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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA23-268

Filed 17 October 2023

Henderson County, No. 20-JT-93

IN THE MATTER OF:

R.C.D.-T.

Appeal by Respondent-Mother from order entered 14 December 2022 by Judge Gene Johnson in Henderson County Superior Court. Heard in the Court of Appeals 6 September 2023.

Sara Player for the Petitioner-Appellee, Henderson County Department of Social Services.

Thomas N. Griffin, III for the Guardian ad Litem.

Jason R. Page for the Respondent-Appellant Mother.

STADING, Judge.

Respondent-Mother (“Mother”) appeals from the trial court’s order terminating her parental rights to her minor child pursuant to N.C. Gen. Stat. § 7B-1111 (2021). For the reasons set forth below, we affirm the trial court’s order.

I. Background

“Ryan”¹ was born in August of 2019 to Mother and his father.² On 6 May 2020, Henderson County Department of Social Services (“HCDSS”) received a report and completed a welfare check on Ryan and interviewed Mother. During the interview, Mother admitted to smoking marijuana, methamphetamines, and crack cocaine with the father while Ryan was asleep in the same room. HCDSS placed Ryan with a temporary safety provider and requested a Child Medical Evaluation for Ryan that showed he was positive for the same drugs mother abused.

On 29 May 2020, HCDSS filed a juvenile petition alleging that Ryan was a neglected juvenile because he lived in an environment injurious to his welfare, and was not receiving proper care, supervision, or discipline from his parents. On 25 June 2020, the trial court adjudicated Ryan as a neglected juvenile and determined that he would remain out of both parents’ custody until the parents completed their court ordered case plans. To prevent Ryan’s removal, the trial court entered the following requirements for Mother:

- a. Mother shall obtain a Comprehensive Clinical Assessment from a certified provider acceptable to HCDSS. Provide the assessor with truthful and accurate information. HCDSS shall have input with the clinical assessor.

¹ The parties have stipulated to the use of this pseudonym to protect the identity of the minor child. N.C. App. P. 42(b).

² The father is not a party to this appeal—prior to the termination of parental rights proceeding, he voluntarily relinquished his parental rights to Ryan.

- b. Mother shall follow and successfully complete all recommendations of the assessment.
- c. Mother shall submit to random drug screens.
- d. Mother shall attend & successfully complete an Anger Management/Domestic Violence prevention program with a provider acceptable to HCDSS and show benefit from the program.
- e. Mother shall complete parenting classes by a provider acceptable to HCDSS, which addresses the ability to identify age-appropriate behaviors, needs and discipline for the juvenile.
- f. Mother shall cooperate with and pay Child Support through the Child Support Enforcement Agency in an amount consistent with the guidelines.
- g. Mother shall cooperate and/or ensure that the juvenile's medical, dental, developmental evaluations and treatment needs are met and comply with recommendations.
- h. If physical placement of the juvenile is returned to the mother, ensure that the juvenile attends daycare/school in the absence of a valid medical excuse, or in fulfillment of provision of this order.
- i. Mother shall visit with the juvenile as allowed by the Court and demonstrate the ability to provide appropriate care for the juvenile.
- j. Mother shall obtain stable income that is sufficient to meet the family's basic needs. . . .
- k. Mother shall obtain and maintain an appropriate and safe residence for the juvenile.
- l. Mother shall maintain face-to-face contact with the Social worker as requested[.]
- m. Mother shall provide the Social Worker with a physical residence address[.]

n. Mother shall sign and keep current all releases of information necessary to allow the exchange of information between HCDSS and the providers.

On 10 September 2020, the trial court determined that Mother had made adequate progress in her case plan and allowed Ryan to return to the parents for a trial-home placement. However, after an incident of domestic violence on 4 December 2020, HCDSS again removed Ryan from the home and placed him in the custody of his grandparents. After his grandparents admitted to smoking marijuana in the home, Ryan was placed in a foster home, where he has remained since.

