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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA15-1029

Filed: 15 March 2016

Watauga County, Nos. 13 JT 43; 14 JT 11

IN THE MATTER OF: C.W.S., L.S.

Appeal by respondents from orders entered 30 June 2015 by Judge Hal G. Harrison in Watauga County District Court. Heard in the Court of Appeals 8 February 2016.

*Richard Croutharmel, for respondent-appellant mother.*

*Peter Wood, for respondent-appellant father.*

*Eggers, Eggers, Eggers, & Eggers, by Kimberly M. Eggers, for petitioner-appellee Watauga County Department of Social Services.*

*Poyner Spruill LLP, by Meghan E.B. Pridemore, guardian ad litem.*

DIETZ, Judge.

Respondents, the parents of the juveniles C.W.S. and L.S., appeal from orders terminating their parental rights. As explained below, the record supports the trial court's findings that both parents have serious drug abuse issues, are incapable of providing proper care and supervision to their children, and are unable to provide alternative child care arrangements. Based on these findings, the trial court properly

determined that grounds existed to terminate respondents' parental rights based on the statutory dependency factor. Accordingly, we affirm the trial court's orders.

### **Facts and Procedural History**

On 19 December 2013, the Watauga County Department of Social Services filed a petition alleging that C.W.S.<sup>1</sup> was a neglected and dependent juvenile. DSS stated that they received a report in October 2013 that respondent-mother and the maternal grandmother were using drugs in front of C.W.S. DSS responded immediately, arriving to interview respondent-mother within ten minutes after receiving the report. DSS observed that respondent-mother "did not appear to be high," but a search of her belongings revealed marijuana and related drug paraphernalia. As a result, respondent-mother entered into a safety plan in which she agreed not to use drugs in front of the juvenile.

A few days later, DSS received another report, this time alleging that respondent-mother was selling her food stamps in order to purchase drugs. Then, on 22 October 2013, DSS received a report that respondent-mother had been arrested at Wal-Mart "because she was high." At the time of her arrest, respondent-mother was six months pregnant with L.S. While in jail, respondent-mother admitted to DSS that she needed assistance. C.W.S. was placed in a kinship placement.

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<sup>1</sup> We use pseudonyms to protect juveniles' identities.

DSS contacted respondent-father on 5 November 2013. Respondent-father was informed that, in order to gain custody of C.W.S., he would need to pass a drug test, and DSS would have to perform a home assessment. Respondent-father informed DSS that he did not have a permanent residence, and he failed to appear for a drug test. On 12 December 2013, DSS obtained non-secure custody of C.W.S.

On 20 December 2013, respondent-mother entered into a consent order and C.W.S. was adjudicated dependent as to respondent-mother. On 30 December 2013, respondent-father entered into a consent order and C.W.S. was adjudicated dependent as to respondent-father.<sup>2</sup>

On 14 April 2014, DSS filed a petition alleging that L.S. was a neglected and dependent juvenile. At the time the petition was filed, L.S. was only two months old. DSS cited respondent-mother's history of drug abuse and stated that she had violated her case plan and was no longer receiving any treatment services. Respondent-mother also had been away from home with the infant for several days, in violation of her case plan, and had skipped parenting classes. In regards to respondent-father, DSS stated that he had not taken a drug screen since 26 March 2014. DSS asserted that it was not able to ensure the safety of the juvenile unless L.S. was taken into protective custody. Accordingly, DSS obtained non-secure custody of the juvenile.

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<sup>2</sup> Although the trial court entered separate adjudicatory orders as to each respondent individually, we note that abuse, neglect, and dependency proceedings focus on the status of the child and not on the culpability of the parent. *In re J.S.*, 182 N.C. App. 79, 86, 641 S.E.2d 395, 399 (2007); *In re Montgomery*, 311 N.C. 101, 109, 316 S.E.2d 246, 252 (1984).

On 9 May 2014, L.S. was adjudicated dependent as to respondent-mother pursuant to a consent order. On 15 July 2014, L.S. was adjudicated dependent as to respondent-father.

On 15 August 2014, the trial court ceased reunification efforts and changed the permanent plan for both C.W.S. and L.S. to adoption. On 10 April 2015, DSS filed motions to terminate respondents' parental rights based on dependency and abandonment under N.C. Gen. Stat. § 7B-1111(a)(6), (7). On 30 June 2015, the trial court terminated respondents' parental rights. Respondents timely appealed.

