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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA23-125

Filed 12 September 2023

Gaston County, Nos. 19 JT 11, 19 JT 64

IN THE MATTER OF: A.F.F., A.H.A.

Appeal by Mother from orders entered 4 November 2022 by Judge John K. Greenlee in Gaston County District Court. Heard in the Court of Appeals 5 September 2023.

Elizabeth Myrick Boone for petitioner-appellee Gaston County Department of Health and Human Services.

Hooks Law, P.C., by Laura G. Hooks for respondent-appellant mother.

North Carolina Office of Guardian ad Litem Services, by Brittany T. McKinney for guardian ad litem.

MURPHY, Judge.

We review a trial court's order terminating a parent's parental rights to determine whether the trial court's findings of fact are supported by clear, cogent, and convincing evidence, and whether these findings of fact support its conclusions of law. When a party does not challenge the trial court's findings of fact, they are deemed to be supported by clear, cogent, and convincing evidence and are binding on appeal. Here, the trial court made extensive unchallenged findings of fact regarding Mother's incapability of providing care, supervision, or alternative child care

arrangements for her minor children. Consequently, we affirm the trial court's termination of Mother's parental rights under N.C.G.S. § 7B-1111(a)(6). Where the findings of fact support the trial court's termination of Mother's parental rights under a single ground, we need not address whether termination on other grounds was appropriate and affirm the order terminating Mother's parental rights.

BACKGROUND

Mother appeals from the trial court's order terminating her parental rights to her minor children Cristina and Elida.¹ The trial court became involved in 2019 due to concerns that Mother was "chronically homeless" and lived a "transient lifestyle" with "male friends or boyfriends[,] causing Cristina to "lack[] stable and appropriate housing on a consistent basis and . . . [to be] victimized by other adults on more than one occasion." On 10 January 2019, the Gaston County Department of Health & Human Services ("DSS") filed a juvenile petition alleging Mother's then nine-year-old minor child Cristina to be neglected and dependent. On the same day, the trial court ordered DSS to take non-secure custody of Cristina. On 4 March 2019, DSS filed a juvenile petition alleging Mother's then two-day-old minor child Elida to also be neglected and dependent. On the same day, the trial court ordered DSS to take non-secure custody of Elida as well. DSS subsequently placed Cristina with her adult half-brother and placed Elida in foster care.

¹ We use pseudonyms to protect the juveniles' identities and for ease of reading.

Throughout the pendency of the juvenile cases, the trial court monitored Mother's health. On 24 October 2019, Jennifer Cappelletty, Ph.D., performed a psychological evaluation of Mother's parental capacity. During this assessment, Dr. Cappelletty diagnosed Mother with Schizotypal Personality Disorder ("SPD") and recommended that Mother participate in psychotherapy with a therapist who specializes in treating individuals with SPD.

On 29 January 2020, the trial court adjudicated Cristina and Elida neglected and dependent. In its juvenile adjudication orders, the trial court ordered Mother, pursuant to Dr. Cappelletty's recommendations, to "[p]articipate in psychotherapy with a therapist who has specific training and experience working with individuals with a Schizotypal Personality Disorder." The trial court also ordered Mother to participate in a class on child sexual abuse, to complete parenting classes, to display appropriate parenting techniques during visitations with her children, to obtain vocational rehabilitation services, to participate in In-Home Services when requested, to obtain and maintain stable and safe housing and provide proof of said housing, to confirm attendance at visitations with her children 24 hours prior to the visit, to attend said visits, to attend all medical appointments for the children, and to engage and participate in counseling with the children as requested.

On 10 March 2020, the trial court held a review and permanency planning hearing for the juveniles. The trial court found that Mother had maintained contact

with DSS; completed a mental health assessment, a psychological evaluation, a test for intellectual functioning, and parenting classes; attended a Darkness to Light seminar; obtained and maintained stable housing; continued therapy; established a primary care provider; entered into a case plan; and attended all offered visitations. Despite Mother's participation in therapy, she was unable to locate a specialist to treat SPD. Furthermore, the trial court found that Mother was "unable to reunify with the juvenile[s]." The trial court set the primary permanent plans for Cristina and Elida as concurrent plans of guardianship and adoption, with secondary plans of reunification.

