An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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

2022-NCCOA-178

No. COA21-520

Filed 15 March 2022

Yadkin County, No. 19 JT 26

IN THE MATTER OF: M.R.R.

Appeal by Respondent from order entered 4 June 2021 by Judge Donna Shumate in Yadkin County District Court. Heard in the Court of Appeals 23 February 2022.

Leslie Rawls for Respondent-Appellant Mother.

James N. Freeman, Jr., for Yadkin County Human Services Agency.

No brief filed for guardian ad litem.

DILLON, Judge.

¶ 1 Respondent-Appellant Mother ("Mother") appeals from an Order on Motion to Terminate Parental Rights ("Order").

I. Background

¶ 2 Mother's son, Marshall,[1] was born in August 2018. The Yadkin County Human Services Agency ("YCHSA") was awarded nonsecure custody of Marshall in June 2019. The trial court found that Marshall lived in an environment injurious to his welfare in that Mother had no stable housing and was observed engaging in physically aggressive behavior with Marshall. Mother entered a case plan agreement to address the underlying issues which led to Marshall's removal from her custody. Her case plan included parenting classes, a mental health evaluation, and obtaining housing and employment. During the life of the case, substance abuse concerns arose, and Mother was also asked to complete a substance abuse evaluation.

¶ 3 Mother was able to complete her parenting classes but failed to complete all other aspects of her case plan. Following a Termination of Parental Rights ("TPR") hearing, the trial court found that there were four termination grounds: (1) neglect and a reasonable probability of repeated neglect in the future; (2) willfully leaving Marshall in foster care for more than twelve (12) months without showing reasonable progress in correcting the circumstances that led to his removal; (3) failing to pay a reasonable portion of the cost of Marshall's care; and (4) willfully abandoning Marshall for at least six (6) months before the filing of the TPR motion. The trial court found that Marshall's foster family wanted to adopt him and there was a

[1] A pseudonym has been used throughout the opinion to protect the identity of the juvenile and for ease of reading. *See* N.C. R. App. P. 42(b)(1).

successful bond between Marshall and the family, whereas no bond existed between Mother and Marshall.

¶ 4 Mother appealed from the trial court's Order.

II. Analysis

¶ 5 Mother's counsel is unable to identify any issue of merit on appeal on which to base an argument for relief and asks our Court to independently review the record for possible error. Mother did not file her own brief with our Court.

¶ 6 To assist in our review, Mother's counsel identified three potential issues for our consideration on appeal:

1. Did the trial court err by making findings of fact not supported by clear, cogent, and convincing evidence?
2. Did the evidence and findings of fact support the trial court's conclusion that termination grounds existed?
3. Did the trial court err by finding the child's best interests were served by terminating the mother's parental rights?

We analyze these issues independently on appeal. *See In re L.E.M.*, 372 N.C. 396, 402, 831 S.E.2d 341, 345 (2019).

A. Findings of Fact

¶ 7 First, we consider whether the trial court's findings of fact were supported by clear, cogent, and convincing evidence. We review "whether there is competent

evidence in the record to support the findings of fact and whether the findings support the conclusions of law. The trial court's findings of fact are conclusive on appeal if supported by any competent evidence." *In re L.M.T.*, 367 N.C. 165, 168, 752 S.E.2d 453, 455 (2013) (internal quotation marks and citation omitted).

¶ 8 Mother's counsel points to specific findings in the adjudicatory portion of the Order for our review.

¶ 9 Finding of Fact 16a relates to the mental health portion of Mother's case plan, finding in part that Mother "failed to participate in a psychological assessment until March of 2021, well after the filing of the termination action before the Court today. . . . [Mother's] mental health concerns remain unaddressed and her efforts to [address them] over the life of her juvenile action have not been reasonable." At the TPR hearing, a YCHSA social worker testified that a mental health assessment was required of Mother as part of her case plan. The social worker testified that Mother had completed a mental health assessment at Daymark but that YCHSA was never notified of plans for mental health treatment. As a result, YCHSA had continuing concerns about Mother's mental health and did not consider the mental health aspect of her case plan adequately addressed. This testimony supports the trial court's findings regarding Mother's mental health.

