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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA16-587

Filed: 15 November 2016

Forsyth County, No. 12 JT 209

IN THE MATTER OF: T.S.

Appeal by Respondent-Mother from a termination of parental rights order entered 10 February 2016 by Judge Lisa V.L. Menefee in Forsyth County District Court. Heard in the Court of Appeals 19 October 2016.

*Assistant County Attorney Theresa A. Boucher for petitioner-appellee Forsyth County Department of Social Services.*

*Batch, Poore, & Williams, PC, by Sydney J. Batch for respondent-appellant mother.*

*Hutchison, PLLC, by Brandon J. Huffman, for Guardian ad Litem.*

HUNTER, JR., Robert N., Judge.

Respondent appeals from a judgment terminating her parental rights to her minor child, T.S. (“Tim”).<sup>1</sup> On appeal, Respondent contends the trial court erred by: (1) basing termination of Respondent’s parental rights on Respondent’s past substance abuse when Respondent was sober at the time of the termination hearing

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<sup>1</sup> We use this pseudonym for ease of reading and to protect the identity of the juvenile.

and could readily provide for Tim; and (2) determining it was in Tim's best interests to terminate Respondent's parental rights.

We hold the trial court's findings of fact are supported by competent evidence, and those findings support the trial court's conclusions of law. Since grounds for termination of Respondent's parental rights exist, the trial court did not abuse its discretion in terminating Respondent's parental rights based upon Tim's best interests.

### **I. Factual and Procedural Background**

Born on 4 April 2012, Tim tested positive for cocaine. Immediately, the Forsyth County Department of Social Services ("DSS") conducted a family assessment.

On 18 July 2012, Respondent's roommates reported to DSS Respondent failed to care for Tim. Roommates said Respondent left Tim with friends and family, who were unable to care for Tim. For example, Tim was diagnosed with sickle cell anemia as an infant. In July, Respondent left Tim with her roommates and failed to provide them with necessary medication for Tim. Roommates also reported domestic violence between Respondent and Derek Blue, Jr., Tim's purported father.

On 18 September 2012, DSS received a second report of an altercation at the hospital between Respondent and Blue, while Tim was there for his sickle cell disease. Subsequently, on 3 October 2012, DSS received another report, alleging Respondent abused cocaine.

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Sometime thereafter, DSS asked Respondent to complete a substance abuse assessment, substance abuse treatment, and a domestic violence assessment. In an effort to aide Respondent's care of Tim, DSS supplied bus passes, formula, diapers, wipes, and a daycare voucher. Respondent failed to complete either the substance abuse assessment or the domestic violence assessment.<sup>2</sup> Afterwards, Respondent also tested positive for cocaine and marijuana. Respondent admitted to abusing alcohol, marijuana, and cocaine, but claimed never in front of Tim. DSS asked both Respondent and Blue for an alternate caregiver for Tim. Neither Respondent nor Blue could name a viable option.

On 5 October 2012, DSS filed a juvenile petition alleging Tim to be a neglected juvenile. That same day, the trial court immediately granted the petition and ordered DSS to assume custody of Tim. DSS removed Tim from Respondent's custody and placed him in foster care.

On 16 November 2012, the trial court held a hearing for Tim's adjudication. At the time of the hearing, Respondent still had not completed either a substance abuse assessment or a domestic violence assessment.<sup>3</sup> Every Tuesday and Thursday, Respondent visited with Tim for two hours. The trial court found return of Tim to Respondent's home would be contrary to Tim's welfare. Accordingly, the trial court

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<sup>2</sup> The record does not indicate whether Respondent completed substance abuse treatment during this time.

<sup>3</sup> There is no finding in the trial court's order regarding whether Respondent completed substance abuse treatment.

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adjudicated Tim as “neglected” and left Tim in the custody of DSS. The trial court ordered Respondent to complete substance abuse treatment, complete parenting classes, maintain a safe and stable home for Tim, and cease contact with Blue, among other things.

Tim went to the hospital on 1 January 2013. When Respondent came to the hospital to visit with Tim, she arrived with Blue. This caused DSS to file a motion on 14 January 2013 requesting a review of visitation. On 16 January 2013, the trial court held a review hearing. The trial court found Respondent failed to consistently engage in substance abuse treatment and tested positive for marijuana. The trial court allowed supervised visits at DSS, but no longer permitted Respondent to visit Tim at his foster home.

