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IN THE COURT OF APPEALS OF NORTH CAROLINA

2022-NCCOA-423

No. COA21-594

Filed 21 June 2022

Wilkes County, No. 16 JT 168; No. 16 JT 169

IN THE MATTER OF:

K.E.M., L.H.M.

Appeal by Respondent-Mother from an order entered 30 June 2021 by Judge William F. Brooks in Wilkes County District Court. Heard in the Court of Appeals 23 March 2022.

Erika Leigh Hamby, for Wilkes County Department of Social Services, Petitioner-Appellee.

Matthew D. Wunsche, for Guardian ad Litem.

Robert W. Ewing, for Respondent-Appellant Mother.

WOOD, Judge.

¶ 1 Respondent-Mother (“Mother”) appeals from an order terminating her parental rights to her minor children, K.E.M. (“Kim”)¹, born in November 2009, and L.H.M. (“Larry”), born in February 2008, on the grounds of neglect and willful failure to make reasonable progress to correct the conditions that led to her children’s

¹ We use pseudonyms to protect the children’s identity and for ease of reading.

removal from her care. *See* N.C. Gen. Stat. § 7B-1111(a)(1)–(2). Because we hold the evidence and findings of fact support the trial court’s conclusion that grounds existed to terminate Mother’s parental rights, we affirm the order of the trial court.

I. Factual and Procedural Background

¶ 2

On May 13, 2016, the Wilkes County Department of Social Services (“DSS”) became involved with Mother’s family after receiving a report that Mother’s minor children, Kim and Larry, were not properly supervised and getting adequate medical attention, in addition to Mother’s suspected substance abuse occurring in the home. On May 16, 2016, DSS received another report alleging improper discipline because Larry had a bruise on his face he said was inflicted by his stepfather. On June 27, 2016, DSS received another report of substance abuse and further allegations that the children lived in an injurious environment. As a result of these reports, Kim and Larry were placed in a safety placement with family friends in July 2016, and DSS offered Case Management Services to the family on September 13, 2016. Mother was incarcerated in September 2016 for drug related charges and subsequently sentenced to 20 months imprisonment. Although the children’s stepfather began working on a Voluntary Services Plan in Case Management, he did not have appropriate or stable living arrangements for the children. The whereabouts of the children’s biological

father, (“Father”)², was unknown.

¶ 3

On December 29, 2016, DSS filed juvenile petitions alleging Kim and Larry were neglected juveniles. On March 13, 2017, the trial court found the minor children were neglected juveniles as defined by N.C. Gen. Stat. § 7B-101 and granted DSS legal and physical custody of the children. The trial court found there were no relatives willing and able to provide for the proper care and supervision of the children in a safe home, and that Kim and Larry’s Father had not seen them in two years. The Court further found Mother was incarcerated on charges related to her substance abuse and scheduled for release on March 31, 2017. The disposition order provided Mother with supervised visitation which was conditioned on her passing random drug screens.

¶ 4

In its first permanency planning order on March 20, 2017, the trial court ordered a primary plan of reunification with Mother and a secondary plan of adoption. After release from prison, Mother signed a Family Services Case Plan on April 11, 2017. In order to reunify with her children, Mother was required to abide by the Case Plan which included attending parenting classes; paying child support; having weekly contact with DSS; obtaining substance abuse, domestic violence, and mental health assessments; submitting to random drug screens; establishing employment;

² Father did not appeal the trial court’s orders, and thus is not a party to this action.

maintaining safe, stable, and appropriate housing for herself and the children if they be returned to her; attending all meetings and court proceedings; following all court orders and recommendations; and providing DSS with updated contact information.

¶ 5 In June 2017, Mother was incarcerated and remained in custody until January 2018. Mother was placed under house arrest from February 2018 through June 12, 2018 and resided with the children's stepfather and his sister. Mother's sister-in-law had a history with Child Protective Services. While on house arrest, Mother made progress on some elements of her Case Plan, including completing her parenting classes on March 1, 2018, complying with her probation, and maintaining contact with DSS. She also completed substance abuse, domestic violence, and mental health assessments in April 2018, wherein she was recommended to complete counseling, continue treatment, and participate in random drug screens.