¶ 10 Finding of Fact 16b relates to the requirement that Mother complete parenting classes. In support of this finding, the YCHSA social worker testified that Mother

had successfully completed a twelve-week parenting course in December of 2020. Therefore, this aspect of Mother's case plan was satisfied, and the testimony offered at the hearing supports the trial court's findings related to parenting skills.

¶ 11 Finding of Fact 16c relates to housing, finding in part that Mother "has failed to obtain appropriate housing" and there "exists no permanence to her living situation." As to housing, the YCHSA social worker testified that Mother was living in a motel at the time of the TPR hearing and had previously worked with homeless shelter programs. This testimony supports the trial court's findings regarding Mother's housing status.

¶ 12 Findings of Fact 16d and 19 relate to the employment aspect of Mother's case plan, finding in part that "Mother has not maintained consistent employment over the life of the case . . . [and] has failed to make reasonable progress in alleviating concerns regarding her ability to provide financially for the child." As of the TPR hearing, the YCSHA social worker did not know if Mother was employed. YCSHA had previously received evidence that Mother was temporarily employed at various restaurants including Church's Chicken. This testimony supports the trial court's findings regarding Mother's employment history and status.

¶ 13 Finding of Fact 17 relates to substance abuse, finding in part that Mother had one failed drug screen and "has left her substance abuse concerns unaddressed." The YCHSA social worker testified that Mother had not completed a substance abuse

evaluation and tested positive for methamphetamines and marijuana on a single drug screen in October of 2019. This testimony supports the trial court's findings regarding Mother's substance abuse issues.

¶ 14 Finding of Fact 18 relates to Mother's child support obligations. In support of this finding, Mother's child support enforcement worker testified that Mother had a monthly child support obligation of $105 with $25 in arrears. This child support obligation was established in October 2019. The child support enforcement worker also testified that Mother had only made one payment of $8.10 toward her obligation in the form of a wage garnishment from her employer, Church's Chicken. YCSHA was not aware of any motion from Mother to decrease or modify her child support obligation. Mother testified that her tax refund had also been intercepted as a payment of her child support obligation but did not provide evidence of the amount of payment. This testimony supports the trial court's findings regarding Mother's child support obligation.

¶ 15 Finding of Fact 20 relates to Mother's visitation with Marshall. At the TPR hearing, the YCSHA social worker testified that Mother had not visited or contacted Marshall since 23 September 2019 despite being granted biweekly supervised visitation. The trial court also heard testimony that Mother only visited her child five (5) times between September 2019 and the point at which visitation was ceased on 11 June 2020. This testimony supports the trial court's findings regarding

Mother's visitation with Marshall.

¶ 16 Finally, Mother points to remaining Findings of Fact 21-26 as potential "ultimate findings" that our Court could review as conclusions of law. *See In re Z.A.M.*, 374 N.C. 88, 97, 839 S.E.2d 792, 798 (2020) ("[T]his Court reviews the termination order to determine whether the trial court made sufficient factual findings to support its ultimate findings of fact and conclusions of law, regardless of how they are classified in the order."). We conclude that these findings could be considered "ultimate findings" and review them accordingly.

¶ 17 Finding of Fact 21 found that Mother "willfully failed to pay a reasonable portion of the child's cost of care despite having been physically and financially able of doing so." This ultimate finding is supported by the trial court's Findings of Fact 16d and 18 that Mother failed to (1) maintain consistent employment during the life of this case, (2) make payments toward her child support obligation, or (3) make a motion to modify her child support obligation. There was no contrary evidence that Mother's failure to pay child support was not willful.

¶ 18 Finding of Fact 22 found that Mother was capable of completing her case plan requirements yet failed to make reasonable progress. The trial court's findings indicate that Mother only completed the parenting skills portion of her case plan, leaving the mental health, housing, and employment concerns unremedied. There is no contrary evidence that Mother was unable to complete the other aspects of her

case plan. Therefore, Finding of Fact 22 is supported as an ultimate finding.

¶ 19 Finding of Fact 23 found that Mother's case plan was created to remedy the circumstances that led to the child's removal from Mother's home. Mother's case plan included a mental health assessment and compliance with recommendations, parenting skills course, and requirement to obtain housing and employment. Marshall was removed from Mother's care due to concerns about Mother's homelessness, violence surrounding the child in the home, and Mother's rough handling of the child. The trial court also found in Finding of Fact 15 that Mother's case plan was "aimed at remedying the issues that necessitated the removal of the minor child from the home[.]" Therefore, we conclude that Finding of Fact 23 is supported as an ultimate finding.