On 8 May 2013, the trial court held a permanency planning hearing. The trial court found Respondent failed to complete two different treatment programs and refused to submit to eight substance abuse tests conducted by DSS. The one time Respondent did comply, her hair analysis tested positive for cocaine and marijuana. However, between February 2012 and April 2012, Respondent tested positive for cocaine and marijuana eight times. Respondent did not provide safe and stable housing for Tim. Additionally, Respondent did not attend several visitations with Tim and continued her relationship with Blue.

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At the time of the hearing, the trial court found Tim could not return home, or within the next six months, and Respondent failed to make sufficient progress in her case plan. Accordingly, the court continued custody of Tim with DSS and changed the permanent plan for Tim to adoption.

On 30 October 2013, DSS served Respondent with a copy of the petition and summons to terminate her parental rights to Tim. On 25 November 2013, 27 November 2013, 24 February 2014, and 24 March 2014, the trial court held permanency planning hearings. At the time of the hearings, Respondent did not submit to substance abuse testing with DSS or complete a treatment program.

Nonetheless, Respondent attended almost all of her visits and medical appointments with Tim. The court noted its concern regarding Respondent's "lack of honesty with the Court and her lack of honesty regarding her recovery." As a result, the trial court changed the permanent plan to custody/guardianship for Tim.

On 25 June 2014, the trial court held another permanency planning hearing. The court found Respondent now lived in stable housing and maintained employment and financial stability. The court also found there were barriers to Tim's adoption, namely his sickle cell disease. The court changed the permanent plan to reunification, with a concurrent plan of custody/guardianship to a relative. Accordingly, the court vacated the previously scheduled termination of parental rights hearings.

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On 17 October 2014, the trial court held yet another permanency planning hearing. The trial court found Respondent abused cocaine and marijuana. Notably, Respondent self-reported her use, and tested positive for substance use five times since the last hearing. Respondent lost her employment and struggled to maintain her rent payments. The trial court found reunification efforts were futile and inconsistent with Tim's permanent plan. The trial court continued Tim's custody with DSS and changed the permanent plan back to adoption.

DSS served Respondent and Blue with a summons for termination of parental rights on 24 July 2015. On 29 July 2015, Respondent filed her answer to the termination of parental rights petition. Blue did not file any responsive pleading to the termination of parental rights petition.

On 21 October and 23 October 2015, the trial court held termination of parental rights hearings. The trial court held another hearing on 18 November 2015 for oral entry of the order. On 10 February 2016, the trial court filed a judgment terminating Respondent's parental rights to Tim.<sup>4</sup> The trial court concluded grounds alleged in the petition existed to terminate Respondent's parental rights, shown by her repeated substance abuse, failure to complete a substance abuse treatment program, inability to care for Tim, and unknown timeline for recovery. The trial court further concluded

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<sup>4</sup> The trial court's order also terminated the parental rights of Blue, but he is not a party to this appeal.

it was in Tim's best interests to terminate Respondent's parental rights. Respondent filed timely notice of appeal from the trial court's judgment on 7 March 2016.

## **II. Standard of Review**

“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. We then consider, based on the grounds found for termination, whether the trial court abused its discretion in finding termination to be in the best interest of the child.” *In re Shepard*, 162 N.C. App. 215, 221-22, 591 S.E.2d 1, 6 (2004) (citation and quotation marks omitted). “An [a]buse of discretion results where the court's ruling is manifestly unsupported by reason or is so arbitrary that it could not have been the result of a reasoned decision.” *In re T.L.H.*, 368 N.C. 101, 107, 772 S.E.2d 451, 455 (2015) (quoting *State v. Hennis*, 323 N.C. 279, 285, 372 S.E.2d 523, 527 (1988)).

## **III. Analysis**

First, Respondent contends the trial court erred by terminating her parental rights under N.C. Gen. Stat. 7B-1111(a)(6) (2015) because Respondent was sober at the time of the hearing and was “readily able to meet all of her son's special needs at the time of [the] hearing.” Second, Respondent contends the trial court abused its discretion in terminating her parental rights because termination was not in Tim's best interests.

