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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA17-1063

Filed: 17 April 2018

Guilford County, Nos. 15 JT 162–165

IN THE MATTER OF: A.C.H., R.B.H., R.D.H., Jr., J.D.G.

Appeal by respondent-mother from order entered 26 May 2017 by Judge Sherry F. Alloway in Guilford County District Court. Heard in the Court of Appeals 22 February 2018.

Mercedes O. Chut for petitioner-appellee Guilford County Department of Health and Human Services.

Jeffrey William Gillette for respondent-appellant mother.

Paul W. Freeman, Jr. for guardian ad litem.

DIETZ, Judge.

Respondent appeals an order terminating her parental rights to her four minor children. While in Respondent's care, the father of one of those children placed the child in scalding water, causing burns so severe the child nearly died. Doctors concluded the burns were not accidental. Those same doctors also found scars and

other signs of physical abuse on another of Respondent's children. Respondent admitted she struck that child with a belt but denied causing any serious harm.

As explained below, the record supports the trial court's findings that Respondent failed to protect her children from physical abuse and other harm, did not take responsibility for her failure to protect her children, and refused to take necessary steps to recognize those failures and protect her children from further abuse or neglect in the future. Accordingly, we affirm the trial court's termination of parental rights based on neglect.

Facts and Procedural History

Respondent is the mother of Alice, Renée, Roger, and Jack, all of whom were under the age of ten years old when this action arose.[1] The biological father of Alice, Renée, and Roger voluntarily relinquished his parental rights in April 2017. Jack's biological father did not appear in this proceeding.

Between 2008 and 2014, the Guilford County Department of Health and Human Services received multiple reports from Child Protective Services of physical abuse and neglect by Respondent and the father toward the juveniles. On 4 March 2015, DHHS received another report involving an incident between Alice and her father, while Alice was under Respondent's care. Alice, then about sixteen months old, suffered third-degree burns covering forty-two percent of her body from being left

[1] We use pseudonyms to protect the juveniles' privacy.

unsupervised in a scalding bathtub. The father claimed that Roger had turned up the bathtub faucet while the father briefly left Alice unattended. The father claims to have rescued Alice upon hearing her screams.

According to the doctors who treated Alice, her burns were so severe that she almost died. She sustained multiple life-altering injuries as a result of her burns, including swelling of the brain, which triggered seizures. The doctors who examined Alice determined that her burns were not accidental. Those doctors also examined Jack for abuse and found scars and lesions on his back that were consistent with abuse. Jack told the investigating social worker that both parents beat him with a belt. Respondent admitted striking Jack with a belt in the past but claimed that she and the father ceased all corporal punishment after a 2009 CPS investigation.

On 17 March 2015, DHHS filed four juvenile petitions alleging that Respondent's children were abused and neglected juveniles. The trial court ordered that the juveniles remain in DHHS custody and that Respondent would have weekly, supervised visits. Meanwhile, following a police investigation into Alice's burns, the father was arrested for child abuse. Although Respondent later divorced the father in 2016, she contacted him 700 to 800 times while he was in jail and continued to deny that he caused Alice's injuries. Upon discovering that Respondent maintained contact with the father and continued to support him while he was in jail, DHHS suspended

Respondent's visitation and the trial court later ordered her to cease contact with the father.

On 9 September 2015, the trial court entered an order adjudicating all four children as neglected and Jack and Alice as abused. On 7 July 2016, DHHS petitioned to terminate Respondent's parental rights. After multiple hearings, the trial court entered an order terminating Respondent's parental rights on the grounds of abuse and neglect, failure to make reasonable progress, and failure to pay child support. Respondent timely appealed.

Analysis

I. Challenge to denial of visitation

Respondent first argues that the trial court improperly denied her visitation rights throughout this case and that her resulting lack of contact with her children led to the termination of her parental rights. As explained below, the trial court properly terminated Respondent's parental rights based on factors unrelated to the denial of her requests for visitation. Accordingly, we need not address this issue.

II. Termination based on abuse and neglect

Respondent next challenges the termination of her parental rights on grounds of abuse and neglect. We review the trial court's findings of fact to determine if they are supported by clear, cogent, and convincing evidence; we review the court's

conclusions of law *de novo*. *In re A.B.*, 239 N.C. App. 157, 160–61, 768 S.E.2d 573, 575 (2015).

