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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA17-382

Filed: 7 November 2017

Guilford County, Nos. 15 JT 326-28

IN THE MATTER OF: Z.E.B., Z.Q.B., Z.L.B.

Appeal by Respondent-Mother from order entered 12 December 2016 by Judge David Sherrill in District Court, Guilford County. Heard in the Court of Appeals 5 October 2017.

Mercedes O. Chut for Petitioner-Appellee Guilford County Department of Health and Human Services.

Leslie Rawls for Respondent-Appellant Mother.

Alston & Bird LLP, by Debolina Das, for Guardian ad Litem.

McGEE, Chief Judge.

Respondent-Mother appeals from order terminating her parental rights with respect to her three minor children (collectively, “the children”). We affirm.

I. Background

The Guilford County Department of Health and Human Services (“DHHS”) received a report on 18 July 2015 alleging neglect of the children, then ages four, three, and one. According to the report, the children were living with their paternal

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great-great aunt (“the caretaker”), who was eighty-nine years old and in poor health. The report further indicated the children lacked adequate food and clothing and that the caretaker’s home had no air conditioning. The caretaker was interviewed by a DHHS social worker (“the social worker”) on 21 July 2015. The caretaker told the social worker that Respondent-Mother had left the children in her care approximately one month prior and that Respondent-Mother’s whereabouts were unknown. The caretaker also said she had little food for the children. Law enforcement officers had recently brought food to the caretaker after receiving a call to conduct a well-being check of the home.

The social worker interviewed the children’s father (“the father”)¹ on 22 July 2015. The father also indicated he lived with the caretaker. He reported Respondent-Mother was last seen in April 2015 and was currently residing in South Carolina. The father denied leaving the children in the sole care of the caretaker. He stated the children “[ate] ten times per day” and that, although he always let the children “run around in their [diapers][,]” they had sufficient clothing and shoes. The father was on probation due to past family violence involving Respondent-Mother. He had not yet participated in a mandatory domestic violence offender treatment program.

DHHS attempted to provide the family with services, and asked the father to apply for food stamps, take certain measures related to the children’s medical care,

¹ The father’s parental rights were also terminated in this matter, but he did not appeal the trial court’s order and is not a party in this appeal.

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and find an appropriate childcare facility rather than leaving the children with the caretaker. The father failed to comply. A food pantry employee reported that, during multiple visits to the caretaker's home in late July and early August 2015, she observed that the children appeared to be sleeping on the floor and there were cockroaches in the home. On one visit by the food pantry employee, the caretaker was not present and the father was asleep in a back bedroom while the children played in the living room unsupervised. DHHS social workers visited the caretaker's home several times in mid-August 2015 and observed cockroaches, piles of garbage on the porch and inside the home, and unsanitary sleeping conditions. The social workers later found the children, inadequately clothed and wearing heavily soiled diapers, at the home of the father's girlfriend, where the father told them he was now residing.

A pre-petition team decision-making meeting was held on 19 August 2015. The father was present and Respondent-Mother participated by phone. DHHS discussed with the parents a number of issues, including the children's lack of necessary medical care, the father's admitted drug use, the parents' history of family violence, the children's lack of adequate food, and the unsanitary living conditions in the caretaker's home. Respondent-Mother reported she had insufficient money and no transportation to travel to get the children, and that she had no family in North Carolina to offer for possible placement. The father suggested one person for

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placement of the children, but a criminal background check of that person indicated a thorough home study would be required before a placement could occur.

DHHS filed petitions on 20 August 2015 alleging the children were neglected and dependent juveniles. DHHS obtained non-secure custody and placed the children in foster care. The trial court entered an order on 17 December 2015 adjudicating the children neglected and dependent. Respondent-Mother verbally agreed to a DHHS case plan to address her issues with family violence, housing, parenting skills, substance abuse, employment, and mental health. However, Respondent-Mother never signed a written case plan.

The trial court entered a permanency planning order on 14 January 2016, finding that termination of parental rights should be considered due to “a complete lack of progress” by Respondent-Mother on the DHHS case plan “despite [being provided] access to the needed services and a reasonable amount of time to initiate the recommended treatments.” The primary permanent plan was set as adoption with a concurrent secondary plan of reunification.

DHHS filed a petition to terminate Respondent-Mother’s parental rights on 23 March 2016 on the grounds of neglect, failure to pay a reasonable portion of the costs of care of the children, dependency, and willful abandonment. *See* N.C. Gen. Stat. §§ 7B-1111(a)(1), (a)(3), (a)(6)-(7) (2015). Following a hearing, the trial court entered an order on 12 December 2016, concluding that all four grounds alleged by DHHS existed

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for terminating Respondent-Mother's parental rights. The court further concluded that termination was in the children's best interest. Respondent-Mother appeals.

