondent-father from order entered 29 January 2015 by Judge Angela C. Foster in District Court, Guilford County. Heard in the Court of Appeals 9 November 2015.

Mercedes O. Chut, for petitioner-appellee Guilford County Department of Health and Human Services.

Parker, Poe, Adams & Bernstein L.L.P., by R. Bruce Thompson II, for guardian ad litem.

Jeffrey William Gillette, for respondent-appellant-father.

STROUD, Judge.

Respondent-father appeals from the trial court's order terminating his parental rights. For the following reasons, we affirm. On 26 September 2013, the Guilford County Department of Health and Human Services ("DHHS") filed a juvenile petition alleging Susan¹ was a neglected and dependent juvenile due to her

¹ A pseudonym is used to protect the identity of the minor involved.

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parents' issues with substance and domestic abuse. After much time working with respondent, on 29 January 2015, the trial court entered an order terminating his parental rights for neglect, willfully leaving Susan in foster care for more than twelve months without showing reasonable progress, and willfully failing to pay a reasonable portion of the cost of care for Susan. Respondent appeals.

Respondent contends that “the trial court erred in terminating [his] parental rights for lack of reasonable progress when it gave him only three months to work his plan, and denied him access to court documents and orders that described his plan and progress.” (Original in all caps.)

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. If the trial court's findings of fact are supported by ample, competent evidence, they are binding on appeal, even though there may be evidence to the contrary.

In re S.C.R., 198 N.C. App. 525, 531, 679 S.E.2d 905, 909 (2009) (citations and quotation marks omitted). Unchallenged findings of facts “are conclusive on appeal and binding on this Court.” *Id.* at 532, 679 S.E.2d at 909.

North Carolina General Statute § 7B-1111(a)(2) provides that a court “may terminate” one's parental rights when “[t]he parent has willfully left the juvenile in foster care or placement outside the home for more than 12 months without showing to the satisfaction of the court that reasonable progress under the circumstances has

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been made in correcting those conditions which led to the removal of the juvenile.” N.C. Gen. Stat. § 7B-1111(a)(2) (2013). “[W]illfulness is not precluded just because respondent has made some efforts to regain custody of the child.” *In re D.H.H.*, 208 N.C. App. 549, 553, 703 S.E.2d 803, 806 (2010) (citation and quotation marks omitted).

Respondent only challenges one finding of fact regarding reasonable progress as a ground for termination, and thus the trial court’s other findings are binding on appeal, *see S.C.R.*, 198 N.C. App. at 532, 679 S.E.2d at 909, including respondent’s: (1) failure to submit to a substance abuse assessment or participate in any treatment to address his substance abuse issues; (2) multiple positive drug tests and refusing to submit to other tests; (3) failure to participate in any services to address his domestic violence issues; (4) failure to maintain appropriate housing; (5) failure to complete a parenting/psychological evaluation; (6) failure to participate in any parenting classes; and (7) scant visits with his daughter despite having the opportunity to see her on numerous occasions. Respondent argues that some evidence reflected his improvement and claims his lack of progress was because of the short time he had to work on his case plan and the fact that he had limited access to his court documents.

Even assuming *arguendo* that respondent’s assessment of his case is accurate, the unchallenged findings of fact show respondent’s complete failure to engage on multiple levels with correcting the conditions that led to Susan’s removal. For

example, respondent did not simply miss *some* visits with Susan or fail *a* drug test; respondent visited Susan only five times despite being allowed to visit her “twice a week from September 25, 2013 to May 22, 2014 . . . with his last visit having been on December 31, 2013[.]” and respondent failed three drug tests while refusing to be tested on three other occasions. “Extremely limited progress is not reasonable progress.” *In re Nolen*, 117 N.C. App. 693, 700, 453 S.E.2d 220, 224-25 (1995). The binding findings of fact support the trial court’s determination that respondent failed to make reasonable progress. *See* N.C. Gen. Stat. § 7B-1111(a)(2). This argument is overruled. Because we have determined that termination was proper pursuant to North Carolina General Statute § 7B-1111(a)(2), we need not address respondent’s remaining arguments regarding the other two grounds for termination. *See In re N.T.U.*, ___ N.C. App. ___, ___, 760 S.E.2d 49, 57 (“In termination of parental rights proceedings, the trial court’s finding of any one of the enumerated grounds is sufficient to support a termination.” (citation, quotation marks, and ellipses omitted)), *disc. review denied*, ___ N.C. ___, 763 S.E.2d 517 (2014).

AFFIRMED.

Judges CALABRIA and DAVIS concur.

Report per Rule 30(e).