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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA19-279

Filed: 17 March 2020

Catawba County, Nos. 17 JA 13; 17 JA 50

IN THE MATTER OF: C.S.B. & B.A.B., Minor Children.

Appeal by Respondent from order entered 20 November 2018 by Judge Burford

A. Cherry in Catawba County District Court. Heard in the Court of Appeals 27 February 2020.

Marcus Almond and Lauren Vaughan, for Petitioner-Appellee Catawba County Department of Social Services.

J. Thomas Diepenbrock for Respondent-Appellant.

Michelle FormyDuval Lynch for guardian ad litem.

DILLON, Judge.

Respondent appeals from an order terminating her parental rights as to her minor children, C.B. (“Cathy”) and B.B. (“Brandon”) (collectively the “children”).¹ After careful review, we affirm.

I. Background

¹ Pseudonyms have been used throughout the opinion to protect the identity of the juveniles and for ease of reading. See N.C. R. App. P. 42(b)(1).

In March 2013, Catawba County Department of Social Services (“DSS”) received a report alleging Cathy was exposed to an injurious environment, domestic violence, and substance abuse. Both Respondent and the children’s father (collectively “Parents”) submitted to drug screens, though neither tested positive for any substances. Respondent moved in with her mother, and the case was closed with services recommended if Parents decided to reconcile.

In March and August 2016, DSS received additional reports concerning Respondent’s drug use. Over the course of 2016, Respondent submitted to drug tests and tested positive at least seven times for various illicit substances. She also admitted to drug use, mostly of methamphetamines, at least a dozen times.

In August 2016, Parents appeared in court due to a domestic violence incident. They both submitted to drug screens, and each tested positive for amphetamines and methamphetamines. Respondent also tested positive for opiates. Interviews with Cathy around this time revealed her awareness of, and presence during, Parents’ drug use. DSS determined the family was in need of services, and the case was transferred to in-home services for ongoing treatment.

In October 2016, Parents entered into a family services agreement with DSS that required them to: (1) comply with all substance abuse assessments and treatment recommendations; (2) submit to random drug screens; (3) participate in Cathy’s treatment and counseling, if recommended; (4) engage in counseling services

to address their relationship and communication issues; (5) “have detailed conversations” with their social worker concerning their substance abuse, triggers, coping skills, and arguing; and (6) ensure Cathy was not present when they were arguing or impaired.

A few days later, Respondent completed a substance abuse assessment. Because she self-reported methamphetamine and Percocet use and was pregnant, she was referred for immediate treatment. She attended two sessions but was asked not to return because she brought Cathy to the appointments, which interfered with her ability to be treated. She received additional referrals for substance abuse treatment, but she only attended one session and failed to follow through with any additional treatment or appointments.

In January 2017, DSS filed a petition alleging that Cathy was a neglected and dependent juvenile. Following a hearing in March 2017, Cathy was adjudicated neglected and dependent and was placed into DSS’s custody pending final disposition.

In March 2017, Respondent gave birth to Brandon. Respondent tested positive for methamphetamines and amphetamines at the time of Brandon’s birth. She admitted to smoking and snorting methamphetamines three to four times a month and indicated her last use of methamphetamines was two days before Brandon’s birth. Brandon also tested positive for amphetamines at birth and went through withdrawals. DSS filed a petition alleging Brandon was neglected and dependent.

Following a hearing on 2 May 2017, Brandon was adjudicated neglected and dependent.

That same day, disposition hearings for both children were held. The trial court ordered DSS to maintain custody of Cathy and take custody of Brandon. The court also required Parents to enter into case plans that mandated they comply with substance abuse treatment recommendations, submit to random drug screens, complete a domestic violence assessment, and comply with counseling and domestic violence services.

There is evidence, though, that Respondent was unwilling or unable to commit to recommended intensive inpatient treatment. She was then offered twice-weekly mental health and substance abuse outpatient treatment. However, as of the 17 July 2017 permanency planning hearing, Respondent had attended only four outpatient treatment appointments since the disposition hearing. She missed at least seven requested drug screens, tested positive on the two she did complete, and tested positive for opiates, amphetamines, and methamphetamines on the test performed at the hearing.

At the 2 January 2018 permanency planning hearing, the trial court found Respondent had not followed through with any detox or inpatient program and had not attended any outpatient treatment since 10 July 2017. She tested positive for amphetamines and methamphetamines at the two, out of thirteen, drug screens she

underwent since the previous permanency planning hearing, though she tested negative at the in-court drug screen. Respondent also was arrested in October 2017 on several drug related charges. The trial court found neither parent had made any progress on their case plans, which made it unlikely that the children would be able to return to either of their homes within the next six months. The trial court changed the permanency plan to a primary plan of adoption with a secondary plan of guardianship. This was later amended to include reunification as a part of the secondary plan.

In March 2018, DSS filed a motion to terminate Parents' rights to the children due to neglect and willfully leaving the children in foster care for more than twelve months without a showing of reasonable progress on their case plans. *See* N.C. Gen. Stat. § 7B-1111(a)(1)–(2) (2017). In May 2018, after a permanent placement hearing on the matter, the trial court found Parents remained noncompliant with their case plans, and the permanent plan was changed to adoption as the primary plan and guardianship as the secondary plan.

The termination hearing was held over the course of a number of days in September and October 2018. The father voluntarily relinquished his parental rights. At the conclusion of the hearing, the trial court entered an order terminating Respondent's parental rights to the children based on both grounds alleged by DSS. Respondent timely appealed.

II. Analysis

Counsel for Respondent has filed a no-merit brief pursuant to N.C. R. App. P. 3.1(e), asserting that “a conscientious and thorough review of the record on appeal” has revealed “no issue of merit on which to base an argument for relief.” Counsel requests that this Court conduct an independent examination of the case. Counsel further shows he advised Respondent of her right to file a *pro se* brief in support of her appeal and provided her with the necessary materials to do so. Respondent has not submitted any *pro se* arguments to this Court, and a reasonable time for her to do so has passed.

Appellate Rule 3.1(e) requires an independent review of any issues contained in a no-merit brief. *In re L.E.M.*, 372 N.C. 396, 402, 831 S.E.2d 341, 345 (2019). In his twenty-seven-page brief, Respondent’s counsel identified three issues that could arguably support an appeal but stated why he believed these issues lacked merit. Based upon our careful review of the record concerning these issues, we are satisfied that the trial court’s termination order was supported by competent evidence and based on proper legal grounds. The termination order includes sufficient findings of fact supported by clear, cogent, and convincing evidence to support at least one statutory ground for termination. *See In re P.L.P.*, 173 N.C. App. 1, 8, 618 S.E.2d 241, 246 (2005) (citation and quotations omitted), *aff’d per curiam*, 360 N.C. 360, 625 S.E.2d 779 (2006). Specifically, the evidence and findings demonstrate that the

children were previously adjudicated neglected, and Respondent failed to successfully complete any of the services specified in her case plan. *See* N.C. Gen. Stat. § 7B-1111(a)(1); *In re M.J.S.M.*, 257 N.C. App. 633, 636-37, 810 S.E.2d 370, 373 (2018). The trial court also made appropriate findings in determining that the termination of Respondent's parental rights was in the children's best interests. *See* N.C. Gen. Stat. § 7B-1110(a). Accordingly, we affirm the trial court's order terminating Respondent's parental rights.

AFFIRMED.

Judges BRYANT and ARROWOOD concur.

Report per Rule 30(e).