

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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.

NO. COA08-880

NORTH CAROLINA COURT OF APPEALS

Filed: 16 December 2008

IN THE MATTER OF:

T.L.A.  
E.A.  
T.R.A.,  
Minor Children

Mecklenburg County  
Nos. 06-JT-923-24  
06-JT-1251

Appeal by respondent-mother from an order entered 12 May 2008  
by Judge Hugh B. Lewis in Mecklenburg County District Court. Heard  
in the Court of Appeals 24 November 2008.

*Mecklenburg County Attorney's Office, by Alan Edmonds and J. Edward Yeager, Jr., for petitioner-appellee Mecklenburg County Department of Social Services, Division of Youth and Family Services.*

*Pamela Newell Williams for appellee Guardian ad Litem.*

*Thomas B. Kakassy, P.A., by Thomas B. Kakassy, for respondent-appellant mother.*

HUNTER, Judge.

C.A. ("respondent") appeals from an order entered 12 May 2008 terminating her parental rights to her minor children, T.L.A., E.A., and T.R.A. ("the juveniles"). For the reasons stated herein, we affirm the order of the trial court.

On 14 August 2006, the Mecklenburg County Department of Social Services, Division of Youth and Family Services ("petitioner") filed a juvenile petition alleging T.L.A. and E.A. were dependent

and neglected juveniles. Petitioner obtained custody of T.L.A. and E.A. pursuant to a non-secure custody order filed that same day. Respondent gave birth to T.R.A. in late September 2006. T.R.A. tested positive for cocaine at birth, was hospitalized for congenital heart defects, and had to undergo open-heart surgery. On 2 November 2007, petitioner filed a juvenile petition alleging T.R.A. was a dependent and neglected juvenile, and obtained non-secure custody of T.R.A. On 15 November 2006, respondent reached a mediated agreement with petitioner and admitted that: The juveniles had been exposed to an injurious environment; she was the victim of domestic violence; she did not have a stable home; and had used drugs before and after the birth of her latest child. By order entered 29 November 2006, in accordance with the mediated agreement, all three juveniles were adjudicated neglected and dependent and the trial court continued the case plan of reunification.

On 13 July 2007, the trial court entered a review order changing the permanent plan for all three juveniles to adoption and allowed petitioner to cease reunification efforts. Petitioner filed three motions on 14 August 2007 seeking to terminate respondent's parental rights to each juvenile. Petitioner alleged respondent: Neglected the children; willfully left the juveniles in foster care or placement outside the home for more than twelve months without showing to the satisfaction of the court that reasonable progress under the circumstances had been made in correcting those conditions that led to the removal of the

juveniles; willfully failed to pay a reasonable portion of the cost of care for the juveniles for at least six months preceding the filing of the motions, although financially able to do so; willfully abandoned the juveniles for at least six consecutive months immediately preceding the filing of the motions; and had her parental rights to other children involuntarily terminated by a court of competent jurisdiction and lacked the ability or willingness to establish a safe home. Petitioner's motions came on for hearing on 16 April 2008 and the trial court entered an order on 12 May 2008 terminating respondent's parental rights to all three juveniles. Respondent filed notice of appeal on 16 May 2008.

Termination of parental rights involves a two-step process. *In re Blackburn*, 142 N.C. App. 607, 610, 543 S.E.2d 906, 908 (2001). At the adjudicatory stage, the petitioner must show by clear, cogent, and convincing evidence that a statutory ground to terminate exists. *In re Young*, 346 N.C. 244, 247, 485 S.E.2d 612, 614 (1997). If the trial court determines that grounds for termination exist, the trial court must proceed to the dispositional stage where it determines whether terminating parental rights is in the best interests of the juvenile. N.C. Gen. Stat. § 7B-1110(a) (2007); *In re Shermer*, 156 N.C. App. 281, 285, 576 S.E.2d 403, 406 (2003).