The trial court held additional permanency planning hearings on 25 February 2021, 12 August 2021, 9 December 2021, 17 March 2022, and 9 June 2022. At each of these hearings, the trial court determined that, while Mother made some progress towards completing her case plan, such progress was insufficient to warrant reunification. On 21 July 2022, HCDSS filed a petition for termination of Mother's parental rights to Ryan. After a hearing on the matter, the trial court entered an order containing 244 findings of fact detailing both parents' failure to comply with the trial court's case plan. As a result, the trial court determined that grounds existed under N.C. Gen. Stat. § 7B-1111 to terminate Mother's parental rights to Ryan based on (1) neglect, (2) willfully leaving the juvenile in foster care for more than twelve months without showing, to the satisfaction of the court, that reasonable progress under the circumstances has been made in correcting the issues that led to the juvenile's removal, and (3) willfully failing to pay child support for a continuous

period of six months. The trial court ultimately concluded that terminating Mother's parental rights was in Ryan's best interests. Mother entered her notice of appeal on 6 January 2023.

II. Jurisdiction

This Court has jurisdiction to hear this appeal pursuant to N.C. Gen. Stat. §§ 7A-27(b)(2) and 7B-1001(a)(7) (2021).

III. Analysis

On appeal, Mother argues that the trial court erred as follows: (1) by terminating her parental rights under N.C. Gen. Stat. § 7B-1111(a)(1), as she is not likely to neglect Ryan in the future after ending her abusive relationship with Ryan's father; (2) in concluding that grounds exist to terminate her parental rights under N.C. Gen. Stat. § 7B-1111(a)(2) because her "will was subject to the coercive control of her abusive partner[;]" and (3) in determining that grounds exist to terminate her parental rights under N.C. Gen. Stat. § 7B-1111(a)(3) because she was unable to make child support payments.

The trial court conducts a termination of parental rights proceeding in two stages—adjudication and disposition. *In re C.J.H.*, 240 N.C. App. 489, 497, 772 S.E.2d 82, 88 (2015). First, "[i]n the adjudication stage, the trial court must determine whether there exists one or more grounds for termination of parental rights under N.C. Gen. Stat. § 7B-1111(a)." *In re D.H.*, 232 N.C. App. 217, 219, 753 S.E.2d 732, 734 (2014) (citation omitted). Second, in the disposition stage, "if the trial

court determines that at least one ground for termination exists . . . it must determine whether terminating the rights of the parent is in the best interest of the child, in accordance with N.C. Gen. Stat. § 7B-1110(a).” *Id.*

“This Court reviews a trial court’s conclusion that grounds exist to terminate parental rights to determine whether clear, cogent, and convincing evidence exists to support the court’s findings of fact, and whether the findings of fact support the court’s conclusions of law.” *In re C.J.H.*, 240 N.C. App. at 497, 772 S.E.2d at 88 (citation omitted). “In doing so, we limit our review to only those findings necessary to support the trial court’s determination that grounds existed to terminate respondent’s parental rights.” *In re B.R.L.*, 381 N.C. 56, 58, 871 S.E.2d 491, 493 (2022) (internal quotation marks and citation omitted). “Findings of fact supported by competent evidence are binding on appeal even though there may be evidence to the contrary. However, [t]he trial court’s conclusions of law are fully reviewable *de novo* by the appellate court.” *In re A.N.S.*, 239 N.C. App. 46, 49, 767 S.E.2d 699, 702 (2015) (citation omitted). “Unchallenged findings of fact made at the adjudicatory stage are binding on appeal.” *In re J.J.H.*, 376 N.C. 161, 166, 851 S.E.2d 336, 341 (2020) (citations omitted). If this Court “determine[s] that the findings of fact support one ground for termination, we need not review the other challenged grounds.” *In re C.J.H.*, 240 N.C. App. at 497, 772 S.E.2d at 88 (citation omitted).