¶ 6 Mother, however, stopped visiting her children on June 21, 2018. On July 31, 2018, Mother absconded from probation, and on September 4, 2018, was arrested for possession with intent to sell/deliver controlled substance and for violating the terms of probation. Mother remained incarcerated from September 4, 2018 to August 27, 2019. At the September 17, 2018 permanency planning review hearing, the trial court changed the permanent plan for Kim and Larry to a primary plan of reunification with Father and a secondary plan of adoption after finding that Mother was incarcerated for non-compliance with her probation; had not made weekly

contact with her children since July 3, 2018; had not set up child support; and needed to follow her recommended substance abuse and mental health treatments. The court determined that Father completed several requirements on his Case Plan such as attending parenting classes, paying child support, obtaining appropriate housing, and maintaining employment as a long-haul truck driver, so that “[i]t would not be contrary to the . . . children’s health and safety to . . . place the children with their father and step-mother once they make the appropriate corrections to the home.” The permanency planning review order relieved DSS “of further reasonable efforts towards reunification with [Mother and stepfather], as reunification efforts clearly would be unsuccessful or would be inconsistent with the juveniles’ health, safety, and wellbeing.”

¶ 7 On April 10, 2019, Father’s wife advised the children’s social worker that her marriage with Father was over and that he had left the home. On this same day, the Social Worker informed Father that due to his missing several unsupervised visitations with Kim and Larry since September 2018, lack of contact on a weekly basis with the Social Worker, and his marital concerns, the agency would recommend ceasing efforts with him, “change the children’s Permanency Plan, change his visitation back to supervised, and that he would have to contact the agency two (2) weeks in advance to request a visit with the children.”

¶ 8 After a permanency planning review hearing on April 15, 2019, the court

entered a permanency planning order on July 26, 2019 that changed each child's primary permanent plan to custody with an approved caregiver and a secondary plan of adoption. The order stated that DSS shall request an expedited ICPC home study for the home of the children's paternal great-grandmother who resided in Georgia and expressed interest in having the children placed with her.³ The order also stated that Mother, who had made no progress on her Case Plan since September 2018 and was still incarcerated, "shall have no visitation with the children unless and until the mother is granted such privileges by a Court of competent jurisdiction after proper Motion and Notice to all other parties."

¶ 9

At a permanency planning review hearing on October 14, 2019, the trial court found Father had not visited with his children since March 30, 2019, had moved to Virginia, and had not contacted the Social Worker to give information regarding his whereabouts. The court also found that an expedited ICPC home study was not yet completed on the children's paternal great-grandmother's home, but that she

³ The Interstate Compact on the Placement of Children (ICPC) applies when a North Carolina child is sent by a court, government agency, or child-placing agency to be placed with a relative in another state. N.C. Gen. Stat. § 7B-3800. The ICPC requires that before a child can be placed with an out-of-state relative, "the receiving state shall notify the sending agency, in writing, to the effect that the proposed placement does not appear to be contrary to the interests of the child." N.C. Gen. Stat. § 7B-3800, art. III(d). In other words, "a child cannot be placed with an out-of-state relative until favorable completion of an ICPC home study." *In re L.L.*, 172 N.C. App. 689, 702, 616 S.E.2d 392, 400 (2005).

intended to move to North Carolina. The court made the finding that it would not be contrary to the children's health, safety, and wellbeing to place them with their paternal great-grandmother once her residence in either Georgia or North Carolina was deemed appropriate. After this hearing, the court entered a permanency planning order on March 25, 2020 that changed the primary permanent plan to adoption with a secondary plan of custody with an approved caregiver. The court further ordered that neither Mother nor Father shall have visitation with the children unless granted by the court.