### **Analysis**

Respondents argue that the trial court erred by concluding that grounds existed to terminate their 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).

We first address the trial court's determination based on the dependency factor. See N.C. Gen. Stat. § 7B-1111(a)(6). Under § 7B-1111(a)(6), the trial court may terminate parental rights where:

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.

A dependent juvenile is defined as “[a] juvenile in need of assistance or placement because (i) the juvenile has no parent, guardian, or custodian responsible for the juvenile’s care or supervision or (ii) the juvenile’s parent, guardian, or custodian is unable to provide for the juvenile’s care or supervision and lacks an appropriate alternative child care arrangement.” N.C. Gen. Stat. § 7B-101(9) (2013). “In determining whether a juvenile is dependent, 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 B.M.*, 183 N.C. App. 84, 90, 643 S.E.2d 644, 648 (2007).

Respondent-mother contends that DSS failed to prove, and the trial court erred by finding, that she lacked an alternative child care arrangement. We are not

persuaded. “Our courts have. . . consistently held that in order for a parent to have an appropriate alternative child care arrangement, the parent must have taken some action to identify viable alternatives.” *In re L.H.*, 210 N.C. App. 355, 364, 708 S.E.2d 191, 197 (2011). “Having an appropriate alternative childcare arrangement means that the parent himself must take some steps to suggest a childcare arrangement—it is not enough that the parent merely goes along with a plan created by DSS.” *Id.* at 366, 708 S.E.2d at 198.

Here, the trial court found that respondents had not taken any steps to obtain alternative child care arrangements:

Neither Respondent Parent has offered any proof and/or otherwise shown unto the Court that he or she is capable of arranging for the care of the Juvenile[s] nor has either Respondent Parent identified any appropriate alternative child care arrangements for the Juvenile[s]. Thus, the Juvenile[s] [have] no alternative child care arrangement.

This finding is supported by the uncontroverted testimony of a DSS social worker familiar with respondents, who testified that neither respondent was able to suggest an alternative child care arrangement. No other evidence in the record indicates that respondents took any steps to arrange alternative care for their children. Thus, we reject respondent-mother’s argument and hold that the trial court did not err by concluding that grounds existed pursuant to N.C. Gen. Stat. § 7B-1111(a)(6) to terminate respondent-mother’s parental rights.

Respondent-father argues that the trial court erred because, although there was evidence he had abused drugs or alcohol in the past, there was insufficient evidence to show a likelihood that his incapacity would continue in the future. As explained below, we reject this argument.

The trial court addressed this issue and expressly found that respondent-father continued to have substance abuse issues. Respondent-father challenges the trial court's finding, relying on evidence that: (1) he had completed substance abuse treatment and there were no further recommendations for treatment; and (2) he had not failed any drug tests in over twelve months. But the trial court found that respondent-father failed to follow up with the substance abuse agency, thus preventing the agency from accurately assessing his future substance abuse treatment needs.

This finding was based on a DSS social worker's testimony that respondent-father "had not been forthcoming with the substance abuse assessment" by leaving out information, such as his history of drug-related criminal charges, that would have been considered "highly relevant to the substance abuse assessment." When the agency requested additional information, respondent-father failed to provide it. Moreover, respondent-father's claim of sobriety is not supported by the record. Respondent-father had been ordered to take *weekly* drug screens as a condition precedent to each visit. But respondent-father often went weeks without submitting

to a drug screen and had only taken ten drug tests since December 2013—nine of which came after the trial court ceased reunification efforts and changed the permanent plan for the juveniles to adoption. Thus, the trial court did not err by finding that respondent-father continued to have substance abuse issues and that his incapacity likely would continue for the foreseeable future. Accordingly, we reject respondent-father’s argument.

Respondents next challenge the trial court’s determination that grounds for termination existed based on abandonment. Because we conclude that grounds existed under the dependency factor, we need not address this alternative basis for termination. *Taylor*, 97 N.C. App. at 64, 387 S.E.2d at 233-34.

### **Conclusion**

Accordingly, we affirm the trial court’s orders.

AFFIRMED.

Judges ELMORE and GEER concur.

Report per Rule 30(e).