We first note that respondent purports to bring forward in her brief to this Court assignments of error numbers nineteen and twenty-six, challenging the trial court's finding of fact number fifty-nine and conclusion of law number seven which state:

59. The parental rights of [respondent] with respect to other children have been terminated involuntarily by a court of competent jurisdiction and the parent lacks the ability or willingness to establish a safe home.

. . .

7. The grounds set forth in GS 7B-1111(a)(9) have been established in [that] the parental rights of [respondent] have been terminated involuntarily by a court of competent jurisdiction and [respondent] lacks the ability or willingness to establish a safe home.

However, respondent does not present any arguments in her brief to this Court regarding finding of fact fifty-nine or conclusion of law seven, and these assignments of error are abandoned. As respondent does not challenge finding of fact fifty-nine, it is binding on this Court on appeal. *In re J.D.S.*, 170 N.C. App. 244, 251, 612 S.E.2d 350, 355 (explaining the trial court's findings of fact are binding on this Court when no assignments of error were made to particular findings), *cert. denied*, 360 N.C. 64, 623 S.E.2d 584 (2005). Further, the trial court made the following additional unchallenged findings of fact:

7. The issues confronting [respondent] when the juvenile petitions were filed were: the mother's substance abuse problems, her lack of stable housing, domestic violence, and lack of employment and income. . . .

. . .

11. [Respondent] was to undergo a FIRST assessment and comply with the recommendations of the assessment. FIRST assessments determine if a parent has issues with substance abuse, mental health, and domestic violence.

[Respondent's] FIRST assessment showed she had concerns in all three areas.

12. [Respondent] was recommended for intensive outpatient substance abuse treatment. She never enrolled in any program [petitioner] recommended for her. She claimed she was receiving treatment at the Mecklenburg County Health Department on Beatties Ford Road, but [petitioner] never received any communication or documentation from that program that [respondent] had enrolled or that she completed treatment there.

. . .

14. [Respondent] never provided [petitioner] with any information and documentation regarding her employment. She was receiving disability payments, but her expenses often equaled or exceeded her income.

15. [Respondent's] housing was unstable and not adequate to allow the children to be returned to her. . . .

. . .

17. [Respondent] continued to test positive for cocaine and marijuana during most of [petitioner's] involvement in the case. [Respondent] was involved in the Family Drug Treatment Court program, but was discharged from that program in 2007 for her positive tests.

18. [Respondent] was in jail for two months from May through July 2007 for violating her criminal probation. She was on probation for being a[] Conspiracy to Comitt [sic] Armed Robbery. She was originally charged with being an accessory to a murder involving the death of her husband's brother. Those charges were dropped when she pled guilty to the Armed Robbery charges.

. . .

20. [Respondent] had four children taken into custody by DSS in Virginia. Her rights to those children were terminated.

. . .

42. The most important components of [respondent's] case plan were the substance abuse treatment, the mental health assessment and counseling, and the domestic violence counseling. [Respondent] did not produce any proof, other than her testimony, that she had accomplished any of these tasks.
43. [Respondent] claimed the documentation of these efforts was lost in the home she lived in until March 2008. However she kept her AA/NA meeting sheets.
44. Documentation of any efforts of completion of these tasks could have been obtained from the service providers, but [respondent] produced nothing.

The trial court found respondent to be deceitful and evasive in her testimony, finding:

48. Without any documentation and with [respondent's] credibility in doubt, the court cannot find she is making sufficient progress on her case plan to justify giving her more time to complete it and that she will maintain the little progress she has made and documented.
49. [Respondent] admitted in the mediated agreement that was incorporated into the Adjudicatory Order and in her Answer to the Termination of Parental Rights Motion her rights to other children had been terminated in Virginia. The court has no proof [respondent] has undertaken and completed the tasks in her case plan and the only proof that she has new housing and the willingness to establish a safe home is her copy of [a] lease dated 15 April 2008 which she had not signed.