## **A. Grounds for Termination**

We first address Respondent's argument that the trial court erred in concluding grounds existed to terminate her parental rights under N.C. Gen. Stat. § 7B-1111(a)(6). Respondent's argument is two-fold: First, several findings of fact were erroneous and not supported by the evidence. Second, the findings of fact do not support the conclusions of law, which concluded Respondent's parental rights should be terminated pursuant to N.C. Gen. Stat. § 7B-1111(a)(6). We disagree.

### 1. Findings of Fact

Respondent challenges all or portions of findings 4, 5, 36, 40, 42, 46, 53, 56-58, and 86 as unsupported by the evidence. Additionally, Respondent admits findings 6, 34, 37, 54, 59, and 85 are correct, but contends they are irrelevant to the trial court's determination.

"It is well settled that findings of fact made by the trial court in a termination of parental rights proceeding are binding 'where there is some evidence to support those findings, even though the evidence might sustain findings to the contrary.'" *In re N.T.U.*, 234 N.C. App. 722, 733, 760 S.E.2d 49, 57 (2014) (quoting *In re Montgomery*, 311 N.C. 101, 110-11, 316 S.E.2d 246, 252-53 (1984)). "Findings of fact are also binding if they are not challenged on appeal." *Id.* at 733, 760 S.E.2d at 57 (citing *Koufman v. Koufman*, 330 N.C. 93, 97, 408 S.E.2d 729, 731 (1991)).

The relevant findings are as follows:



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4. [Respondent], the mother of [Tim] is incapable of providing for the proper care and supervision of the child, such that [Tim] is a dependent child within the meaning of N.C.G.S. 7B-101. There is a reasonable probability that such incapability will continue for the foreseeable future.

5. The incapability of [Respondent] relates to her severe and continuous substance abuse addiction which has rendered her unable or unavailable to parent [Tim] in a safe and appropriate manner.

6. [Respondent] lacks an appropriate alternative child care arrangement for [Tim]. Although asked repeatedly during the 3 years [Tim] has been in the custody of the Forsyth County Department of Social Services, [Respondent] has failed to provide an alternative child care provider for her son, [Tim].

34. [Respondent] has been inconsistent as to her substance abuse addiction, at times she denied having a substance abuse problem and at other times she has admitted that she does have a significant substance abuse addiction. This demonstrates her incapability to parent, [Tim] her special needs child.

36. At the time of the termination of parental rights hearing, [Respondent] is incapable of caring for her son [Tim]. [Respondent] is residing at the Recovery Connections Community and her child cannot reside with her. [Respondent]'s plan for her child is that he remains in foster care for at least the next 12-18 months while she completes the Recovery Connections program. [Respondent] informed the Court that "time seems to be an issue for you all". The Court is concerned that [Respondent] sees no urgency in assuming care for her 3 ½ year old son who has been in foster care since he was 6 months old. Time is a very serious issue for this child.

37. Recovery Connections is a residential sober living community. They utilize the AA/NA 12 step program;

however they are not a treatment program. Programs of this nature are highly effective for some people. These programs do not have clear start and end dates and do not lend themselves to an exact timeline. They cannot guarantee recovery and they cannot determine progress along the way.

40. The Recovery Connections program is willing to facilitate the goal of maintaining a connection between [Respondent] and her son. According to Ms. Hollowell, Director of Recovery Connections, recovery has to be [Respondent]'s first priority[,] not her child. [Respondent]'s first priority is reunification with her son. [Respondent] has to become a responsible human being before she can become a responsible mother to her child. [Respondent] has a long way to go before her child can factor into her life.

42. [Respondent]'s lack of priorities demonstrates her incapability of parenting and providing safe care for [Tim]. This incapability will continue for the foreseeable future. [Respondent] has no alternative child care arrangement for [Tim] for the next 18-24 months and she has had no alternative child care arrangement for [Tim] for the past 3 years.

46. [Tim] is a special needs child. He has been diagnosed with sickle cell anemia. He requires a full time sober caregiver who can recognize[] subtle changes in him which could signify a sickle cell crisis. The severe substance abuse addiction of [Respondent] makes her incapable of caring for [Tim] with his special needs.

