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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA17-337

Filed: 19 September 2017

Surry County, Nos. 15 JT 66-67

IN THE MATTER OF: L.L. and L.L.

Appeal by respondent from order entered 13 December 2016 by Judge William F. Southern, III, in Surry County District Court. Heard in the Court of Appeals 24 August 2017.

*No brief filed on behalf of petitioner-appellee Surry County Department of Social Services.*

*Peter Wood for respondent-mother.*

*No brief filed on behalf of guardian ad litem.*

DAVIS, Judge.

J.L. (“Respondent”) appeals from the trial court’s order terminating her parental rights to her minor children L.L. (“Larry”) and L.L. (“Linda”).<sup>1</sup> After careful review, we affirm.

**Factual and Procedural Background**

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<sup>1</sup> Pseudonyms are used throughout for ease of reading and to protect the identities of the minor children.

On 7 July 2015, the Surry County Department of Social Services (“DSS”) obtained non-secure custody of Larry and Linda and filed petitions alleging they were neglected and dependent juveniles. In the petitions, DSS alleged that Respondent and E.L. — the children’s father — could not adequately care for Larry and Linda because (1) Respondent and E.L. had substance abuse problems; (2) both parents had been recently arrested on unidentified charges; (3) E.L. was homeless; and (4) at the time the petition was filed, Respondent remained incarcerated. By order entered 5 October 2015, the trial court adjudicated Larry and Linda to be dependent juveniles.

At the first review hearing held 3 December 2015, the trial court added adoption as a secondary plan of care for the children, coupled with the original primary plan of reunification. By order entered 18 May 2016, after a 21 April 2016 permanency planning hearing, the trial court found that Respondent and E.L. (1) were not actively participating in their case plans; (2) were not cooperating with DSS or the GAL; and (3) had failed to make reasonable progress toward meeting the goals of their case plans.

The court relieved DSS of having to make further efforts to reunify the children with their parents, changed the primary plan of care for the children to guardianship, and retained the secondary plan of adoption. On 14 July 2016, the court held a second permanency planning hearing and entered an order on 18 August 2016 setting the primary plan for the children as adoption with a secondary plan of guardianship.

On 23 August 2016, DSS filed motions to terminate the parental rights of both Respondent and E.L. As to Respondent, DSS alleged grounds for termination based on (1) failure to correct the conditions that led to the children’s removal from her care; (2) failure to pay for the cost of care while the children were in DSS custody; and (3) willful abandonment. *See* N.C. Gen. Stat. § 7B-1111(a)(2)-(3), (7) (2015). After a hearing on 1 December 2016, the trial court entered an order on 13 December 2016 terminating Respondent’s parental rights to Larry and Linda.<sup>2</sup> The court found all three alleged grounds to terminate Respondent’s parental rights and concluded that termination of Respondent’s parental rights was in the children’s best interests. Respondent filed a timely notice of appeal.

### **Analysis**

Respondent’s counsel has filed a “no-merit” brief on her behalf pursuant to Rule 3.1(d) of the North Carolina Rules of Appellate Procedure. Counsel states that after “a conscientious and thorough review of the Record on Appeal” he “concluded that there is no issue of merit on which to base an[] argument for relief and that this appeal [is] frivolous.” Counsel asks that this Court conduct an independent examination of the case for possible error pursuant to Rule 3.1(d). Counsel further shows that he complied with the requirements of Rule 3.1(d) by sending a letter to Respondent on 1 May 2017 advising her of his inability to find error, his request for

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<sup>2</sup> The trial court’s order also terminated E.L.’s parental rights; however, he is not a party to this appeal.

this Court to conduct an independent review of the record, and Respondent's right to file her own arguments directly with this Court. Counsel also states that he has provided Respondent "with copies of all relevant documents" such that she may file her own arguments with this Court. Respondent has not filed her own written arguments, and a reasonable time for her to have done so has passed.

After carefully reviewing the transcript and record, we agree with Respondent's counsel that the trial court's findings of fact support at least one ground for termination and that the trial court did not abuse its discretion in concluding that the termination of Respondent's parental rights is in the children's best interests. *See* N.C. Gen. Stat. §§ 7B-1110, -1111 (2015). We are unable to find any possible prejudicial error in the trial court's order terminating Respondent's parental rights to Larry and Linda.

### **Conclusion**

For the reasons stated above, we affirm the trial court's 13 December 2016 order.

**AFFIRMED.**

Judges CALABRIA and DILLON concur.

Report per Rule 30(e).