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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA16-331

Filed: 1 November 2016

Alleghany County, No. 13 JT 1

IN THE MATTER OF: A.M.

Appeal by respondent from orders entered 29 December 2015 and 15 January 2016 by Judge William Brooks in District Court, Alleghany County. Heard in the Court of Appeals 10 October 2016.

James N. Freeman, Jr., for petitioner-appellee Alleghany County Department of Social Services.

Mary McCullers Reece, for respondent-appellant-father.

Raleigh Divorce Law Firm, by Lauren R. Hinzey, for appellee guardian ad litem.

STROUD, Judge.

Respondent appeals from orders terminating his parental rights to his minor child, Adam.¹ Because the trial court's findings of fact support its conclusion to terminate respondent's parental rights on the ground of abandonment, we affirm.

I. Background

¹ We use the pseudonym "Adam" throughout for ease of reading and to protect the juvenile's identity.

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Adam was born in Iowa in 2009 and was six years old at the time of the hearing to terminate respondent's parental rights. In 2011, Adam's mother brought him to live in North Carolina. On 22 January 2013, the Allegheny Department of Social Services ("DSS") Director filed a petition alleging Adam was an abused and neglected juvenile, after it received a report that Adam's mother had been involved in a violent domestic dispute with her boyfriend in his presence. DSS obtained non-secure custody of Adam and arranged for a kinship placement. Respondent's home was not approved for placement due to safety and stability issues. On 29 April 2015, Adam's mother relinquished her parental rights to him. On 16 July 2015, the trial court set the permanent plan as adoption.

On 18 July 2015, DSS filed a petition to terminate respondent's parental rights to Adam on numerous grounds, including willful abandonment. After a hearing on 24 November 2015, the trial court entered an order on 29 December 2015 terminating respondent's parental rights, and an amended order terminating respondent's parental rights on 15 January 2016. The trial court concluded grounds existed to terminate respondent's parental rights based on willful abandonment, failure to correct the conditions that led to Adam's removal from his home, and neglect. Respondent appeals.

II. Willful Abandonment

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We first address respondent's argument that the trial court erred in concluding that his parental rights may be terminated on the ground of willful abandonment. In reviewing this argument, this Court must determine "whether the findings of fact are supported by clear, cogent and convincing evidence and whether these findings, in turn, support the conclusions of law." *In re Clark*, 72 N.C. App. 118, 124, 323 S.E.2d 754, 758 (1984). A trial court may terminate parental rights if "[t]he parent has willfully abandoned the juvenile for at least six consecutive months immediately preceding the filing of the petition or motion[.]" N.C. Gen. Stat. § 7B-1111(a)(7) (2013).

Abandonment has been defined as
wilful neglect and refusal to perform the
natural and legal obligations of parental care
and support. It has been held that if a parent
withholds his presence, his love, his care, the
opportunity to display filial affection, and
wilfully neglects to lend support and
maintenance, such parent relinquishes all
parental claims and abandons the child.

In re Humphrey, 156 N.C. App. 533, 540, 577 S.E.2d 421, 427 (2003) (citation omitted). "Abandonment implies conduct on the part of the parent which manifests a willful determination to forgo all parental duties and relinquish all parental claims to the child. The findings must clearly show that the parent's actions are wholly inconsistent with a desire to maintain custody of the child." *In re B.S.O.*, 234 N.C.

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App. 706, 710, 760 S.E.2d 59, 63 (2014) (citations, quotation marks, and brackets omitted).

Respondent has not challenged any of the trial court's findings of fact as unsupported by the evidence, and the findings are thus binding on this Court on appeal. See *Koufman v. Koufman*, 330 N.C. 93, 97, 408 S.E.2d 729, 731 (1991). The trial court's findings establish: (1) respondent's home was not approved by Iowa authorities because it was "inadequate to provide safe, stable housing for" Adam; (2) although a Family Services Agreement was created, respondent "never signed and returned the agreement and he never complied with its provisions[;]" (3) between 2011 and the date of the termination hearing, respondent had visited with Adam for "a total of only 10 days out of approximately 1460 days . . . although there were no legal impediments to" his visitation; (4) respondent never took any legal steps to obtain custody of Adam either prior to or after DSS involvement; (5) respondent "failed to maintain even minimal contact "with Adam as he made "no more than six phone calls" to Adam in the past two years, and last spoke to Adam approximately 18 months prior to the termination hearing; and in (6) in May of 2015, respondent "indicated he would be interested in relinquishing his parental rights if he could be assured of being relieved of child support."

Despite respondent's arguments, his ability to find housing, participation in the juvenile proceedings by phone or Skype, and payment of child support through

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wage garnishment cannot offset his complete lack of contact or concern for Adam for the majority of the child's life, including the time of the hearing. The trial court's findings of fact establish that respondent willfully choose to forego all parental duties and thus willfully abandoned Adam. *See* N.C. Gen. Stat. § 7B-1111(a)(7); *In re B.S.O.*, 234 N.C. App. at 710, 760 S.E.2d at 63.

III. Conclusion

Because the existence of one of the enumerated grounds under North Carolina General Statute § 7B-1111 is sufficient to support termination of respondent's parental rights, we need not address respondent's arguments regarding the remaining grounds for termination. *See In re B.S.D.S.*, 163 N.C. App. 540, 546, 594 S.E.2d 89, 93-94 (2004). Furthermore, respondent does not challenge the trial court's dispositional conclusion that terminating his parental rights is in Adam's best interests. Accordingly, we affirm the trial court's orders terminating respondent's parental rights to Adam.

AFFIRMED.

Judges CALABRIA and INMAN concur.

Report per Rule 30(e).