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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA17-1347

Filed: 5 June 2018

Guilford County, No. 15 JT 203

IN THE MATTER OF: M.T.

Appeal by respondent-mother from order entered 22 August 2017 by Judge Tonia A. Cutchin in Guilford County District Court. Heard in the Court of Appeals 10 May 2018.

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

Peter Wood, for respondent-appellant mother.

Reginald D. O'Rourke, for guardian ad litem.

CALABRIA, Judge.

Respondent, the mother of M.T. ("Marvin"),[1] appeals from the trial court's order terminating her parental rights on the grounds of neglect, failure to make reasonable progress, failure to pay a reasonable cost of care, and dependency. We affirm the trial court's order.

[1] A pseudonym is used to protect the juvenile's privacy and for ease of reading.

I. Factual and Procedural Background

The Guilford County Department of Health and Human Services ("DHHS") first became involved with respondent on 19 March 2015, after receiving a report that Marvin and his older sister[2] were living in an injurious environment, and that respondent was homeless and had used inappropriate discipline. At the time, respondent was living with the children in a motel room paid for by her cousin. On 14 April 2015, respondent requested that DHHS take temporary custody of the children until she was able to find stable housing. DHHS explained that they do not provide temporary housing. On 16 April 2015, respondent notified DHHS that she had to leave the motel because her cousin could no longer pay the fee. Respondent was able to obtain temporary shelter at a transitional house. However, on 24 April 2015, respondent arrived at DHHS with the children stating that she had no place to go. Respondent told the social worker that the transitional house was not safe for her or the children because it was a recovery house for addicts and had roaches.

The social worker contacted the maternal grandmother who agreed that respondent and the children could stay with her in Concord, North Carolina. DHHS transported respondent and the children to Concord on 29 April 2015. However, on 4 May 2015, respondent called DHHS stating she was taking a bus back to

[2] The appealed order only terminates respondent's parental rights to Marvin, and the older sibling is not at issue in this appeal.

Greensboro due to conflict with the maternal grandmother, and also that she was turning the children over to foster care.

DHHS filed a juvenile petition on 5 May 2015 alleging Marvin was a neglected and dependent juvenile. The trial court ordered him placed in non-secure custody. At the hearing, held on 18 November 2015, respondent stipulated to the allegations in the petition. The trial court adjudicated Marvin neglected and dependent in an order entered 17 December 2015. Respondent's visitation was limited to two supervised visits per week for one hour each. The trial court ordered respondent to comply with her case plan, which required respondent to complete a psychiatric/medication evaluation and follow all recommendations; complete a substance abuse assessment and comply with the recommendations; submit to random drug screens; participate in a parenting/psychological evaluation and follow all recommendations; participate in the Parent Assessment Training and Education program; obtain and maintain stable, suitable housing for a minimum of six consecutive months; and obtain and maintain employment for a minimum of six consecutive months, sufficient to meet the needs of the family.

A permanency planning review hearing was held on 9 March 2016. In an order entered 8 April 2016, the trial court continued the permanent plan of reunification but changed the secondary plan to adoption. The court found that respondent had not fully addressed her mental health issues, had not addressed her substance abuse

issues, and did not have stable housing and employment. The court also found that she was scheduled for six prior random drug screens. Respondent tested positive for marijuana in three of the drug screens, and she failed to attend the other three.

After a hearing held 8 April 2016, the trial court entered a permanency planning review order on 5 May 2016, changing the permanent plan to adoption with a secondary plan of reunification with respondent. The court found that although respondent appeared to be actively participating in her case plan since January 2016, her "commitment to regaining custody of [Marvin] ha[d] varied with only sporadic progress." The court found that respondent still had not addressed her mental health and substance abuse issues and her stability remained a concern. The court ordered DHHS to proceed with filing a petition to terminate respondent's parental rights within 60 days.

DHHS filed a petition to terminate respondent's parental rights on 27 October 2016, alleging the grounds of neglect, willfully leaving the child in foster care without making reasonable progress, willfully failing to pay a reasonable cost of care, and dependency. *See* N.C. Gen. Stat. § 7B-1111(a)(1)-(3), (6) (2017). In a review order entered 7 April 2017, the trial court found that respondent's participation in her case plan was sporadic and inconsistent, and she still had not fully addressed her mental health and substance abuse issues. The court also found that respondent had

relinquished her parental rights on 23 February 2017, but changed her mind and revoked her relinquishment on 2 March 2017.

A hearing was held on the termination petition on 25 April and 23-24 May 2017. In an order entered 22 August 2017, the trial court concluded that grounds existed to terminate respondent's parental rights as alleged in the petition and that termination was in Marvin's best interest. Accordingly, the trial court terminated respondent's parental rights. Respondent appeals.

II. Argument

Respondent's counsel has filed a no-merit brief on respondent's behalf in which he states that after a conscientious and thorough review of the record on appeal, transcript, and documents, he "has concluded that there is no issue of merit on which to base an argument for relief and that this appeal would be frivolous." Pursuant to North Carolina Rule of Appellate Procedure 3.1(d), he requests this Court to conduct an independent examination of the case. N.C.R. App. P. 3.1(d). In accordance with Rule 3.1(d), counsel wrote respondent a letter on 5 January 2018 advising respondent of counsel's inability to find error, of counsel's request for this Court to conduct an independent review of the record, and of respondent's right to file her own arguments directly with this Court. Counsel provided respondent a copy of the record, the transcripts, and the brief filed by counsel. Respondent has not submitted written arguments of her own, and a reasonable period of time for her to do so has passed.

After carefully reviewing the transcript and record, we are unable to find any possible prejudicial error in the trial court's order terminating respondent's parental rights to Marvin. The termination order includes sufficient findings of fact, supported by clear, cogent, and convincing evidence, to support the conclusion that respondent neglected Marvin in the past and that there is a reasonable probability of the repetition of neglect if Marvin is returned to respondent's care. *See* N.C. Gen. Stat. § 7B-1111(a)(1); *see also In re Ballard*, 311 N.C. 708, 715, 319 S.E.2d 227, 232 (1984) (stating that at a termination hearing, the trial court may consider a prior adjudication of 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"). According to the trial court's findings, respondent failed to complete a majority of her case plan in that she did not address her mental health issues, nor her substance abuse issues because she admitted to using marijuana after the 25 April 2017 hearing date. In addition, she did not have stable housing, was homeless at the time of the termination hearing, and was not financially stable. *See In re C.M.P.*, ___ N.C. App. ___, ___, 803 S.E.2d 853, 859 (2017) ("A parent's failure to make progress in completing a case plan is indicative of a likelihood of future neglect."). The finding of this statutory ground alone supports termination of respondent's parental rights. *See In re Humphrey*, 156 N.C. App. 533, 540, 577 S.E.2d 421, 426 (2003) ("A finding of

any one of the enumerated grounds for termination of parental rights under N.C.G.S. 7B-1111 is sufficient to support a termination." (citation omitted)).

The trial court also made appropriate findings in determining that termination of respondent's parental rights was in Marvin's best interests. *See* N.C. Gen. Stat. § 7B-1110(a) (2017). Accordingly, we find no prejudicial error in the trial court's order terminating respondent's parental rights to Marvin.

AFFIRMED.

Judges INMAN and ARROWOOD concur.

Report per Rule 30(e).