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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA19-849

Filed: 7 July 2020

Randolph County, Nos. 18 JA 97-98

IN THE MATTERS OF: E.M.G. & K.S.G.

Appeal by Respondent from order entered 15 May 2019 by Judge Scott Etheridge in Randolph County District Court. Heard in the Court of Appeals 10 June 2020.

Ewing Law Firm by Robert W. Ewing, for Respondent-Appellant.

Randolph County Department of Social Services by Lauren Vaughan, for Appellee.

McGuireWoods LLP by Anita Foss, for Appellant Guardian ad Litem.

DILLON, Judge.

Respondent, Cathy Tucker (“Mother”) appeals from the trial court’s judgment finding both of her two children neglected. Mother argues the trial court erred in failing to support the conclusion that the children suffered from some current physical, mental, or emotional impairment.

I. Background

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In June 2018, the juvenile petitions were filed. Prior to the filing of the petitions, the children had been out of Mother's custody for at least six months. The evidence at the adjudication hearing tended to show as follows:

In November 2017, Mother and the children, Elizabeth (age seven) and Katie (age nine)¹, moved in with the children's maternal grandmother, and Mother enrolled the children at John Lawrence Elementary School. At her new school, Katie had a problem with remaining in her classroom, a problem she had at her previous school. She would wander the hallways, and on at least one occasion, rolled around on the floor for over an hour.

On 5 December 2017, Katie refused to go to her class. The principal called Mother to retrieve Katie, who was suspended for the remainder of the day. When she arrived at school, Mother came into the principal's office yelling. Mother refused to leave when asked but eventually was escorted from the school premises. Upon being removed, Mother continued her outrage banging on the glass window to the school, yelling, and howling like a wolf. Katie was present during this entire incident and began to imitate Mother's behavior.

Later that month, the maternal grandmother kicked Mother and the children out of her home after Mother engaged in a physical altercation with Mother's brother.

¹ We used pseudonyms to protect the children's anonymity.

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Mother and the children moved to a homeless shelter but were ultimately kicked out for Mother's behavior. Mother and children then spent at least one night in a van.

On 4 January 2018, police arrested and incarcerated Mother for failing to appear in court. On that day, Mother agreed to place her children with their paternal aunt and uncle, the Freemans. However, Mother refused to provide the Freemans with the children's Medicaid cards or food stamp card unless and until they bailed her out of jail.

On 10 May 2018, the Department of Social Services ("DSS") asked Mother to obtain housing and employment, complete parenting classes, and complete a mental health assessment in order to work toward providing a stable and appropriate home for her children. At the time of the filing of the juvenile petitions, Mother remained unemployed and had no stable housing to which her children could return. She had also failed to enroll in parenting classes or complete the psychological evaluation. The social worker also noted that Mother often yelled, screamed, and refused to let other people talk with her during her interactions with the social worker and during supervised visitations with her children.

After a hearing on the matter, in March 2019, the trial court held that Elizabeth and Katie were neglected juveniles and it was in the children's best interests that they be placed in the custody of DSS.

II. Analysis

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On appeal, Respondent argues that the trial court's order is not supported by sufficient evidence because the children did not reside with Mother for the six months prior to the filing of the juvenile petitions. We disagree.

In order to adjudicate a juvenile neglected, our courts have "required that there be some physical, mental, or emotional impairment of the juvenile or a substantial risk of such impairment as a consequence of the failure to provide proper care, supervision, or discipline." *In re Stumbo*, 357 N.C. 279, 283, 582 S.E.2d 255, 258 (2003) (internal quotation marks omitted) (citation omitted). "In a non-jury neglect adjudication, the trial court's findings of fact supported by clear and convincing competent evidence are deemed conclusive, even where some evidence supports contrary findings." *In re Helms*, 127 N.C. App. 505, 511, 491 S.E.2d 672, 676 (1997).

Respondent relies on *In re J.A.M.* to support her contention that the "evidence in the record must show *current* circumstances that present a risk to the juvenile." 372 N.C. 1, 9, 822 S.E.2d 693, 698 (2019) (emphasis added). Relying on this language, Respondent argues that the children were not in a current state of neglect because the children were placed in the home of a safe caretaker at the time of the filing. However, we conclude that this case is not controlling to the issue at hand. *See id.* at 8-11, 822 S.E.2d at 698-700 (discussing whether a prior neglect adjudication involving other children could support an adjudication of current or future neglect).

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Here, the trial court's findings sufficiently establish that the children experienced neglect prior to their voluntary kinship placements and that Mother failed to correct the conditions that led to the removal of the minor children from her care. In particular, the trial court made the following findings in support of their order on neglect: that Mother did not have stable housing for the children; that Mother's income was insufficient to support her children; that Mother did not submit to a psychological evaluation; that Mother never engaged in parenting classes; and that the minor children did not receive proper care, supervision, or discipline from the parents and lived in an environment injurious to the children's welfare.

In sum, Mother's argument that the trial court's order is not supported by sufficient evidence because the children were not living with Mother immediately prior to the petition being filed is without merit. Our Supreme Court has clearly stated that "[w]here the evidence shows that a parent has failed or is unable to adequately provide for his child's physical and economic needs . . . and it appears that the parent will not or is not able to correct those inadequate conditions within a reasonable time, the court may appropriately conclude that the child is neglected." *In re Montgomery*, 311 N.C. 101, 109, 316 S.E.2d 246, 252 (1984). *See In re H.L.*, 256 N.C. App. 450, 457, 807 S.E.2d 685, 690 (2017) (affirming trial court's adjudication of neglect where the child was placed in a voluntary safety placement and parents "failed to remedy the conditions which required [the child] to be placed with her sister

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in a safety plan”); *see also In re K.J.D.*, 203 N.C. App. 653, 661, 692 S.E.2d 437, 444 (2010) (affirming trial court’s adjudication of neglect where both parents failed to remedy the conditions injurious to the child’s welfare, including that the respondent did “not have stable housing . . . [or] a job”).

Here, the evidence showed that Mother failed to submit to a psychological evaluation, attend parenting classes, and provide proper housing or sufficient income to care for the minor children. At the time of the hearing, Mother had failed to correct any of these inadequate conditions despite having ample opportunity to do so. Thus, the trial court’s findings are supported by the evidence.

III. Conclusion

We hold that the trial court’s neglect adjudication order was supported by sufficient evidence. Therefore, we affirm the trial court’s order.

AFFIRMED.

Judges ARROWOOD and YOUNG concur.

Report per Rule 30(e).