53. [Respondent] has completed parenting classes however she has not demonstrated good parenting during her supervised visits with [Tim]. On multiple occasions, [Respondent] failed to provide diapers and wipes to use for [Tim] during her time with him. [Respondent] has used her earnings to buy illegal drugs and not the supplies needed for her child during her weekly visits.

54. [Respondent] is not in compliance with her Mental Health treatment. She has been diagnosed with Major Depressive Disorder. [Respondent] chose not to take prescribed medication. In February 2015, [Respondent] did not tell the doctor at INSIGHT about her mental health diagnosis. She did however disclose such to the doctor at WISH in May 2015.

56. [Respondent]'s active addiction to illegal drugs has rendered her incapable of providing for the basic and special needs of [Tim].

57. For over three years the Juvenile Court has asked [Respondent] to demonstrate her ability to maintain a safe and stable home for herself and [Tim]. [Respondent] has lived in 7 homes since the removal of [Tim], most of which were lost due to her active addiction to illegal drugs. This demonstrates her inability to care for [Tim] due to her substance abuse addiction.

58. [Tim] has lived in 5 foster homes since his removal over 3 years ago. This demonstrates to the Court the difficulty in caring for this special needs child by individuals who are not in active addiction like [Respondent].

59. [Respondent] is not covered by Medicaid and has no medical insurance, which made locating an inpatient substance abuse treatment program difficult, but not impossible. However, [Respondent] rejected inpatient treatment each time it was recommended.

85. [Respondent] has failed to present to the Juvenile Court or the Forsyth County Department of Social Services an alternative child care plan for [Tim]. Foster care is not an appropriate alternative child care plan.

86. There is a bond between [Tim] and his mother [Respondent]. During supervised visits they play together, read together, and [Respondent] brings him snacks.

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[Respondent] has not been entirely consistent with her visits with [Tim]. [Respondent] loves [Tim]; however, her love for her child was not strong enough to encourage her full engagement in substance abuse treatment for the 3 years since the child's removal.

Respondent first argues Finding of Fact Number 4 is a conclusion of law. We agree and discuss Finding of Fact Number 4 below.

In regards to findings 5, 40, 46, 56, 57, and 58, Respondent's argument is based on the fact she was sober at the time of the hearing. Specifically, Respondent argues the trial court could not find she was incapable of caring for Tim, as she was currently sober. Although the trial court heard Respondent's testimony of her current sobriety, the trial court also received evidence of Respondent's persistent relapse and substance abuse for three years. The trial court weighed the evidence and found Respondent's substance addiction rendered her incapable of caring for Tim. In termination of parental rights hearings, trial courts may consider a Respondent's history of substance abuse in determining whether a juvenile is dependent. *In re A.H.*, 183 N.C. App. 609, 616, 644 S.E.2d 635, 639-40 (2007) (affirming termination of parental rights on the ground of dependency when Respondent was sober at the time of the hearing but there was also evidence of three years of repeated relapses).

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The history of Respondent's relapses is uncontroverted. Thus, findings 5, 40, 46, 56, 57, and 58 are supported by competent evidence and are binding on appeal.<sup>5</sup>

Respondent also challenges findings 36, 40, and 42. In regards to these findings, Respondent argues she was able to provide appropriate housing for Tim at the time of the hearing. Respondent points to testimony from Ms. Hollowell, the president of Recovery Connections Community. Recovery Connections Community is a two-year residential recovery support service provider, but not a licensed treatment center. The program lasts between eighteen and twenty-four months and consists of six phases.

Hollowell testified it would be "possible" for Tim to live with Respondent at the community *if* and *when* Respondent entered the fourth phase of the program. However, at the time of the hearing, Tim could not reside with Respondent. Until the earliest time Respondent could *possibly* progress to the fourth phase, which may be in nine to eighteen months, Respondent had no alternative child care arrangement, such was the case for the last three years. Further, Respondent's progress was not guaranteed.

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<sup>5</sup> *In re A.H.* also speaks to Respondent's argument that findings numbers 34, 54, and 59 are irrelevant. Respondent admits the findings are based on competent evidence, but argues the findings are irrelevant in determining Respondent's capability to care for Tim. However, this Court affirmed a termination of parental rights when the trial court "weighed the three years of repeated relapses against the seven months of sobriety . . ." 183 N.C. App. at 616, 644 S.E.2d at 639. Thus, Respondent's rejection of recommendations to complete treatments, non-compliance with mental health treatments, and prior denials of substance abuse issues were not irrelevant in the trial court's determination. As such, any argument regarding the consideration of these findings by the trial court is without merit.