II. Counsel's No-Merit Brief

Appointed counsel for Respondent-Mother has filed a no-merit brief, pursuant to N.C.R. App. P. 3.1(d), stating that "[a]fter conscientiously and thoroughly reviewing the record on appeal, trial court file, transcript, and relevant law," counsel has "concluded the record contains no issue of merit on which to base an argument for relief and [that Respondent-Mother's] appeal is frivolous." Although counsel advised Respondent-Mother of her right to file *pro se* written arguments with this Court, and provided Respondent-Mother the documents necessary to do so, Respondent-Mother has not filed an appellate brief. Counsel asks this Court to conduct an independent review of the record for possible error.

In accordance with the requirements of Rule 3.1(d), counsel has identified potential issues that could arguably support Respondent-Mother's appeal. Specifically, counsel has outlined arguments regarding the sufficiency of the evidence and/or the trial court's findings of fact to support certain statutory grounds for termination. However, counsel has concluded there is no meritorious argument that the trial court erred in terminating Respondent-Mother's parental rights on the ground of neglect. *See* N.C.G.S. § 7B-1111(a)(1).

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As counsel observes, “[a] single ground under [N.C.G.S.] § 7B-1111 is sufficient to support an order terminating parental rights.” *In re J.M.W.*, 179 N.C. App. 788, 789, 635 S.E.2d 916, 917 (2006). Thus, in the present case, if the trial court properly concluded Respondent-Mother’s parental rights were subject to termination on the statutory ground of neglect, “we need not review the remaining grounds.” *See In re B.S.O.*, 234 N.C. App. 706, 708, 760 S.E.2d 59, 62 (2014) (citation omitted).

Based on our review of the record, we conclude that the trial court’s termination order includes sufficient findings of fact – based on clear, cogent, and convincing evidence – to support the court’s conclusion that Respondent-Mother’s parental rights were subject to termination on the ground of neglect. *See In re V.L.B.*, 168 N.C. App. 679, 683, 608 S.E.2d 787, 790 (2005) (observing that, in reviewing the adjudicatory stage of a proceeding to terminate parental rights, “[this Court] must determine whether the [trial court’s] findings of fact are supported by clear, cogent[,] and convincing evidence and whether these findings, in turn, support the [trial court’s] conclusions of law.” (citation and internal quotation marks omitted)); *see also* N.C. Gen. Stat. § 7B-101(15) (2015) (defining “neglected juvenile”).

As counsel notes, the evidence presented to the trial court “must establish that neglect exists at the time of the [termination] hearing.” *See In re Shermer*, 156 N.C. App. 281, 286, 576 S.E.2d 403, 407 (2003). In the present case, the children were not in Respondent-Mother’s custody at the time of the termination hearing. When, at the

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time of the termination hearing, the parent has not had custody of the child for some period of time, the trial court may consider evidence of past neglect but “must also consider any evidence of changed conditions in light of the evidence of prior neglect and the probability of a repetition of neglect.” *In re G.B.R.*, 220 N.C. App. 309, 316, 725 S.E.2d 387, 392 (2012) (citation and quotation marks omitted). In the present case, in addition to its finding of past neglect of the children by Respondent-Mother, the trial court explicitly found that “the neglect continue[d] to date; [and] further there is a likelihood of the repetition of neglect, if the [children] were returned to [Respondent-Mother][.]” The court then listed specific evidence in support of these findings.

Once the trial court finds that grounds for termination exist, it proceeds to the dispositional stage to consider whether termination is in the best interest of the child. *See V.L.B.*, 168 N.C. App. at 683-84, 608 S.E.2d at 790. “The [trial] court’s determination of the [child’s] best interest will not be disturbed [on appeal] absent a showing of an abuse of discretion.” *In re E.M.*, 202 N.C. App. 761, 764, 692 S.E.2d 629, 630 (2010) (citation omitted). In the present case, the trial court made appropriate findings on the relevant dispositional factors, *see* N.C. Gen. Stat. § 7B-1110(a) (2015), and we discern no abuse of discretion in the court’s assessment of the children’s best interest. Accordingly, we affirm the order terminating Respondent-Mother’s parental rights.

IN RE: Z.E.B., Z.Q.B., Z.L.B.

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AFFIRMED.

Judges DIETZ and INMAN concur.

Report per Rule 30(e).