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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA23-440

Filed 2 January 2024

Buncombe County, Nos. 19 JT 229, 252

IN THE MATTER OF: N.R.W. & T.N.W.

Appeal by Respondent-Mother from orders entered 16 November 2022 by Judge Andrea F. Dray in Buncombe County District Court. Heard in the Court of Appeals 4 October 2023.

Jason R. Page, for Respondent-Appellant Mother.

Hanna Frost Honeycutt, for Petitioner-Appellee Buncombe County Department of Health and Human Services.

Parker Poe Adams & Bernstein, LLP, by Eimile Stokes Whelan, for Appellee Guardian ad Litem.

CARPENTER, Judge.

Respondent-Mother appeals from orders (the “Orders”) terminating her parental rights to her minor children, Natalie and Tina (collectively, “the Juveniles”).¹ On appeal, Respondent-Mother challenges the three grounds the trial

¹ Pseudonyms are used to protect the identities of the juveniles and for ease of reading. See N.C. R. App. P. 42(b).

court found existed to support the termination of her parental rights. After careful review, we affirm the Order based on willful failure to make reasonable progress.

I. Factual & Procedural Background

Record evidence tends to show the following. In June 2017, Tina was born to Respondent-Mother in Atlanta, Georgia. Respondent-Mother was raised in Atlanta but later moved to Asheville, North Carolina. Buncombe County Department of Health and Human Services (“DHHS”) first investigated Respondent-Mother due to allegations on 22 August 2019 that Tina was left unsupervised while Respondent-Mother prostitutes and sleeps during the day, and that Tina was observed alone in the apartment complex holding a knife.

A hair test revealed Tina was positive for marijuana, methamphetamine, benzodiazepines, and cocaine. Respondent-Mother admitted to using cocaine in January 2019 and marijuana in April or May of 2019. Additionally, Respondent-Mother admitted there had been methamphetamine use in her home but denied any personal use. At the time the investigation was initiated, Respondent-Mother was in the hospital due to complications with her pregnancy with Natalie. In late August 2019, Natalie was born prematurely, weighing approximately 2 lbs. at birth. Respondent-Mother advised a local agency that she was being trafficked and used to sell drugs by Natalie’s father. But she later denied this to DHHS.

On 13 September 2019, DHHS obtained nonsecure custody of Natalie, while Tina was away visiting family in Georgia. Upon Tina’s return to North Carolina,

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DHHS obtained nonsecure custody of her on 19 October 2019. At a hearing on 10 July 2020, the trial court adjudicated Natalie and Tina as neglected. On 18 November 2020 at the initial dispositional hearing, the Court ordered Respondent-Mother to: comply with all mental health and substance use treatment recommendations; sign releases of information for any service providers with whom she is engaged with or plans to utilize; comply with urine or hair follicle drug test within 24 hours, as requested by DHHS; maintain safe and stable housing; allow DHHS to conduct home visits in the home where she intends to reunify with the minor child; complete Domestic Violence and Parenting classes upon the recommendation of her mental health/substance abuse service providers; follow the recommendations of her CCA; complete the Women's Recovery Program and follow recommendations; continue her engagement with Success Overcoming Addiction through Recovery ("SOAR") Family Treatment Court; complete a Parenting Capacity Evaluation; maintain regular contact with DHHS and provide updates of any changes in contact information; and visit with the Juveniles for a minimum of one hour per week.

Thereafter, Respondent-Mother completed a mental-health and substance-abuse assessment at Women's Recovery Center. The assessment recommended that she complete intensive outpatient substance-abuse treatment, outpatient therapy, and individual therapy. Respondent-Mother completed intensive outpatient substance-abuse treatment at Women's Recovery Center, but she did not complete individual therapy. Social Worker Moore testified regarding a step-down portion of

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the Intensive Outpatient Treatment program that Respondent-Mother refused to complete. Respondent-Mother participated in SOAR Family Treatment Court until August 2020, when she moved to Georgia. Respondent-Mother is not engaged in any substance-abuse services in Georgia.