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Although Respondent testified she would progress into the fourth phase, the trial court can weigh that evidence against other evidence, such as: (1) Respondent's history of substance abuse; (2) the fact Tim could not visit or live with Respondent at the time of the hearing; (3) the fact Respondent was not guaranteed to progress to the fourth phase; and (4) the fact the earliest Respondent could leave the community was eighteen to twenty-four months away. The record provides evidence which might sustain findings to the contrary; nonetheless, there is some evidence to support findings 36, 40, and 42. As such, these findings are binding on appeal.

Respondent also challenges findings 53 and 86. Respondent argues she "can effectively parent Tim and care for his special needs." Respondent points to evidence of her good parenting skills, visits with Tim, and her care of Tim while he was hospitalized. However, Respondent also recognizes she failed to "provide for Tim's material needs during some supervised visits . . . ." Respondent also testified she failed to provide diapers and wipes during visits with Tim, because she spent the money on drugs and alcohol. Further, the record is replete with evidence of Respondent's substance abuse and lack of success in any treatment at the time of the hearing. Although the record contains evidence which might sustain findings of Respondent being a capable mother, there is also competent evidence in the record to support findings 53 and 86. These findings are also binding on appeal.

In regards to findings 6, 37, and 85, Respondent challenges these findings on the basis the findings were irrelevant. First, Respondent challenges the relevancy of findings 6 and 85, arguing she was capable of caring for Tim at the time of the hearing, and, thus, she need not identify an alternative child care arrangement for Tim. As stated above, there is competent evidence in the record for Finding of Fact Number 36, which found Tim could not live with Respondent. Thus, Respondent's argument is without merit. When adjudicating the ground of dependency, a minor child is considered dependent if the parent "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) (emphasis added). Thus, per the statute, whether Respondent was able to identify an alternative child care arrangement for Tim was certainly relevant.

Now, we turn to Respondent's argument regarding Finding of Fact Number 37, which discussed Respondent's stay at a sober living community and the details about the program at the community. In determining whether Respondent was capable of caring for Tim, Respondent's sobriety was a central issue. Thus, Respondent's stay at the sober living community, and the likelihood of Respondent's success in said program, is relevant. As such, Respondent's arguments regarding the relevancy of findings 6, 37, and 85 are without merit.

## 2. Grounds for Termination

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Respondent also contends the findings are insufficient to support the trial court's conclusion that grounds existed to terminate her parental rights. We disagree.

Under North Carolina law, a trial court may terminate the parental rights upon finding the following:

That 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 . . . 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.

N.C. Gen. Stat. § 7B-1111(a)(6). N.C. Gen. Stat. § 7B-101 defines a “dependent juvenile” as:

A juvenile in need of assistance of 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). When determining whether a juvenile is dependent, a “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).



Termination of parental rights under N.C. Gen. Stat. § 7B-1111(a)(6) “does not require that the parent’s incapability be permanent or that its duration be precisely known. Instead this ground for termination merely requires that ‘there is a *reasonable probability* that such incapability will continue for the foreseeable future.’” *In re N.T.U.*, 234 N.C. App. 722, 735, 760 S.E.2d 49, 58 (2014) (quoting N.C. Gen. Stat. § 7B-1111(a)(6)).

In the present case, the trial court concluded Respondent’s parental rights were subject to termination under N.C. Gen. Stat. § 7B-1111(a)(6). Specifically, the trial court made the following conclusions of law, one of which was erroneously labeled as a finding of fact:

1. A Ground exists pursuant to N.C.G.S. 7B-1111(a) (6) to terminate the parental rights of [Respondent] to the child, [Tim].
  
4. [Respondent], the mother of [Tim] is incapable of providing for the proper care and supervision of the child, such that [Tim] is a dependent child within the meaning of N.C.G.S. 7B-101. There is a reasonable probability that such incapability will continue for the foreseeable future.