A trial court may terminate a parent’s rights to her child upon a finding that the parent neglected the juvenile. N.C. Gen. Stat. § 7B-1111(a)(1) (2021). A juvenile

is neglected when the “parent . . . [d]oes not provide proper care, supervision, or discipline[,]” or “[c]reates or allows to be created a living environment that is injurious to the juvenile’s welfare.” N.C. Gen. Stat. § 7B-101(15)(a), (e) (2021). “[T]o reach the legal conclusion of neglect, the trial court must determine neglect exists at the time of the termination of parental rights proceeding.” *In re J.H.K.*, 215 N.C. App. 364, 368, 715 S.E.2d 563, 567 (2011) (citation omitted). However, “if the child has been separated from the parent for a long period of time, there must be a showing of past neglect and a likelihood of future neglect by the parent.” *In re D.L.W.*, 368 N.C. 835, 843, 788 S.E.2d 162, 167 (2016) (citation omitted).

“When determining whether such future neglect is likely, the district court must consider evidence of changed circumstances occurring between the period of past neglect and the time of the termination hearing.” *In re J.M.J.-J.*, 374 N.C. 553, 556, 843 S.E.2d 94, 99 (2020) (internal quotation marks and citations omitted). “[T]his evidence of changed conditions must be considered in light of the history of neglect by the parents and the probability of a repetition of neglect.” *In re O.W.D.A.*, 375 N.C. 645, 648, 849 S.E.2d 824, 827 (2020) (internal quotation marks and citations omitted). Although the parent may be able to show evidence of some progress, the trial court has the “authority to weigh the evidence and determine that these eleventh-hour efforts did not outweigh the evidence of [the parent’s] persistent failure to make improvements. . . .” *Id.* at 654, 849 S.E.2d at 831 (citations omitted).

Here, Mother contends that her abusive relationship, which she alleges caused her drug dependency, led her to neglect Ryan. She argues that the trial court erred in terminating her parental rights based on neglect because after ending the relationship with Ryan's father and obtaining sobriety, she is not likely to neglect Ryan in the future. Mother alleges that the trial court's conclusion that "[s]he has neglected the juvenile within the meaning of Chapter 7B of the General Statutes, and there is a probability that such neglect would recur if the juvenile was in the care of the mother" is not supported by evidence. Mother also challenges findings of fact nos. 138, 146, 238, 239, 240, 242, 243, and 244. However, Mother does not challenge the following findings, establishing that:

17. A petition alleging the juvenile to be a neglected juvenile pursuant to N.C. Gen. Stat. § 7B-402 was filed by HCDSS on May 29, 2020.

18. HCDSS became involved with the family due to the parents' issues with substance abuse, domestic violence, and a lack of housing.

...

21. Following an adjudication hearing on June 25, 2020, the juvenile was adjudicated as a neglected juvenile at the consent of the parties.

...

24. At the disposition hearing, the Court placed certain requirements on the parties to prevent removal of the juvenile from their legal custody.

...

27. A permanency planning and review hearing was held on September 10, 2020. By this point, the parents had made sufficient progress on their respective case plans such that the Court returned physical custody of the juvenile to both parents with continued court oversight.

28. However, within a few months of the hearing, the parents were again struggling with substance abuse.

...

31. There was a domestic violence altercation on December 4, 2020. . . .

33. The mother . . . relapsed around this time, testing positive for methamphetamine.

34. Following a permanency planning and review hearing on February 25, 2021, the Court ordered custody and placement of the juvenile to HCDSS. . . .

...

36. The juvenile has remained in [a] foster home since February 26, 2021.

37. Permanency planning hearings were held on August 12, 2021 and December 9, 2021 to evaluate the progress, or lack thereof, of each parent towards their respective reunification requirements.

...

43. Following a permanency planning hearing for [Ryan] on June 9, 2022, the Court found that the primary plan for [Ryan] should be changed to the termination of the parents' parental rights, with subsequent adoption of the juvenile, as no party had made reasonable progress towards completion of their respective reunification plans.

...

55. The mother started the basic substance abuse program

in May 2020 and completed it in August 2020.

56. . . . [On January 2, 2021], the mother said she relapsed and admitted to using methamphetamine and crack cocaine with the father in fall of 2020.

. . .