¶ 20 Finding of Fact 24 found that Mother had neglected Marshall and if he were to be returned to her care, there existed a substantial likelihood of repetition of neglect. This ultimate finding is supported by the trial court's Findings of Fact 16 and 20 that Mother failed to complete a majority of her case plan addressing the reasons Marshall was removed from the home; that she failed to visit Marshall more than five (5) times during the life of the case despite having court-ordered visitation; and that she does not have consistent employment or steady housing.

¶ 21 Finding of Fact 25 found that Mother had willfully left Marshall in foster care for more than twelve (12) months without making reasonable progress to correct the

conditions that led to his removal from Mother's care. This ultimate finding is supported by the trial court's findings that Mother did not contribute to Marshall's cost of care, did not visit Marshall more than (5) times during the life of the case despite having court-ordered visitation, and failed to complete the majority of her case plan which addressed the reasons Marshall was removed from the home.

¶ 22 Finding of Fact 26 found that Mother willfully abandoned Marshall during the six (6) month period preceding the filing of the action. This ultimate finding is likewise supported by the trial court's findings that Mother did not visit Marshall according to court-ordered visitation, failed to pay her child support obligation, and did not request further contact with her child.

B. Conclusion of Law

¶ 23 Further, we consider whether the evidence and findings of fact support the trial court's conclusion that termination grounds existed. We conclude that the trial court's findings of fact supported this conclusion of law.

¶ 24 We review this issue under the same standard set out in Section II.A. above. N.C. Gen. Stat. § 7B-1111(a) (2020) sets forth potential grounds for termination of parental rights:

> (a) The court may terminate the parental rights upon a finding of one or more of the following:
>
> > (1) The parent has abused or neglected the juvenile. The juvenile shall be deemed to be abused or

> neglected if the court finds the juvenile to be . . . a neglected juvenile within the meaning of G.S. 7B-101.
>
> (2) The parent has willfully left the juvenile in foster care or placement outside the home for more than 12 months without showing to the satisfaction of the court that reasonable progress under the circumstances has been made in correcting those conditions which led to the removal of the juvenile. No parental rights, however, shall be terminated for the sole reason that the parents are unable to care for the juvenile on account of their poverty.
>
> (3) The juvenile has been placed in the custody of a county department of social services, a licensed child-placing agency, a child-caring institution, or a foster home, and the parent has for a continuous period of six months immediately preceding the filing of the petition or motion willfully failed to pay a reasonable portion of the cost of care for the juvenile although physically and financially able to do so.
>
> * * *
>
> (7) The parent has willfully abandoned the juvenile for at least six consecutive months immediately preceding the filing of the petition or motion[.]

Further, our General Statutes define a neglected juvenile as "[a]ny juvenile less than 18 years of age . . . whose parent, guardian, custodian, or caretaker . . . [d]oes not provide proper care, supervision, or discipline[, h]as abandoned the juvenile[, or c]reates or allows to be created a living environment that is injurious to the juvenile's welfare." N.C. Gen. Stat. § 7B-101(15).

¶ 25 Our Supreme Court has stated that "an adjudication of any single ground for terminating a parent's rights under [N.C. Gen. Stat.] § 7B-1111(a) will suffice to support a termination order." *In re J.S.*, 374 N.C. 811, 815, 845 S.E.2d 66, 71 (2020). Further, a finding that a parent acted willfully "does not require a showing of fault by the parent." *Id*. at 815, 845 S.E.2d at 71.

¶ 26 In its Conclusion of Law 6, the trial court concluded there were four statutory grounds under Section 7B-1111 to support termination of Mother's parental rights: neglect (subsection (a)(1)); failure to address the circumstances which led to Marshall's removal (subsection (a)(2)); failure to pay cost of care (subsection (a)(3)); and abandonment (subsection (a)(7)).

¶ 27 Although we need only conclude that one statutory ground existed to terminate Mother's parental rights, we conclude that all four termination grounds were satisfied by the trial court's findings.