The trial court conducted another review on 22 September 2020. During this hearing, the trial court found that Mother continued to comply with her case plan and continued to attend therapy, despite her therapist having no specific experience treating SPD. However, the trial court found "that reunification maybe [sic] not be able to be reached in the time frame needed with [Mother] due to [Mother]'s inability to obtain the necessary parenting skills." Consequently, the trial court set the primary permanent plan as adoption and the secondary permanent plan as reunification. During a review hearing on 4 May 2021, the trial court found "that [Mother's] progress in addressing her mental health disorder [was] minimal and sufficient progress, if possible, to reunify with the juvenile[s] is projected to require multiple years of continued therapy." The trial court further found that visitation

between Mother and Cristina or Elida was no longer in the best interest of the children's well-being and ordered that Mother's visitation and contact with the children be ceased.

On 14 October 2021, DSS filed its petitions for termination of Mother's parental rights to Cristina and Elida under N.C.G.S. §§ 7B-1111(a)(1), (a)(2), (a)(6), and (a)(9), which provide as follows:

(a) The court may terminate the parental rights upon a finding of one or more of the following:

(1) The parent has abused or neglected the juvenile. The juvenile shall be deemed to be . . . neglected if the court finds the juvenile to be . . . a neglected juvenile within the meaning of [N.C.G.S.] § 7B-101.²

² N.C.G.S. § 7B-101 defines, in pertinent part:

Neglected juvenile. - Any juvenile less than 18 years of age (i) who is found to be a minor victim of human trafficking under G.S. 14-43.15 or (ii) whose parent, guardian, custodian, or caretaker does any of the following:

- a. Does not provide proper care, supervision, or discipline.
 - b. Has abandoned the juvenile.
 - c. Has not provided or arranged for the provision of necessary medical or remedial care.
 - d. Or whose parent, guardian, or custodian has refused to follow the recommendations of the Juvenile and Family Team made pursuant to Article 27A of this Chapter.
 - e. Creates or allows to be created a living environment that is injurious to the juvenile's welfare.
 - f. Has participated or attempted to participate in the unlawful transfer of custody of the juvenile under G.S.14-321.2.
 - g. Has placed the juvenile for care or adoption in violation of law.
- In determining whether a juvenile is a neglected juvenile, it is relevant whether that juvenile lives in a home where another juvenile has died as a result of suspected abuse or neglect or lives in a home where

(2) The 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 been made in correcting those conditions which led to the removal of the juvenile. No parental rights, however, shall be terminated for the sole reason that the parents are unable to care for the juvenile on account of their poverty.

.....

(6) 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 [N.C.G.S.] § 7B-101,³ and that there is a reasonable probability that the incapability will continue for the foreseeable future. Incapability under this subdivision may be the result of substance abuse, intellectual disability, 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.

.....

another juvenile has been subjected to abuse or neglect by an adult who regularly lives in the home.

N.C.G.S. § 7B-101(15) (2022).

³ N.C.G.S. § 7B-101 defines, in pertinent part:

Dependent juvenile. - 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.G.S. § 7B-101(9) (2022).

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(9) The parental rights of the parent with respect to another child of the parent have been terminated involuntarily by a court of competent jurisdiction and the parent lacks the ability or willingness to establish a safe home.

N.C.G.S. §§ 7B-1111(a)(1), (a)(2), (a)(6), (a)(9) (2022).

On 15 June 2022, the trial court conducted a hearing on the petition to terminate Mother's parental rights. During the hearing, Mother's therapist testified that she was unaware of any available specialized training for treating patients with SPD and that Mother was a willing participant in treatment. However, in the course of treatment, Mother's therapist became aware that Mother believed that Cristina was not the daughter she had birthed, and that Cristina was in fact replaced by someone else. Due to the rarity of SPD, Dr. Cappelletty amended the recommendation that Mother be treated by an individual with experience treating SPD to a recommendation for Mother to be treated by an individual with experience treating personality disorders in general. Dr. Cappelletty listened to Mother's own testimony and was asked to comment on her opinion of whether Mother "would be able to parent her children in a period of six months[.]" Dr. Cappelletty responded that she did not believe Mother could because, even though she had demonstrated improvement in "insight into her own role in being negligent and placing [Cristina] in harm's way," Dr. Cappelletty testified that she "ha[d] seen evidence of significant progression of her illness in other ways[.]" namely that Mother's belief about her children being replaced by imposters was evidence of Capgras Syndrome, "a

delusional belief system that an individual close [to the individual with this syndrome] has been replaced by an imposter.”