70. [Mother] had negative drug screens on May 18, 2021; May 26, 2021; June 4, 2021; June 11, 2021; and June 15, 2021.

. . .

74. The mother tested positive for cocaine on a drug screen from July 9, 2021.

. . .

81. [Mother] submitted to a urine screen on August 19, 2021 and was positive for amphetamines and methamphetamines.

. . .

89. . . . [Mother] tested negative on an October 5, 2021 drug screen[.]

. . .

92. She tested positive on a urine screen on December 7, 2021 for amphetamines and methamphetamines.

. . .

95. The mother tested negative on drug screens on December 17, 2021, December 24, 2021, and December 31, 2021.

. . .

106. The mother tested negative on a urine drug screen on February 14, 2022.

...

111. The mother submitted to the hair follicle screens on March 28, 2022 and tested positive for methamphetamines. On April 4, 2022, [a HCDSS social worker] discussed the results with the mother, and she admitted to using in January 2022.

...

126. [Mother] completed the 144-hour requirement for [substance abuse intensive outpatient program (“SAIOP”)] on August 10, 2022.

...

136. The mother admitted to using on August 28, 2022.

...

141. On November 9, 2022, the mother again tested positive on a hair follicle test for methamphetamine.

...

147. HCDSS is not aware of the mother attending any other therapy sessions after October 4, 2022.

148. The mother routinely provided false information during Comprehensive Clinical Assessments.

149. She did not successfully complete all recommendations.

150. The mother never engaged in inpatient substance abuse treatment.

151. While the mother was determined to have completed the initial phase of the SAIOP at Meridian, she used drugs throughout the program and did not maintain 30 days of abstinence at the end of the first phase. The earliest she could complete the program entirely is February 2023.

152. The mother continued to use illegal, controlled substances which have created a negative impact on her life, as well as the lives . . . her children.

153. On March 25, 2021, the mother completed a domestic violence assessment at Safelight, a domestic violence prevention agency in Henderson County. She was recommended to complete a 26-week domestic violence intervention program and was determined to be a female offender.

. . .

155. The mother did not enroll in the 26-week [domestic violence intervention] program. . . .

156. The mother participated in some anger management counseling sessions while at Successful Transitions in the spring of 2021 but did not complete the program.

157. She did a new domestic violence assessment at SPARC in Buncombe County on July 27, 2021.

158. She never enrolled in SPARC classes.

. . .

166. She did not significantly participate in any kind of domestic violence classes until September 2022, two months after the termination of parental rights petition was filed by HCDSS.

. . .

171. She enrolled in Nurturing Parenting class at the Child and Family Resource Center in Hendersonville on January 19, 2022 and ultimately completed that program.

. . .

173. HCDSS was unable to observe benefit from the mother's completion of the Nurturing Parenting class.

...

191. The mother obtained multiple jobs throughout the juvenile's time in foster care.

...

197. The mother did not obtain a stable income that is sufficient to meet the family's basic needs.

...

203. She began a new position about two (2) weeks prior to the hearing but did not provide any verification to HCDSS or the Court.

204. The mother did not obtain and maintain an appropriate and safe residence for the juvenile.

...

217. The mother failed to take accountability for her own actions throughout [Ryan's] time in foster care.

...

224. The mother has acknowledged difficulties in being around the father and blames her drug use on him. She described using drugs solely because the father was using.

225. However, the mother has a long history of substance use prior to her involvement with the father.

...

232. To the Department's knowledge, the parents are not currently in a romantic relationship. However, throughout the juvenile's time in foster care, the parents have exhibited a pattern of breaking up and getting back together.