The evidence presented at the hearing and the findings of fact based on the evidence support the trial court’s conclusions that Tim is a dependent child, Respondent is incapable of providing for the care and supervision of Tim, this incapacity will continue for the foreseeable future, and Respondent failed to provide any viable alternative child care arrangements.

Specifically, the binding findings of fact evince Respondent's substance abuse for three years, prior to her recent sobriety at the time of the hearing, and its effects on parenting Tim. Respondent failed to successfully complete a treatment program for three years, and only recently joined a sober living community. Tim suffers from sickle cell disease and requires extra care. While in active addictive, Respondent used funds to purchase drugs instead of supplies for Tim. Additionally, Respondent failed to provide stable housing for Tim. At the time of the hearing, Tim could not live with Respondent. The timeline for Respondent's completion in her current program was indefinite. Respondent failed to provide DSS with an alternative child care arrangement for Tim while she completed the program at the sober living community

Accordingly, the trial court properly concluded Respondent's parental rights were subject to termination on the ground of dependency.

### **B. Best Interests**

Respondent next argues the trial court abused its discretion in concluding it was in Tim's best interests to terminate her parental rights. Specifically, Respondent disagrees with Finding of Fact Number 73, which found Tim's likelihood of adoption was "excellent." Additionally, Respondent contends the trial court disregarded competent evidence which supports the conclusion that terminating her parental rights was not in Tim's best interest.

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After a trial court finds that one or more grounds for terminating parental rights exists, the court must determine if terminating parental rights is in the juvenile's best interest. N.C. Gen. Stat. § 7B-1110(a). To determine the best interests of the child, the court must consider the following criteria:

- (1) The age of the juvenile.
- (2) The likelihood of adoption of the juvenile.
- (3) Whether the termination of parental rights will aid in the accomplishment of the permanent plan for the juvenile.
- (4) The bond between the juvenile and the parent.
- (5) The quality of the relationship between the juvenile and the proposed adoptive parent, guardian, custodian, or other permanent placement.
- (6) Any relevant consideration.

*Id.* While the trial court must consider all of these factors, it is only required to make written findings regarding the relevant factors. *See In re D.H.*, 232 N.C. App. 217, 22, 753 S.E.2d 732, 735 (2014). "The decision to terminate parental rights is vested within the sound discretion of the trial [court] and will not be overturned on appeal absent a showing that the [trial court's] actions were manifestly unsupported by reason." *In re J.A.A. & S.A.A.*, 175 N.C. App. 66, 75, 623 S.E.2d 45, 51 (2005).

In the instant case, the trial court made the following findings concerning its best interests inquiry:

71. The Guardian ad Litem Advocate, Scotty Speas, recommended to the Court that it was in the best interest of [Tim] that the parental rights of [Respondent] and Derek Blue be terminated by the Court so that the child could be adopted.

72. [Tim] is 3 ½ years old. He has been in the custody of

the Forsyth County Department of Social Services since he was 6 months old.

73. Currently [Tim] is in a safe, stable and loving home where he can be adopted once the parental rights of his parents are terminated. His foster parent is aware of his special medical needs and is committed to caring for him and adopting him. She is engaged in his medical care and is receiving support from the sickle cell association. The likelihood of Adoption for [Tim] is excellent. [Tim] is thriving in this home. He is a happy child who is developmentally on target for his age. There is a close and loving bond between [Tim] and his prospective adoptive family.

74. [Tim] has had 5 foster home placements in the past 3 years. He has been placed with his prospective adoptive placement since August 1, 2015.<sup>6</sup> His current foster parent has been providing regular ongoing respite care for [Tim] since March 2015, so she and [Tim] were very familiar with one another prior to his placement in her home. She has the ongoing support of [Tim]’s former foster parents to assist her when necessary.

76. [Tim] does not ask about his mother [Respondent].

77. [Tim]’s foster parent has met with [Respondent]. [Respondent] indicated her desire to continue being a part of [Tim]’s life if he were adopted by the current foster parent. The foster parent is supportive of allowing that ongoing relationship as long as it is not confusing for [Tim] and [Respondent]’s substance abuse issues are not ongoing.