The trial court dismissed ground (a)(2) upon its finding that DSS did not establish Mother’s willfulness to leave Cristina and Elida in placement outside of the home. On 4 November 2022, the trial court entered its orders terminating Mother’s parental rights to Cristina and Elida pursuant to N.C.G.S. §§ 7B-1111(a)(1), (a)(6), and (a)(9), concluding as a matter of law that

a) [Mother] has neglected the juvenile within the meaning of N.C.G.S. [§] 7B-101(15) and [N.C.G.S. §] 7B-1111(a)(1); and [Mother] has neglected the juvenile in the past and there is a strong probability of the repetition of future neglect if the child is returned to [Mother’s] care.

b) [Mother] 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 [N.C.G.S. §] 7B-101, and that there is a reasonable probability that such incapability will continue for the foreseeable future, and has no appropriate alternative child care arrangement, within the meaning of [N.C.G.S. §] 7B-1111(a)(6); and

c) The parental rights of [Mother] with respect to another child of the parent have been terminated involuntarily by a court of competent jurisdiction and [Mother] lacks the ability and willingness to establish a safe home, within the meaning of [N.C.G.S. §] 7B-1111(a)(9).

Mother timely appealed.

ANALYSIS

On appeal, Mother argues that the trial court erred by terminating her parental rights to Cristina and Elida under N.C.G.S. §§ 7B-1111(a)(1), (a)(6), and (a)(9). We examine (1) whether the trial court's findings of fact are supported by clear and convincing evidence and (2) whether those findings of fact support the trial court's conclusions of law. *In re T.H.T.*, 185 N.C. App. 337, 343 (2007), *aff'd as modified*, 362 N.C. 446 (2008). Unchallenged findings of fact are presumed to be supported by competent evidence and are consequently binding on appeal. *Koufman v. Koufman*, 330 N.C. 93, 97 (1991). We review the trial court's conclusions of law regarding the grounds to terminate Mother's parental rights *de novo* and the trial court's decision to terminate Mother's parental rights for abuse of discretion. *Starco, Inc. v. AMG Bonding and Ins. Servs.*, 124 N.C. App. 332, 336 (1996); *In re Anderson*, 151 N.C. App. 94, 98 (2002). "[A]n adjudication of any single ground for terminating a parent's rights under N.C.G.S. § 7B-1111(a) will suffice to support a termination order. Therefore, if this Court upholds the trial court's order in which it concludes that a particular ground for termination exists, then we need not review any remaining grounds." *In re J.S., C.S., D.R.S., D.S.*, 374 N.C. 811, 815 (2020) (citations omitted).

A. Dependency

Under N.C.G.S. § 7B-1111(a)(6), the trial court may terminate a parent's rights if it finds

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[t]hat 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 [N.C.G.S.] § 7B-101, and that there is a reasonable probability that the incapability will continue for the foreseeable future. Incapability under this subdivision may be the result of substance abuse, intellectual disability, 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.

N.C.G.S. § 7B-1111(a)(6) (2022). Under N.C.G.S. § 7B-101, a dependent juvenile is one who is

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.G.S. § 7B-101(9) (2022).

To terminate a parent's rights based on dependency under N.C.G.S. § 7B-1111(a)(6), the trial court must address in its findings of fact both the parent's ability to provide care or supervision for the child and the availability of alternative child care arrangements to the parent. *In re K.R.C.*, 374 N.C. 849, 859 (2020). The trial court's findings of fact must be supported by clear, cogent, and convincing evidence and must support the conclusions of law which it reaches. *In re Z.D.*, 258 N.C. App. 441, 444 (2018) (reversing respondent-mother's dependency TPR ground because clear, cogent, and convincing evidence did not support the trial court's finding that

respondent-mother was incapable of caring for her son and that this incapability would continue for the foreseeable future).