When Respondent-Mother moved to Georgia, she initially moved around, living with her mother, her aunt, and in a motel, before moving in with a friend. Respondent-Mother had another child while living in Georgia; the Georgia Division of Family and Children's Services is involved, and Respondent-Mother is barred from unsupervised contact with the child. When her most recent child was born, Respondent-Mother tested positive for THC. After moving to Georgia, visits with the Juveniles became more difficult due to lack of transportation. Respondent-Mother attempted to participate in virtual visits with the Juveniles, but she often did not have a phone or internet connection or cited other technological issues. Respondent-Mother visited the Juveniles in person on two occasions in July 2021.

After a hearing on 18 August 2021, the trial court changed the permanent plan for the Juveniles to adoption. Respondent-Mother's last virtual visit was on 31 March 2022 before visitation was suspended in August 2022. At the time of the termination hearing, she was participating in parenting classes in Georgia, had completed a psychological assessment, was taking her prescribed medication, and was working as a cashier.

On 12 October 2021, DHHS filed petitions to terminate Respondent-Mother's parental rights to the Juveniles. On 30 September and 26 October 2022, the trial court conducted termination hearings. On 16 November 2022, the trial court entered orders concluding grounds existed to terminate Respondent-Mother's parental rights. After a disposition hearing on 9 December 2022, the trial court entered orders terminating Respondent-Mother's parental rights on 3 February 2023. On 1 March 2023, Respondent-Mother filed notice of appeal.

II. Jurisdiction

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

III. Issues

The issues on appeal are whether the trial court erred in terminating Respondent-Mother's parental rights on the grounds of neglect, willful failure to make reasonable progress to correct the conditions which led to removal, and willful failure to pay a reasonable portion of the cost of the Juveniles' care.

IV. Analysis

Respondent-Mother challenges the three grounds found by the trial court to support adjudication. While Respondent-Mother's arguments highlight conflicting or contradictory evidence, they fail to rebut the competent evidence and resulting findings which support the trial court's conclusions in this case.

A. Standard of Review

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“Our Juvenile Code provides for a two-step process for termination of parental rights proceedings consisting of an adjudicatory stage and a dispositional stage.” *In re Z.A.M.*, 374 N.C. 88, 94, 839 S.E.2d 792, 796 (2020); *see* N.C. Gen. Stat. §§ 7B-1109(e), 1110(a) (2021). “[A]n adjudication of any single ground in N.C. [Gen. Stat.] § 7B-1111(a) is sufficient to support a termination of parental rights.” *In re E.H.P.*, 372 N.C. 388, 395, 831 S.E.2d 49, 53 (2019); *see also* N.C. Gen. Stat. § 7B-1110(a).

“We review a trial court’s adjudication that a ground exists to terminate parental rights under N.C. [Gen. Stat.] § 7B-1111 to determine whether the findings are supported by clear, cogent, and convincing evidence and the findings support the conclusions of law.” *In re A.M.*, 377 N.C. 220, 225, 856 S.E.2d 801, 806 (2021) (citations and internal quotations omitted). “Clear, cogent, and convincing evidence is evidence which should fully convince.” *In re S.D.*, 243 N.C. App. 65, 67, 776 S.E.2d 862, 863 (2015) (citation omitted). “Findings of fact not challenged by [the] respondent are deemed supported by competent evidence and are binding on appeal. Moreover, we review only those findings necessary to support the trial court’s determination that grounds existed to terminate [the] respondent’s parental rights.” *In re T.N.H.*, 372 N.C. 403, 407, 831 S.E.2d 54, 58–59 (2019) (citations omitted). “A trial court’s finding of fact that is supported by clear, cogent, and convincing evidence is deemed conclusive even if the record contains evidence that would support a contrary finding.” *In re A.L.*, 378 N.C. 396, 400, 862 S.E.2d 163, 166 (2021) (citation omitted).