¶ 10 At the June 2020 permanency planning review hearing, the trial court received evidence regarding Mother and Father's progress on their Case Plans and the paternal great-grandmother's living situation. The trial court received evidence that once Mother was released from custody and as of May 13, 2020, she had (1) started substance abuse treatment; (2) found her own place to live since November 2019, but resided with a boyfriend with background issues that DSS would not approve the children to be around; (3) maintained employment since September 2019; (4) not visited with her children since June 21, 2018; (5) and avoided taking drug screens since May 25, 2018. Father continued to forgo visitations with his children and had not contacted DSS to provide information of his current address. DSS explored potential placement of the children with their paternal great-grandmother, but the court found she was inconsistent with maintaining contact with the children, did not

maintain contact with the agency after moving to North Carolina, and her home and work situation at the time of the hearing did not permit her to provide appropriate care for the children. The court approved continuing the primary permanent plan of adoption with a secondary plan of custody with an approved caregiver. Finally, the court ordered DSS to proceed with filing petitions for the termination of parental rights of Mother and Father. On July 21, 2020, DSS filed petitions to terminate Mother's and Father's parental rights to Kim and Larry. The petitions alleged grounds to terminate Mother's rights based on neglect of the children, pursuant to N.C. Gen. Stat. § 7B-1111(a)(1), and willful failure to make reasonable progress to correct the conditions which led to the removal of the children, pursuant to N.C. Gen. Stat. § 7B-1111(a)(2).

¶ 11 At the termination hearing on November 18, 2020, foster care social worker Monica Brewer testified to her experiences working with Mother's family and described the requirements of Mother's Case Plan as well as her progress on them. Ms. Brewer testified that Mother completed her parenting classes in March 2018 and completed a substance abuse assessment in April 2018 that recommended she continue with treatment. However, Mother did not enter substance abuse treatment until nearly two years later, on February 12, 2020. Mother tested positive for THC many times after beginning substance abuse treatment, including twice each month in February, March, and April 2020 and once each month in June through October of

2020. Regarding her positive THC results, Mother testified that she had legally purchased CBD products to treat her anxiety and sleep issues and that her substance abuse treatment provider had never questioned her about using CBD products. Of the forty-six random drug screens Mother would have been offered, Mother submitted to nine, and submitted to none between October 2018 and October 2020.

¶ 12 As required by her Case Plan, Mother submitted to a comprehensive clinical assessment on September 3, 2020, and was diagnosed with generalized anxiety disorder, depressive disorder, substance use disorders, childhood sexual abuse, and bipolar disorder. In September 2020, Mother began to attend therapy appointments, and it was then recommended that Mother also engage in medication management and use substance maintenance medication.

¶ 13 In accordance with her Case Plan, Mother completed a domestic violence inventory in April 2018, but failed to attend follow up meetings or classes. To fulfill the child support requirement, Mother signed a voluntary support agreement on November 17, 2020, the day before the termination hearing, and was ordered to pay \$155 a month per child. The Court heard evidence that Mother had been employed since September 2019, had maintained the same residence since November 27, 2019, and had paid her housing rent on time. Conflicting evidence was presented about who resided in Mother's home. Ms. Brewer testified that Mother's boyfriend, who had his own Child Protective Services history and could not be around the children,

lived in the two-bedroom home with Mother until at least September 2020. Ms. Brewer also contacted Mother's landlord who reported that there was a man that came with Mother to pay rent, but the landlord could not verify if anyone lived with Mother. DSS did not verify Mother's residence due to the change in the permanent plan for the children and the COVID pandemic. Mother testified that she lived alone in the two-bedroom mobile home and that the boyfriend in question had moved out permanently on September 23, 2020. Ms. Brewer testified that Mother was not consistent in maintaining contact with DSS, the GAL, and the Court when she was not incarcerated. Notably, Mother attended a total of seven out of fifty-nine total possible visits with her children, with her last visit occurring on June 21, 2018.

¶ 14 In the termination order, the trial court found that the children remained in the care and custody of DSS continuously since March 13, 2017, and at the time of the termination hearing, had been in the care and custody of DSS for approximately forty-four months. The trial court also found that although Mother had made some progress on her Case Plan in recent months, she continued to test positive for THC and her home was unsafe and not appropriate and stable for her children because she had not adequately addressed her substance abuse issues. Therefore, the trial court concluded grounds exist to terminate Mother's parental rights based on neglect as "it is likely that the juveniles would be exposed to similar or the same conditions of neglect if they were returned" to Mother's home. Additionally, the trial court also

concluded that grounds exist for termination of Mother’s parental rights based on Mother’s willful failure to make reasonable progress “to correct the conditions that led to [the children’s] removal, specifically substance abuse, parenting skills, and stable housing.” The trial court further concluded that it was in the children’s best interest to terminate Mother’s parental rights. The termination of parental rights order was filed on June 30, 2021. Mother gave written notice of appeal on July 30, 2021.

