

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority. Citation is disfavored, but may be permitted in accordance with the provisions of Rule 30(e)(3) of the North Carolina Rules of Appellate Procedure.

IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA18-628

Filed: 20 November 2018

Orange County, No. 16 JT 48

IN THE MATTER OF: H.H.

Appeal by respondent-father from order entered 7 March 2018 by Judge Joseph Moody Buckner in Orange County District Court. Heard in the Court of Appeals 11 October 2018.

*Stephenson & Fleming, LLP, by Deana K. Fleming, for petitioner-appellee Orange County Department of Social Services.*

*Peter Wood for respondent-appellant father.*

*Womble Bond Dickinson (US) LLP, by Jon T. Sink and J.D. Wooten, for guardian ad litem.*

INMAN, Judge.

Respondent appeals from an order terminating his parental rights to his minor child H.H. (“Hillary”).<sup>1</sup> The mother is not a party to this appeal. We affirm.

Hillary was born in June 2015. On 1 July 2015, the Durham County Department of Social Services received a report that Hillary had a seizure after being

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<sup>1</sup> A pseudonym is used to protect the identity of the juvenile and for ease of reading.

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fed sugar water. The case was eventually transferred to the Orange County Department of Social Services (“DSS”) in February 2016. In April 2016, the mother entered into a residential substance abuse treatment program with Hillary. The treatment program dismissed the mother on 14 June 2016 for twice violating the program rules by allowing respondent to come visit her. The dismissal from the program left the mother homeless, and when she refused to enter any of the programs DSS identified for her, DSS filed a juvenile petition on 15 June 2016 alleging that Hillary was neglected and dependent. DSS obtained nonsecure custody the same day.

Following a 21 July 2016 adjudicatory and dispositional hearing, the trial court entered a 25 August 2016 order adjudicating Hillary to be a neglected and dependent juvenile and ordering respondent to develop an out of home services plan with DSS, submit to random drug screens and participate in a substance abuse assessment in the event of a positive test, and participate in a parenting program. Respondent developed a case plan with DSS on 10 November 2016. The trial court held a permanency planning hearing on 19 January 2017, after which the court entered a 14 February 2017 order establishing a primary permanent plan of reunification with a secondary plan of adoption. Following a 20 April 2017 permanency planning hearing, the trial court entered an order on 11 May 2017 changing the primary permanent plan to adoption with a secondary plan of reunification.

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On 5 July 2017, DSS filed a petition to terminate respondent's parental rights, alleging: (1) neglect; (2) willful failure to make reasonable progress in correcting the conditions leading to the juvenile's removal from the home; and (3) willful failure to pay a reasonable portion of the cost of care for the juvenile. *See* N.C. Gen. Stat. § 7B-1111(a)(1)-(3) (2017). The trial court held a hearing on the petition on 1 February 2018, after which the court entered a 7 March 2018 order terminating respondent's parental rights after adjudicating the existence of each ground alleged in DSS's petition. Respondent timely appealed.

On appeal, respondent's appellate counsel has filed a no-merit brief pursuant to N.C.R. App. P. 3.1(d) stating that, after conscientious and thorough review of the record on appeal, he has concluded that there is no issue on which this Court might grant relief to his client. Appellate counsel has demonstrated his compliance with Rule 3.1(d) by providing respondent with copies of the no-merit brief, trial transcript, and record on appeal, and advising him of his right to file a brief with this Court *pro se*. Respondent has made no *pro se* filing in this appeal.

As we held in *In re I.B.*, \_\_\_ N.C. App. \_\_\_, \_\_\_, \_\_\_ S.E.2d \_\_\_ (2018) (No. COA 18-608), we may, in our discretion, conduct an independent review of the record even absent any requirement to do so. We adopt *I.B.*'s reasoning and exercise our discretion to conduct an independent review of the record.

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After careful review, we are unable to find any prejudicial error by the trial court in ordering termination of respondent's parental rights to Hillary. Our review of the record reveals that the termination order includes sufficient findings of fact, supported by clear, cogent, and convincing evidence, to conclude that respondent had neglected Hillary. *See* N.C. Gen. Stat. § 7B-1111(a)(1). Specifically, the court found that respondent: failed to maintain consistent contact with DSS since the agency obtained custody of Hillary; had untreated substance abuse and mental health issues; had a history of incarceration; had been on probation during the case and violated probation multiple times by testing positive for marijuana, opiates, and cocaine; had his probation revoked after being discharged from a drug treatment program for failure to follow the rules; was dismissed from a parenting program for lack of engagement; and had not maintained safe, stable housing or regular employment. Based on these findings, the court concluded that the likelihood of a repetition of neglect was high if Hillary was returned to respondent's care. The finding of neglect alone supports termination of respondent's parental rights. *See In re Humphrey*, 156 N.C. App. 533, 540, 577 S.E.2d 421, 426 (2003). Finally, the trial court made appropriate findings in determining that termination of respondent's parental rights was in Hillary's best interests. *See* N.C. Gen. Stat. § 7B-1110(a) (2017). As a result, we affirm the trial court's order terminating respondent's parental rights.

AFFIRMED.

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Judges BRYANT and DIETZ concur.

Report per Rule 30(e).