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NO. COA13-675  
NORTH CAROLINA COURT OF APPEALS

Filed: 17 December 2013

IN THE MATTER OF:

S.A.

Greene County  
No. 12 JA 42

Appeal by respondent-mother from order entered 3 April 2013  
by Judge R. Les Turner in Greene County District Court. Heard  
in the Court of Appeals 25 November 2013.

*Baddour, Parker & Hine, PC, by James W. Spicer, III, for  
petitioner-appellee Greene County Department of Social  
Services.*

McGuireWoods LLP, by T. Richmond McPherson, for Guardian ad litem.

Ryan McKaig, for respondent-appellant mother.

MARTIN, Chief Judge.

Mother appeals from an order adjudicating the juvenile S.A. neglected and concluding that it was in the juvenile's best interest to remain in the custody of the Greene County Department of Social Services ("DSS"). For the reasons stated herein, we affirm.

Soon after S.A.'s birth in December 2012, DSS filed a juvenile petition alleging that S.A. was neglected. DSS had been involved with the family for several years due to mother's past neglect of her other children. The petition was filed based on DSS's concern that mother had neglected her other children, did not have stable housing, and faced the possibility of imprisonment due to noncompliance with the terms of her probation. The petition alleged that mother had been inconsistent in reporting to DSS where she resided and that one of the living arrangements she reported was not suitable for an infant. Additionally, mother did not have custody of her four other children. Guardianship of three of mother's children was placed with her mother, and the fourth child lived with the child's biological father. DSS obtained nonsecure custody of S.A. by order entered on 27 December 2012.

The trial court held an adjudicatory hearing on 18 February 2013, hearing testimony from a DSS social worker, a DSS child welfare supervisor, and mother. In an order entered on 3 April 2013, the trial court adjudicated S.A. a neglected juvenile and concluded that the best interest of the juvenile would be promoted and served by continuing custody with DSS. Mother appeals.

On appeal, mother challenges the trial court's adjudication of neglect. In reviewing a trial court's adjudication of neglect, we must determine (1) whether the findings of fact are supported by clear and convincing evidence, and (2) whether the conclusions of law are supported by the findings of fact. *In re Gleisner*, 141 N.C. App. 475, 480, 539 S.E.2d 362, 365 (2000). Findings of fact supported by competent evidence are binding on appeal, even if there may be evidence to support contrary findings. *In re T.H.T.*, 185 N.C. App. 337, 343, 648 S.E.2d 519, 523 (2007), *aff'd as modified*, 362 N.C. 446, 665 S.E.2d 54 (2008).

Although mother purports to challenge several adjudicatory findings of fact by stating that she "respectfully challenges findings of fact 5, 6, 7, 9, 10, 11, 12, 13, 14, 16, 17, 18, 19, and 20," she fails to specifically argue that any of these findings are unsupported by the evidence. Instead, mother broadly argues that the trial court's findings of fact are insufficient to support its conclusions of law. We have previously held that "[a] broadside exception . . . does not present for review the sufficiency of the evidence to support the entire body of the findings of fact." *In re Beasley*, 147

N.C. App. 399, 405, 555 S.E.2d 643, 647 (2001). As a result, "the trial court's findings of fact are binding on appeal, and we are left to determine whether the trial court's findings support its conclusion[s] of law." See *id.*

A neglected juvenile is defined as:

A juvenile who does not receive proper care, supervision, or discipline from the juvenile's parent, guardian, custodian, or caretaker; or who has been abandoned; or who is not provided necessary medical care; or who is not provided necessary remedial care; or who lives in an environment injurious to the juvenile's welfare; or who has been placed for care or adoption in violation of law.

N.C. Gen. Stat. § 7B-101(15) (2011). We have consistently held that an adjudication of neglect requires "that there be some physical, mental, or emotional impairment of the juvenile or a substantial risk of such impairment as a consequence of the failure to provide proper care, supervision, or discipline." *In re Safriet*, 112 N.C. App. 747, 752, 436 S.E.2d 898, 901-02 (1993) (internal quotation marks omitted). Mother's main argument, for which she recites this longstanding requirement, is that the trial court erred in adjudicating S.A. neglected because its findings are insufficient to support the conclusion that S.A. was harmed by mother's actions or exposed to a substantial risk of harm.

