An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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

IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA17-1209

Filed: 17 April 2018

Person County, No. 15 J 80

IN THE MATTER OF: C.B.T.

Appeal by respondent-father from orders entered 14 August 2017 and 11 September 2017 by Judge J. Hoyte Stultz, III in Person County District Court. Heard in the Court of Appeals 5 April 2018.

No brief filed for petitioner-appellee Person County Department of Social Services.

Assistant Appellate Defender Annick Lenoir-Peek for respondent-appellant father.

ZACHARY, Judge.

Respondent-father appeals from an order terminating his parental rights to his son, C.B.T. After careful review, we affirm.

On 10 November 2015, the Person County Department of Social Services ("DSS") obtained nonsecure custody of the juvenile and filed a petition alleging that he was dependent. The petition alleged that the juvenile's mother had left him in the care of his grandmother, who was unable to care for the him. The petition did not name a father or make allegations regarding paternity. The mother identified

respondent-father as the juvenile's putative father and assisted DSS in locating him. Thereafter, DSS attempted to contact respondent-father through social media. On 5 January 2016, the trial court entered an order adjudicating the juvenile neglected and determining that it was in the juvenile's best interest to remain in DSS custody. At the time, respondent-father had not yet been served because DSS was unable to locate an address for him.

By the 29 February 2016 review, DSS was still unable to locate and serve respondent-father. Counsel for respondent-father located him in a Virginia prison on or about 23 March 2016 and requested that an alias and pluries summons be issued. On 28 March 2016, the trial court ordered that respondent-father submit to a blood test to determine the juvenile's parentage.

In the 9 June 2016 review order, the trial court found that the juvenile's mother had relinquished her parental rights and the time for revocation had passed; that the motion for DNA testing had been served on respondent-father; and that the testing indicated he was the father of the juvenile.

On 15 December 2016, DSS filed a petition to terminate respondent-father's parental rights to the juvenile based on the ground of willful abandonment. *See* N.C. Gen. Stat. § 7B-1111(a)(7) (2017). The petition alleged that respondent-father was aware of the juvenile's birth, acknowledged parentage on social media, never visited

the child or supported the mother, became incarcerated in Virginia, and failed to establish any bond with the child.

The trial court conducted a termination of parental rights hearing on 5 May 2017. On 14 August 2017, the trial court entered an order concluding that termination of respondent-father's parental rights was justified based upon willful abandonment. The trial court also concluded that termination of respondent-father's parental rights was in the juvenile's best interest.

On 22 August 2017, respondent-father filed a motion for a new trial pursuant to N.C.R. Civ. P. 59(a)(7). He alleged that the petition was filed prematurely, because DSS acknowledged communication with respondent-father on 16 June 2016, which fell within the statutorily-relevant six-month period. Therefore, he alleged, the evidence was insufficient to justify termination of his parental rights. The trial court conducted a hearing on the motion on 25 August 2017. The trial court denied respondent-father's motion, concluding that a single communication within the relevant six-month period was insufficient to invalidate the ground of abandonment. Respondent-father gave timely notice of appeal.

Respondent-father's counsel has filed a no-merit brief on his behalf in which counsel states that after a "conscientious and thorough review of the record on appeal," she concludes "that the record contains no issue of merit on which to base an argument for relief and that the appeal would be frivolous." Pursuant to N.C.R. App.

P. 3.1(d), counsel requests that this Court conduct an independent examination of the case. Counsel has also shown to the satisfaction of this Court that she has advised respondent-father of his right to file written arguments with this Court, and counsel has provided him with the documents necessary to do so. Respondent-father has not filed his own written arguments.

In addition to seeking review pursuant to Rule 3.1(d), counsel directs this Court's attention to potential issues with respect to the trial court's conclusion that a ground existed to terminate respondent-father's parental rights. Counsel, however, failed to discover any reversible or prejudicial error on the part of the trial court. We agree. After carefully reviewing the transcript and record, we are unable to find any possible prejudicial error in the trial court's order. The trial court's findings of fact support the ground of abandonment, the trial court did not abuse its discretion in determining that termination was in the best interest of the juvenile, and the trial court did not err in denying respondent-father's motion for a new trial. Accordingly, we find no prejudicial error in the trial court's order terminating respondent-father's parental rights to the juvenile.

AFFIRMED.

Judges ELMORE and HUNTER, JR. concur.

Report per Rule 30(e).