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<sup>6</sup> Respondent challenges Finding of Fact Number 74. Respondent argues the trial court erred in finding Tim had been placed with his prospective adoptive placement since 1 August 2015, when, in fact, Tim had been placed there starting on 31 August 2015. Respondent is correct. Tim’s foster parent testified at the hearing, stating Tim had been living with her since 31 August 2015. Additionally, Tina Garrett, a DSS social worker testified Tim had been staying with his foster parent since 31 August 2015. We agree this finding misstates the evidence. However, irrespective of this error, the trial court’s findings of fact support its conclusions of law such that this minor error does not warrant reversal.

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78. The prospective adoptive parent has taken [Tim] to the doctor and has received training in caring for his special medical needs from North Carolina Baptist Hospital and the Sickle Cell Support group. She has a significant support network of family and friends to assist her. The prospective adoptive parent is constantly alert to indicators of a pain or other sickle cell crisis. She takes [Tim]'s temperature as directed and makes sure he is well hydrated and receives appropriate rest.

79. [Tim]'s previous placements have [been] disrupted for various reasons including, for the intensity of his medical issues, personal issues with the former foster parents, and two placements were of a known temporary nature.

80. Scotty Speas, Guardian ad Litem for [Tim], has observed him in his current foster home. [Tim] calls his foster mother "Mommy" and they have a tight bond.

81. [Tim] looks to his foster parent for comfort and guidance. He is comfortable in his current home.

82. [Tim] also has a close relationship with his foster parent's mother who he sees as his grandmother.

84. [Tim]'s prospective adoptive parent provides him with safety and stability; [Respondent] has never provided her son with safety or stability.

85. [Respondent] has failed to present to the Juvenile Court or the Forsyth County Department of Social Services an alternative child care plan for [Tim]. Foster care is not an appropriate alternative child care plan.

86. There is a bond between [Tim] and his mother [Respondent]. During supervised visits they play together, read together[,] and [Respondent] brings him snacks. [Respondent] has not been entirely consistent with her visits with [Tim]. [Respondent] loves [Tim]; however, her love for her child was not strong enough to encourage her

full engagement in substance abuse treatment for the 3 years since the child's removal.

87. [Tim] knows that [Respondent] is his mother.

89. The permanent plan adopted by the Juvenile court for [Tim] is Adoption. The termination of the parental rights of [Respondent] and [Tim's father] is the only method available to accomplish the permanent plan.

1. Finding of Fact Number 73

Respondent argues the evidence at the hearing does not support Finding of Fact Number 73, which found Tim's likelihood of adoption was "excellent." Respondent argues the trial court's finding was in error for the following reasons: First, Tim's sickle cell diagnosis has resulted in numerous placements. Second, Tim's medical issues usually caused the displacement. Third, Tim's foster parent at the time of the hearing was willing to adopt Tim, but Tim had been placed with that foster parent for only two months, and Tim had only spent "approximately three to four weekends with her in respite care." Fourth, Tim had not yet experienced any significant medical episodes while in the care of his current foster parent.

In the present case, Tim's current foster parent testified at the hearing on 23 October 2015. The foster parent was willing to adopt Tim, received specialized training for Tim's sickle cell disease, and participated in Tim's treatments. Further, the foster parent testified Tim's sickle cell anemia would not cause her to give up on him. Tim's foster parent also testified at the 18 November 2015 hearing, once again

affirming she was ready, willing, and able to adopt Tim.

Thus, while there was evidence pointing to possible difficulties in Tim's future adoption, there is also competent evidence supporting Finding of Fact Number 73. As such, the finding is binding on appeal.

2. Section 7B-1110(a) Factors

Respondent argues the trial court "disregarded competent evidence that supported a conclusion of law that it was not in Tim's best interest for his mother's rights to be terminated" and, thus, abused its discretion. We disagree.

Here, the trial court's order contains findings of fact which address each of the factors set forth in section 7B-1110(a). The trial court's findings reflect a reasoned decision based upon the statutory factors listed in N.C. Gen. Stat. § 7B-1110(a). The trial court did not abuse its discretion in determining it would be in the best interest of Tim to terminate Respondent's parental rights. Therefore, this assignment of error is overruled.

**IV. Conclusion**

For the foregoing reasons, we affirm the trial court.

**AFFIRMED.**

Judges ELMORE and DILLON concur.

Report per Rule 30(e).