Mother's argument is based, in part, on her claim that the trial court failed to take into account her explanation of the circumstances giving rise to DSS's concerns. This claim, however, amounts to an attack on the trial court's decision to give more weight to the testimony of the DSS social worker as opposed to that of mother. The trial court was entitled to find as it did, and it is not our duty to re-weigh the evidence and substitute our judgment for that of the trial court. See *In re Hughes*, 74 N.C. App. 751, 759, 330 S.E.2d 213, 218 (1985) ("The trial judge determines the weight to be given the testimony and the reasonable inferences to be drawn therefrom. If a different inference may be drawn from the evidence, he alone determines which inferences to draw and which to reject.").

Contrary to mother's assertion, the findings of fact are sufficient to support the conclusion that when S.A. was born, there was a substantial risk of harm to the juvenile. Mother did not have a stable living arrangement suitable for an infant at the time S.A. was born. She gave DSS three different addresses--the addresses of her mother, sister, and a cousin of S.A.'s putative father--and later testified that she split her time between the homes of her mother and sister. Mother did not have adequate items to care for a newborn at any of the three

homes, and her mother's home, where three of mother's other children resided, did not have sufficient space for mother and S.A.

Moreover, the findings also establish that mother had a history with DSS and had been previously ordered by the trial court, in cases involving her other children, to obtain her GED, attend vocational rehabilitation, and maintain a stable residence. Mother, however, had not accomplished any of these directives. The trial court specifically found that mother had not properly cared for S.A.'s siblings prior to their removal from her custody and that "mother's previous neglect and actions with respect to her three older children and her failure to comply with the orders of this Court, indicate that she would not be able to care for this juvenile."

The statutory definition of neglect provides that, "[i]n determining whether a juvenile is a neglected juvenile, it is relevant whether that juvenile . . . lives in a home where another juvenile has been subjected to abuse or neglect by an adult who regularly lives in the home." N.C. Gen. Stat. § 7B-101(15). We have indicated that such circumstances are relevant to a neglect adjudication even if the juvenile in question never actually resided in the parent's home, as is the case here. See

*In re A.S.*, 190 N.C. App. 679, 690, 661 S.E.2d 313, 320 (2008) ("When . . . the juvenile being adjudicated has never resided in the parent's home, 'the decision of the trial court must of necessity be predictive in nature, as the trial court must assess whether there is a substantial risk of future abuse or neglect of a child based on the historical facts of the case.'" (quoting *In re McLean*, 135 N.C. App. 387, 396, 521 S.E.2d 121, 127 (1999))), *aff'd per curiam*, 363 N.C. 254, 675 S.E.2d 361, *reh'g denied*, 363 N.C. 381, 678 S.E.2d 231 (2009), *appeal after remand*, 203 N.C. App. 140, 693 S.E.2d 659 (2010). Therefore, contrary to mother's assertion, the trial court properly took into consideration the circumstances surrounding mother's other children in concluding that S.A. was neglected. See, e.g., *In re P.M.*, 169 N.C. App. 423, 427, 610 S.E.2d 403, 406 (2005) (affirming conclusion of neglect based, in part, on prior adjudication of neglect with respect to mother's other children); *In re E.N.S.*, 164 N.C. App. 146, 150-51, 595 S.E.2d 167, 170 (affirming adjudication of neglect based primarily on "the circumstances regarding respondent's oldest child being adjudicated neglected and dependent"), *disc. review denied*, 359 N.C. 189, 606 S.E.2d 903 (2004).

Based on the foregoing, we conclude that the findings of fact are sufficient to support the conclusion that S.A. was subjected to a substantial risk of harm, and we affirm the order of the trial court.

Affirmed.

Judges GEER and STROUD concur.

Report per Rule 30(e).