¶ 28 First, the trial court concluded under subsection (a)(1) that Mother neglected Marshall and that there is a reasonable probability that such neglect will be repeated and continued for the foreseeable future if the minor child is returned to the home. In its Finding of Fact 12, the trial court noted that Marshall was adjudicated to be a neglected juvenile on 1 August 2019 due to Mother's unstable housing situation, inappropriate parenting, and injurious environment. The trial court further found that these concerns were unremedied at the time of the TPR hearing in that Mother

had no stable housing and employment situation. Therefore, the trial court's Conclusion of Law 6a is supported by its findings of fact.

¶ 29 Second, the trial court concluded under subsection (a)(2) that Mother willfully left Marshall in a foster home for more than twelve (12) months without showing to the satisfaction of the Court that reasonable progress under the circumstances had been made in correcting those conditions which led to Marshall's removal. The trial court's Findings of Fact 15-23 detailed the aspects of Mother's case plan and why they were relevant to Marshall's removal. *See In re J.S.*, 374 N.C. at 815-16, 845 S.E.2d at 71. (requiring a "nexus between the components of the court-approved case plan with which the respondent failed to comply and the conditions which led to the child's removal from the parental home."). The trial court ultimately found, pursuant to testimony, that Mother had failed to complete her case plan which addressed the reasons Marshall was removed from her care. Therefore, the trial court's Conclusion of Law 6b is supported by its findings of fact.

¶ 30 Third, the trial court concluded under subsection (a)(3) that Mother failed to pay Marshall's reasonable cost of care for a continuous period of six (6) months preceding the filing of the TPR motion. The trial court's Findings of Fact 18 and 21 indicated that Mother made no payments toward her child support obligation aside from a wage garnishment. Therefore, the trial court's Conclusion of Law 6c is supported by its findings of fact.

¶ 31 Finally, the trial court concluded under subsection (a)(7) that Mother willfully abandoned Marshall for at least the six (6) month period directly preceding the filing of the TPR motion. In support of this conclusion, the trial court's Finding of Fact 20 indicates that despite being granted court-ordered supervised visitation, Mother failed to visit Marshall more than five (5) times before visitation was ceased. Testimony from the YCSHA social worker indicates that although Mother kept in contact with the agency, she did not request telephone contact with her child or attempt to modify visitation. Therefore, the trial court's Conclusion of Law 6d is supported by its findings of fact.

C. Best Interests of Child

¶ 32 Lastly, we consider whether the trial court erred by finding the child's best interests were served by terminating Mother's parental rights. We conclude that the trial court did not err in this regard.

¶ 33 We review a trial court's determination of a child's best interest for an abuse of discretion. *In re Z.L.W.*, 372 N.C. 432, 435, 831 S.E.2d 62, 64 (2019). "Abuse of discretion results where the court's ruling is manifestly unsupported by reason or is so arbitrary that it could not have been the result of a reasoned decision." *Id.* at 435, 831 S.E.2d at 64.

¶ 34 Our General Statutes provide that in determining whether a termination of parental rights is in a child's best interest, the court shall consider the following

criteria and make written findings regarding those that are relevant:

> (1) The age of the juvenile.
>
> (2) The likelihood of adoption of the juvenile.
>
> (3) Whether the termination of parental rights will aid in the accomplishment of the permanent plan for the juvenile.
>
> (4) The bond between the juvenile and the parent.
>
> (5) The quality of the relationship between the juvenile and the proposed adoptive parent, guardian, custodian, or other permanent placement.
>
> (6) Any relevant consideration.

N.C. Gen. Stat. § 7B-1110(a).

¶ 35 Here, the trial court considered the relevant criteria of Section 7B-1110(a) and made written findings accordingly. Specifically, the trial court found that due to his age and foster placement, Marshall's chances of adoption were high. The trial court also found that he had no bond with his biological parents but was "well bonded" to his foster family. Finally, the trial court noted that terminating Mother's parental rights would aid in Marshall's primary permanent plan, which was adoption.

¶ 36 The trial court based its decision concerning Marshall's best interests on reasoned findings after considering the appropriate statutory factors of Section 7B-1110(a). Therefore, we conclude that the trial court did not abuse its discretion in concluding that the best interests of Marshall would be served by terminating

Mother's parental rights.

III. Conclusion

¶ 37 After conducting an independent analysis of Mother's proposed issues on appeal, we affirm the trial court's Order terminating Mother's parental rights.

AFFIRMED.

Judges DIETZ and GRIFFIN concur.

Report per Rule 30(e).