The Juvenile Code permits courts to terminate parental rights upon finding that the parent abused or neglected the child. N.C. Gen. Stat. § 7B-1111(a)(1). A child is "abused" where a parent "[c]reates or allows to be created a substantial risk of serious physical injury to the juvenile by other than accidental means." *Id.* § 7B-101(1)(b). A child is "neglected" if a parent fails to properly care for the child, thereby causing the child to suffer "some physical, mental, or emotional impairment" or "a substantial risk of such impairment." *In re T.J.C.*, 225 N.C. App. 556, 561, 738 S.E.2d 759, 763 (2013). When the parent has not had custody of the children for some period of time before the termination hearing, the trial court must find "by clear and convincing evidence a probability of repetition of neglect if the juvenile were returned" to the parent's care. *In re Reyes*, 136 N.C. App. 812, 815, 526 S.E.2d 499, 501 (2000).

Here, as the trial court found, Respondent had a history of prior DHHS reports involving abuse or neglect of her minor children. Doctors found seven scars and a "healing lesion" on Jack's back and torso. Respondent admitted that she previously hit Jack with a belt for discipline but denied causing these scars and denied the extent of Jack's injuries. The trial court found that Respondent's "testimony in the

termination hearing shows that she is either not being truthful about her knowledge of [Jack's] physical abuse while in her care, or she is in denial about it."

The court also found that "[a]s a result of her lack of progress in addressing her failure to protect [Jack] from physical abuse in the past, serious concerns remain about [Respondent's] ability to protect any of the juveniles from harm in the future." These findings are supported by clear, cogent, and convincing evidence including medical records, witness testimony, and Respondent's own testimony.

Similarly, although the burns Alice suffered from the scalding bathwater were so severe they nearly killed her, the trial court found that Respondent "did not believe the medical evidence about the cause of [Alice's] burns." Indeed, Respondent seemed unconcerned with Alice's burns and questioned Alice's need for treatment. Even after the father was criminally charged with child abuse for causing Alice's burns, Respondent insisted that Alice's burns occurred by accident and she continued to contact the father in jail until the trial court ordered her to stop. The court found that "[a]s with her denial of [Jack's] injuries, [Respondent's] denial of the causation of [Alice's] burns shows that she has not addressed her failure to protect [Alice] from harm and that she does not even recognize that she failed to protect [Alice] from harm." Again, this finding is supported by clear, cogent, and convincing evidence including medical records, witness testimony, and Respondent's own testimony.

Because Respondent refused to take responsibility for abuse that her children suffered while in her care, and because Respondent failed to comply with the mental health component of her DHHS service agreement, the court found that the children "are still at risk of harm from [Respondent]." The court explained that Respondent "is not committed to putting the safety and welfare of the juveniles over her other needs and desires."

Based on these findings, the trial court found that Respondent failed to care for her children, causing them to endure physical harm. "As a result," the court found, the children "are currently neglected" by Respondent and "there exists a high probability of repetition of neglect" by Respondent.

In light of the findings and supporting evidence described above, we hold that this ultimate finding is supported by clear, cogent, and convincing evidence in the record. The record supports the trial court's finding that Alice and Jack were abused while in Respondent's care, and that Respondent did not take responsibility for her failure to protect Alice and Jack and recognize the steps necessary to protect her children from further abuse or neglect in the future. *See In re C.M.*, 198 N.C. App. 53, 65–66, 678 S.E.2d 794, 801–02 (2009). Accordingly, we reject Respondent's challenge to the trial court's finding of neglect and affirm the termination of Respondent's parental rights on that basis. Because we affirm the termination of parental rights

on this ground, we need not address Respondent's challenge to the other grounds for termination. *In re J.M.W.*, 179 N.C. App. 788, 791, 635 S.E.2d 916, 918–19 (2006).

Conclusion

For the reasons explained above, we affirm the trial court's order terminating Respondent's parental rights.

AFFIRMED.

Judges HUNTER, JR. and ZACHARY concur.

Report per Rule 30(e).