1. Ability to Provide Care

Mother first argues that the trial court erred by finding there was clear and convincing evidence of her incapability to parent Cristina and Elida because the evidence DSS presented was based on her current condition without specialized treatment for her SPD, and the trial court made “no determination whether treatment for SPD could or could not cure [Mother’s] purported inability to parent [Cristina and Elida].” Mother compares this case to *In re Matherly*, in which we reversed the trial court’s termination of the minor respondent’s parental rights based on dependency because the trial court failed to make any findings as to whether the minor parent’s incapability to provide care could be remedied by the minor becoming an adult. *In re Matherly*, 149 N.C. App. 452, 455 (2002). However, it is undisputed that Mother has received years of appropriate treatment for her SPD. The trial court made extensive findings as to the length, appropriateness, and history of Mother’s treatment for SPD, none of which Mother specifically challenges on appeal. The trial court specifically found, in part:

53. That Dr. Cappelletty had observed [Mother’s therapist’s] treatment of individuals with personality disorders and believed her to be highly qualified and appropriate to treat [Mother]. Dr. Cappelletty had no reservations in regard to [Mother’s therapist’s] ability to provide appropriate treatment to [Mother].

54. That [Mother's therapist] has experience in treating people with personality disorders generally. She does not have specific training and previous experience working with individuals with Schizotypal Personality Disorder.

....

59. That Dr. Cappelletty's modification was in the provision of her report regarding the need for a provider that has specific training for Schizotypal Personality Disorder to a recommendation that [Mother] needed to be treated by a provider with special training in treating personality disorders *generally*.

....

68. That this [c]ourt finds that [Mother's therapist] does have experience treating individuals with personality disorders generally and that she is an appropriate treatment provider for [Mother].

....

75. That [Mother's therapist] did use and continues to use Cognitive Behavioral Therapy ("CBT") in her treatment of [Mother]. CBT is evidence-based psychotherapy regarded by mental health professionals as the best type of therapy for all personality disorders to include Schizotypal Personality Disorder.

....

78. That this [c]ourt finds that CBT is an appropriate treatment method for [Mother] given her diagnoses and mental health condition.

79. That despite continuous therapy with [her therapist] since April 2020, [Mother] continues to have suspicious

thoughts that negatively impact her ability to parent the juvenile[s].

Consequently, Mother's contention that the trial court failed to make any findings as to whether treatment for Mother's SPD could remedy her incapability to provide care for her children is unsupported by the Record. The trial court found that Mother has already undergone, and continues to undergo, appropriate treatment for SPD, and that – despite this treatment – Mother's mental health has continued to decline. Furthermore, Mother does not purport to challenge these findings of fact, and they are appropriately considered to be supported by competent evidence and consequently binding on appeal. *Koufman*, 330 N.C. at 97.

Mother also argues that, as in *In re Scott*, 95 N.C. App. 760, 763 (1989), we should reverse the order terminating her parental rights because DSS failed to prove by clear and convincing evidence that Mother's personality disorder renders her incapable of providing care for her children. DSS argues that *Scott* is easily distinguished from Mother's case because, in *Scott*, a psychiatrist testified that the parent was not necessarily incapable of parenting her children by nature of her personality disorder because she “was [] experiencing her longest [] period of improvement.” *In re Scott*, 95 N.C. App. at 762. Mother's condition, by contrast, was found in the unchallenged findings of fact to have worsened substantially, despite her active and willing participation in therapy.

2. Alternative Child Care

Next, Mother argues that, although the trial court found that Mother had not identified any alternative childcare arrangements, our Supreme Court has held that “N.C.G.S. § 7B-1111(a)(6) contains no language indicating that it is the parent, and the parent alone, who must locate and secure an appropriate alternative childcare arrangement.” *In re A.L.L.*, 376 N.C. 99, 107 (2020). However, as DSS notes, *A.L.L.* was a guardianship case, in which our Supreme Court observed that “[u]ntil . . . guardianship has been established, a parent will still have reason to identify and propose an alternative care arrangement.” *In re A.L.L.*, 376 N.C. at 109, fn 3. Furthermore, the unchallenged findings of fact 125, 126, and 131 from Cristina’s order and 128, 129, and 131 from Elida’s order demonstrate that Mother “does not have any person she would trust to care for the juvenile[.]” “does not have any person to be an alternate caretaker for the child[.]” and “has no appropriate alternative child care arrangement[.]” Mother does not argue on appeal that she has an alternative child care arrangement, and in fact, testified at the hearing that she did not provide Cristina’s half-brother as a possible appropriate placement for the juveniles.