“[W]hether a trial court’s adjudicatory findings of fact support its conclusion of law that grounds existed to terminate parental rights . . . is reviewed de novo by the appellate court.” *In re M.R.F.*, 378 N.C. 638, 641, 862 S.E.2d 758, 761–62 (2021) (citation omitted). “Under a *de novo* review, the court considers the matter anew and freely substitutes its own judgment for that of the [trial court].” *In re T.M.L.*, 377 N.C. 369, 375, 856 S.E.2d 785, 790 (2021) (citation omitted) (alteration in original).

B. Willful Failure to Make Reasonable Progress

A respondent’s parental rights are subject to termination if “[t]he 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.” N.C. Gen. Stat. § 7B-1111(a)(2) (2021). A trial court should not find the existence of this ground “simply because of his or her failure to fully satisfy all elements of the case plan goals.” *In re B.O.A.*, 372 N.C. 372, 385, 831 S.E.2d 305, 314 (2019) (citation and internal quotations omitted).

Nevertheless, “a trial court has ample authority to determine that a parent’s ‘extremely limited progress’ in correcting the conditions leading to removal adequately supports a determination that a parent’s parental rights in a particular child are subject to termination.” *Id.* at 385, 831 S.E.2d at 314 (quoting *In re S.N.*, 194 N.C. App. 142, 149, 669 S.E.2d 55, 60 (2008)). The willfulness element of a parent’s failure to make reasonable progress toward correcting the conditions leading

to removal is satisfied where the record shows a “prolonged inability to improve [the parent’s] situation, despite some efforts in that direction.” *In re A.M.L.*, 377 N.C. 1, 14, 855 S.E.2d 439, 448 (2021).

Respondent-Mother’s initial neglect adjudication in July 2020 was based on improper care and supervision, unsafe living conditions, and concerns with mental health, domestic violence, and substance abuse, including Tina’s positive drug test for marijuana, methamphetamine, benzodiazepines, and cocaine. Respondent-Mother made minimal progress with the case plan, and her late, incomplete efforts were insufficient to remedy the conditions which led to removal. While subject to her case plan, Respondent-Mother voluntarily ceased participating in drug treatment, failed to complete mental-health treatment, failed to consistently maintain suitable housing, failed to remain in contact with DHHS, and failed to exercise visitation. Furthermore, her unilateral move back to Georgia during juvenile proceedings complicated the provision of services and made satisfactory compliance with her case plan nearly impossible, particularly those related to substance-abuse concerns.

Respondent-Mother’s initial progress was “extremely limited,” *In re B.O.A.*, 372 N.C. at 385, 831 S.E.2d at 314, and the record clearly reflects a “prolonged inability to improve her situation, despite some efforts in that direction,” *In re A.M.L.*, 377 N.C. at 14, 855 S.E.2d at 448. Consequently, Respondent-Mother’s argument concerning DHHS’s failure to present sufficient evidence of her current conditions is without merit. The trial court’s findings regarding failure to make reasonable

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progress are supported by evidence which “fully convince[s].” *In re S.D.*, 243 N.C. App. at 67, 776 S.E.2d at 863; *see In re B.O.A.*, 372 N.C. at 385, 831 S.E.2d at 314.

Therefore, the trial court’s findings support its conclusion that grounds existed to terminate Respondent-Mother’s parental rights. *See* N.C. Gen. Stat. § 7B-1111(a)(2). Having affirmed the trial court’s adjudication of failure to make reasonable progress, we do not reach Respondent-Mother’s arguments concerning the two remaining grounds. *See In re E.H.P.*, 372 N.C. at 395, 831 S.E.2d at 53.

V. Conclusion

Clear, cogent, and convincing evidence supports the trial court’s findings, which in turn support its conclusion that Respondent-Mother willfully failed to make reasonable progress to remedy the conditions leading to removal. Accordingly, we affirm the Orders.

AFFIRMED.

Judges TYSON and HAMPSON concur.

Report per Rule 30(e).