233. The mother testified that the parents ended their romantic relationship on May 2, 2022. . . .

234. However, the Court did not find this statement to be credible.

235. The mother acknowledged using with the father on August 28, 2022 prior to a court date. . . .

Since Mother does not challenge the above-referenced findings, they are deemed to be supported by competent evidence and are binding on appeal. *See In re J.J.H.*, 376 N.C. at 166, 831 S.E.2d at 341. Notwithstanding the challenged findings of fact, the trial court's unchallenged findings establish that, while Mother may have completed portions of her case plan and may have attempted to or successfully did end her relationship with Ryan's father, the trial court considered these changes along with the historical facts of the case. The unchallenged findings detail the initial issues that led to the original adjudication of neglect—including domestic violence perpetrated by both parents, as well as housing and substance abuse issues—the latter which caused Ryan to test positive for marijuana, cocaine, and methamphetamine at eight months old. The trial court ordered both parents to complete respective case plans in an effort to address the behaviors that led to Ryan's neglect and prevent termination of their parental rights. As a result of both parents' initial progress, the trial court returned Ryan to their custody in September 2020. However, this progress was short-lived, as Ryan was removed from the parents' care again due to persistent substance abuse and domestic violence issues. Since this second removal, as of the date of the termination hearing, Ryan had not resided in Mother's custody for seventeen months.

The trial court's findings provide that following this second removal, Mother exhibited minimal progress and compliance with the court ordered case plan. Throughout the proceedings, the trial court gave Mother opportunities to complete her case plan and she eventually complied with some of the requirements. For example, the termination order contained findings showing that the trial court considered Mother's participation in some substance abuse treatments and several negative drug tests. Nonetheless, the unchallenged findings also provide that she tested positive for illegal drugs on numerous occasions—as recently as 9 November 2022—just days before the hearing. Additionally, it is unchallenged that Mother was using drugs with the father on 28 August 2022. Moreover, the trial court's findings acknowledge that Mother made some marginal effort to comply with substance abuse treatment and domestic violence classes. However, the unchallenged findings display a failure to follow through and complete many of the requirements.

The trial court also found, and Mother does not challenge, that she failed to maintain stable housing. At the time of the termination hearing, she was living with her mother—a residence that HCDSS previously deemed inappropriate for Ryan. *See In re N.P.*, 374 N.C. 61, 65, 839 S.E.2d 801, 804 (2020) (holding that the parent's inability to maintain safe housing for any significant time supports the inference that the parent lacked the ability to do so in the future). Along with her failure to procure safe housing, the trial court also found that Mother failed to maintain stable employment and income. Although the findings show that she had some employment

at various points throughout the proceedings, as of the date of the termination hearing, the trial court could not verify Mother's most recent employment. Mother also contends that her abusive relationship with Ryan's father was in the causal chain of her drug dependency. She maintains that since she has not yet reconciled with the father, she is not likely to neglect Ryan in the future. While Mother does point to some evidence that she is no longer involved with the father and that she has achieved sobriety—the trial court's findings show Mother did not address and complete vital portions of her case plan—beyond her drug dependency.

Based on the evidence before it, the trial court did not err in determining that there is a likelihood that neglect would reoccur if Ryan were to be returned to Mother. *See In re H.A.J.*, 377 N.C. 43, 58, 855 S.E.2d 464, 474–75 (2021) (holding that the trial court did not err in determining there would be a likelihood of a repetition of neglect because the “respondent-mother's last-minute progress was insufficient to outweigh her long-standing history of alcohol and substance abuse and domestic violence, as well as the impact these behaviors had on [her children].”) Accordingly, we hold that the trial court did not err in concluding that grounds existed to terminate Mother's parental rights to Ryan under N.C. Gen. Stat. § 7B-1111(a)(1).

IV. Conclusion

“Because a single ground for terminating parental rights is sufficient to support a termination order, [the reviewing court] can uphold the trial court's order based on one ground without reviewing any remaining ground.” *In re C.K.I.*, 379 N.C.

207, 210, 864 S.E.2d 323, 326 (2021) (citation omitted). Thus, since there is clear, cogent, and convincing evidence supporting Mother's neglect under N.C. Gen. Stat. § 7B-1111(a)(1), it is not necessary to address the remaining arguments on other grounds found by the trial court. For these reasons, the trial court's order terminating Mother's parental rights is affirmed.

AFFIRMED.

Judges WOOD and GRIFFIN concur.

Report per Rule 30(e).