The trial court made extensive findings of fact concerning Mother’s ability to provide care or supervision for Cristina and Elida and the availability of alternative child care arrangements available to her. It ultimately found, in its uncontested findings of fact, that Mother is incapable of providing care for the juveniles due to her worsening mental health condition, despite receiving appropriate mental health

treatment, and that Mother did not provide any possible alternative child care arrangements. Consequently, the trial court did not err by terminating Mother's parental rights to Cristina and Elida pursuant to N.C.G.S. § 7B-1111(a)(6).

B. Single-Ground Jurisprudence

“Only one ground is needed to support the termination of [a parent’s] parental rights.” *In re E.Q.B.*, — N.C. App. —, — (2023), 2023 WL 4873860 (citing *In re J.S., C.S., D.R.S., D.S.*, 374 N.C. 811, 814-15 (2020)). We affirm the trial court’s termination of Mother’s parental rights on dependency grounds in accordance with N.C.G.S. § 7B-1111(a)(6) and consequently “need not review either of the remaining grounds for the purposes of the termination of parental rights.” *In re E.Q.B.*, — N.C. App. at — (citing *In re B.O.A.*, 372 N.C. 372, 380 (2019)).⁴

⁴ Under our established single-ground jurisprudence in appeals from orders terminating parental rights, whether the trial court erred in terminating Mother’s parental rights to Cristina and Elida under N.C.G.S. §§ 7B-1111(a)(1) and (a)(9) is functionally mooted for the purposes of our review by our determination that the trial court did not err in terminating Mother’s parental rights under N.C.G.S. § 7B-1111(a)(6). However, we note our holding in *In re E.Q.B.*, — N.C. App. —, — (2023), 2023 WL 4873860, that review of the other grounds may be appropriate for other purposes:

Although our appellate courts have long held that our inquiry stops once we have affirmed one ground to support the termination of parental rights, *In re B.O.A.*, 372 N.C. at 372, we note that under N.C.G.S. § 7B-1114(g)(2), a discussion of these additional grounds may be a more appropriate exercise of appellate review.

A moot question is “one that would have no practical effect on the controversy.” *Emerson v. Cape Fear Country Club, Inc.*, 259 N.C. App. 755, 764 (2018). While the “single ground” for termination line of jurisprudence does not appear to explicitly reference our mootness doctrine, a careful reading discloses that we are essentially determining that there is no need to consider the other grounds for

CONCLUSION

The trial court's unchallenged findings of fact support its conclusions that Cristina and Elida are dependent juveniles under N.C.G.S. § 7B-101, that Mother is incapable of providing Cristina and Elida with proper care and supervision due to her mental illness, and that this incapability will continue for the foreseeable future. Consequently, the trial court did not err in terminating Mother's parental rights pursuant to N.C.G.S. § 7B-1111(a)(6). We need not address the trial court's other

termination challenged on appeal, as resolving these issues would have no practical effect on the case. However, whether the trial court's conclusions in regards to each of the other grounds should be affirmed could arguably impact a parent's ability to regain his or her parental rights in the future, pursuant to N.C.G.S. § 7B-1114, effective since 1 October 2011.

In a hearing to reinstate a party's parental rights, the trial court shall consider, *inter alia*, "[w]hether the parent whose rights the motion seeks to have reinstated has remedied the conditions that led to the juvenile's removal and termination of the parent's rights." N.C.G.S. § 7B-1114(g)(2) (2022). The validity of additional ground(s) for termination may very well be relevant to this future statutory procedure and would otherwise escape appellate review. Nevertheless, even if there is a need to reconsider this "single ground" line of jurisprudence in light of N.C.G.S. § 7B-1114(g)(2) and mootness principles, a party bears the responsibility to address mootness "or present us with any collateral consequences that may stem from the disposition order in question." *In re B.B.*, 263 N.C. App. 604, 605 (2019). Father has not argued in this appeal for any renewed consideration of our "single ground" jurisprudence. As such, we need not discuss the merits of the two remaining grounds for termination, but in an exercise of intellectual honesty we acknowledge the potential for such arguments to impact future appellate litigation.

In re E.Q.B., — N.C. App. at — (citations and marks omitted).

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grounds for terminating Mother's parental rights, as only one ground is needed to support the termination.

AFFIRMED.

Judges DILLON and RIGGS concur.

Report per Rule 30(e).