These findings of fact support the trial court's conclusion of law number seven. Accordingly, we hold the trial court did not err in concluding that grounds existed to terminate respondent's parental rights to all three juveniles because her parental rights with respect to other children have been terminated involuntarily by a court of competent jurisdiction and she lacks the ability or willingness to establish a safe home. In light of our holding with respect to this ground of termination, we need not address respondent's arguments regarding the remaining grounds for termination found by the trial court. N.C. Gen. Stat. § 7B-1111(a) (2007) ("[t]he court may terminate the parental rights upon a finding of one or more of the following"); *In re D.B., C.B.*, 186 N.C. App. 556, 561, 652 S.E.2d 56, 60 (2007) ("[w]here a trial court concludes that parental rights should be terminated pursuant to several of the statutory grounds, the order of termination will be affirmed if the court's conclusion with respect to any one of the statutory grounds is supported by valid findings of fact" (citation omitted)), *affirmed per curiam*, 362 N.C. 345, 661 S.E.2d 734 (2008).

Respondent also argues the trial court did not adequately consider the factors in N.C. Gen. Stat. § 7B-1110 and abused its discretion and applied the wrong standards in concluding that it was in the best interests of the juveniles to terminate respondent's parental rights. We disagree.

At the disposition phase of proceedings to terminate parental rights, the trial court is required to "determine whether

terminating the parent's rights is in the juvenile's best interest" in light of the following considerations:

- (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.

N.C. Gen. Stat. § 7B-1110(a). "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) (citing *In re V.L.B.*, 168 N.C. App. 679, 684, 608 S.E.2d 787, 791 (2005)).

It is well established "that a trial court may combine the . . . adjudicatory stage and the . . . dispositional stage into one hearing, so long as the trial court applies the correct evidentiary standard at each stage and the trial court's orders associated with the termination action contain the appropriate standard-of-proof recitations[.]" *In re R.B.B.*, 187 N.C. App. \_\_\_, \_\_\_, 654 S.E.2d 514, 518 (2007) (citing *In re White*, 81 N.C. App. 82, 85, 344 S.E.2d 36, 38 (1986); and *In re Shepard*, 162 N.C. App. 215, 221,



591 S.E.2d 1, 6 (2004) ("so long as the [trial] court applies the different evidentiary standards at each of the two stages, there is no requirement that the stages be conducted at two separate hearings" (alteration in original)), *disc. review denied*, 362 N.C. 235, 659 S.E.2d 738 (2008). Contrary to respondent's arguments, the trial court evidenced it applied the requisite different standards between adjudication and disposition when it admitted the court report of the guardian *ad litem* for dispositional purposes only and stated its findings of fact were made by "clear, cogent, and convincing evidence[.]"

In regards to the factors enumerated in N.C. Gen. Stat. § 7B-1110(a), the trial court noted the birth dates of each of the juveniles in its first two findings of fact, and further found:

51. There is no bond between [respondent] and the [juveniles]. The only bond is between the foster parents and the children.
52. All of the children have needs the foster parents are addressing. [T.R.A.] has medical and developmental needs that [respondent] would not be able to meet. He is doing very well in foster care medically and emotionally.

These findings of fact are supported by evidence before the trial court at the dispositional stage and show the trial court properly considered the factors enumerated in N.C. Gen. Stat. § 7B-1110(a). While a trial court is required to consider the factors enumerated in N.C. Gen. Stat. § 7B-1110 before determining whether it is in the best interest of a juvenile to terminate parental rights, no single factor is determinative and there is no requirement that the

trial court enter findings regarding all of the factors. Respondent makes no showing that the trial court's decision to terminate her parental rights was manifestly unsupported by reason. Accordingly, we find no abuse of the court's discretion in its determination that it was in the best interests of the juveniles to terminate respondent's parental rights.

Affirmed.

Judges GEER and ARROWOOD concur.

Report per Rule 30(e).