An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA18-128

Filed: 7 August 2018

Mecklenburg County, Nos. 15 JT 660-61

IN THE MATTER OF: M.V. and M.V.

Appeal by respondent-parents from order entered 3 November 2017 by Judge Elizabeth T. Trosch in Mecklenburg County District Court. Heard in the Court of Appeals 12 July 2018.

No brief filed on behalf of petitioner-appellee Mecklenburg County Department of Social Services, Youth and Family Services Division.

Peter Wood for respondent-appellant mother.

Richard Croutharmel for respondent-appellant father.

Guardian Ad Litem Program Appellate Counsel Matthew D. Wunsche, for guardian ad litem.

TYSON, Judge.

Respondent-mother and Respondent-father (collectively "Respondents") appeal from the trial court's order terminating their parental rights to their minor children M.V. ("Marcia") and M.V. ("Mabel"). We affirm.

I. Background

Mecklenburg County Department of Social Services, Youth and Family Services Division ("YFS") obtained non-secure custody of Marcia and Mabel on 11 December 2015 and filed a petition alleging they were neglected and dependent juveniles. YFS alleged Respondents could not adequately care for the children because: (1) Respondents have a history of domestic violence for which they had been referred for services, but new instances of domestic violence had recently occurred; (2) Respondent-father had a history of substance abuse and had not engaged in recommended services; (3) Respondents lacked safe and stable housing for the children; and, (4) Respondents lacked appropriate alternative childcare arrangements. By order entered 18 April 2016, the trial court: (1) adjudicated both children to be neglected and dependent juveniles; (2) continued custody of the children with YFS; (3) granted Respondents supervised visitation with the children; (4) set the primary and secondary plan of care for the children as reunification and adoption, respectively; and, (5) ordered Respondents to comply with YFS' recommendations and their out-of-home family services agreements.

In its order from the first review hearing held 23 May 2016, the trial court found Respondents were working toward correcting the conditions which had led to the children's removal from their care, but that neither respondent had independent and stable housing and that Respondent-mother's domestic violence therapy had been cancelled because she had not contacted the therapist since January 2016. The

trial court held a second review hearing on 6 September 2016, and found Respondents were visiting with the children, had employment, and were maintaining contact with YFS. The court further found Respondent-father had negative drug screens and was successfully discharged from a "FIRST Level 1 program." However, the court also found Respondents were residing together and had not disclosed this fact from YFS and the court.

In its 7 December 2016 order from the first permanency planning hearing, the trial court continued to find Respondents were making some progress toward correcting the conditions that led to the removal of the children from their care, but noted its concerns regarding Respondent-father's non-acceptance of his role in prior instances of domestic violence and Respondent-mother's need for mental health services. The court continued the primary plan of reunification and secondary permanent plan of adoption.

On 29 March 2017, the trial court conducted a second permanency planning hearing. The court found Respondent-father continued to deny inflicting physical violence on Respondent-mother and that Respondent-mother had not been forthcoming regarding incidents of domestic violence from Respondent-father. The trial court also found that there was "an ongoing and continuous risk" of the children's exposure to violence between the parents. The trial court modified the primary plan for the children to be adoption, with the secondary plan being reunification.

On 25 May 2017, YFS filed a motion to terminate Respondents' parental rights to Marcia and Mabel. YFS alleged grounds for termination of both Respondents' parental rights based on: (1) neglect; (2) failure to correct the conditions that led to the children's removal from their care; and, (3) failure to pay for the cost of care while the children were in YFS custody. *See* N.C. Gen. Stat. § 7B-1111(a)(1)-(3) (2017).

After a hearing on 12 and 19 September 2017, the trial court terminated Respondents' parental rights to Marcia and Mabel on 3 November 2017. The court found all three alleged grounds existed to terminate Respondents' parental rights existed and concluded termination of Respondents' parental rights was in the children's best interests. Respondents filed timely notices of appeal.

II. Standard of Review

The standard of review upon appeal of a termination order is whether the trial court's findings of fact are supported by clear and convincing evidence and whether the conclusions of law are supported by those findings. *In re Huff*, 140 N.C. App. 288, 291, 536 S.E.2d 838, 840 (2000), *disc. review denied,* 353 N.C. 374, 547 S.E.2d 9 (2001). The trial court's conclusions of law are reviewed *de novo*. *In re S.N.*, *X.Z.*, 194 N.C. App. 142, 146, 669 S.E.2d 55, 59 (2008) (citation omitted), *aff'd*, 363 N.C. 368, 677 S.E.2d 455 (2009).

III. No-Merit Brief

Appellate counsel for both Respondents have filed no-merit briefs on Respondents' behalf, in which counsel state they have made a conscientious and thorough review of the record on appeal and concluded no issues of merit exist upon which to base an argument for relief and that the appeals by Respondents are frivolous.

In accordance with North Carolina Rule of Appellate Procedure 3.1(d), counsel wrote letters to Respondents on 21 and 22 February 2018, advising Respondents of their inability to find prejudicial errors to assert upon appeal, of their request for this Court to conduct an independent review of the record, and of Respondents' rights to file their own arguments directly with this Court. Counsel also aver they have provided Respondents with copies of all relevant documents so that Respondents may file their own arguments with his Court. Neither respondent has filed written arguments with the Court, and a reasonable time for them to have done so has passed. N.C. R. App. P. 3.1(d).

Pursuant to Rule 3.1(d), counsel request that this Court conduct an independent examination of the case. N.C. R. App. P. 3.1(d). In addition to seeking review pursuant to Rule 3.1(d), Respondents' appellate counsel direct this Court's attention to potential issues with regard to the trial court's conclusions of law on grounds to terminate Respondents' parental rights and whether termination of Respondents' parental rights is in the children's best interests.

IV. Analysis

The termination order includes sufficient findings of fact, which are supported by clear, cogent and convincing evidence to sustain the trial court's conclusion that the Respondents have "for a continuous period of more than six (6) months next preceding the filing of the petition, have willfully failed . . . to pay a reasonable portion of the cost of care for such juveniles[.]" *See* N.C. Gen. Stat. § 7B-1111(a)(3). The uncontested findings of fact show both Respondents acknowledged their failure to pay any portion of the cost of their children's care while the children were in foster care, despite being employed at various jobs during the pendency of the case. "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." *In re Humphrey*, 156 N.C. App. 533, 540, 577 S.E.2d 421, 426 (2003) (citation omitted).

There is no showing that the trial court abused its discretion in concluding termination of Respondents' parental rights is in the children's best interests. *See* N.C. Gen. Stat. § 7B-1110 (2017). The order terminating Respondents' parental rights is affirmed.

V. Conclusion

The trial court made sufficient findings based upon clear, cogent and convincing evidence to conclude that termination of Respondents' parental rights was supported by the evidence under N.C. Gen. Stat. § 7B-1111(a)(3) and that such

termination was in the best interest of the juveniles. *In re Huff*, 140 N.C. App. at 291, 536 S.E.2d at 84. The order appealed from is affirmed. *It is so ordered.*

AFFIRMED.

Judge DIETZ and MURPHY concur.

Report per Rule 30(e).