II. Discussion

¶ 15 Mother’s sole issue on appeal is whether the trial court erred in terminating her parental rights on the grounds of neglect and willful failure to make progress because the competent evidence showed that Mother was capable and willing to safely parent her children at the time of the termination proceeding. We disagree.

A. Standard of Review

¶ 16 Termination of parental rights actions consist of a two-stage process: adjudication and disposition. N.C. Gen. Stat. §§ 7B-1109, 7B-1110; *In re A.U.D.*, 373 N.C. 3, 5, 832 S.E.2d 698, 700 (2019). In the case before us, Mother challenges the trial court’s adjudication of grounds for terminating her parental rights under section 7B-1111(a)(1)-(2). Mother does not contest the trial court’s dispositional findings of the children’s best interests.

¶ 17 At the adjudicatory stage, “the petitioner bears the burden of proving by ‘clear,

cogent, and convincing evidence’ the existence of one or more grounds for termination under section 7B-1111(a) of the General Statutes.”⁴ *In re A.U.D.*, 373 N.C. at 5-6, 832 S.E.2d at 700. “We review a trial court’s adjudication that grounds exist to terminate parental rights to determine ‘whether the trial court’s findings of fact are supported by clear, cogent, and convincing evidence and whether those findings support the trial court’s conclusions of law.’ ” *In re A.B.C.*, 374 N.C. 752, 760, 844 S.E.2d 902, 908 (2020) (citing *In re B.O.A.*, 372 N.C. 372, 379, 831 S.E.2d 305, 310 (2019)). “Unchallenged findings of fact made at the adjudicatory stage, however, are binding on appeal.” *In re D.W.P.*, 373 N.C. 327, 330, 838 S.E.2d 396, 400 (2020) (citations omitted). Additionally, we review “only those findings necessary to support the trial court’s determination that grounds existed to terminate respondent’s parental rights.” *In re T.N.H.*, 372 N.C. 403, 407, 831 S.E.2d 54, 58-59 (2019) (citation omitted).

¶ 18 Here, the trial court determined clear, cogent, and convincing evidence existed to terminate Mother’s parental rights pursuant to section 7B-1111(a)(1) and (2). We

⁴ While this Court reviews a trial court’s conclusion that grounds exist to terminate parental rights under § 7B-1111(a) to determine whether the findings are supported by clear, cogent and convincing evidence and the findings support the conclusions of law, *In re M.P.M.*, 243 N.C. App. 41, 45, 776 S.E.2d 687, 690 (2015) (citation omitted), the statute specifies that the burden in termination proceedings “is on the petitioner or movant to prove the facts justifying the termination by clear and convincing evidence.” N.C. Gen. Stat. § 7B-1111(b).

note that “an adjudication of any single ground for terminating a parent's rights under N.C.G.S. § 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) (citations omitted). Therefore, “if this Court upholds the trial court’s order in which it concludes that a particular ground for termination exists, then we need not review any remaining grounds.” *Id.*

B. Willful Failure to Make Reasonable Progress

¶ 19 A trial court may terminate parental rights upon a finding that “[t]he 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.” § 7B-1111(a)(2); *In re A.M.*, 377 N.C. 220, 2021-NCSC-42, ¶ 16.

¶ 20 A finding that a parent acted willfully for purposes of section 7B-1111(a)(2) “does not require a showing of fault by the parent. A respondent’s prolonged inability to improve her situation, despite some efforts in that direction, will support a finding of willfulness regardless of her good intentions, and will support a finding of lack of progress sufficient to warrant termination of parental rights.” *In re B.J.H.*, 378 N.C. 524, 2021-NCSC-103, ¶ 12 (quoting *In re J.S.*, 374 N.C. at 815, 845 S.E.2d at 71).

¶ 21 To assess the reasonableness of Mother’s progress in correcting the conditions which resulted in the removal of the children from her care, Mother’s progress is

evaluated “for the duration leading up to the hearing on the motion or petition to terminate parental rights.” *In re A.C.F.*, 176 N.C. App. 520, 528, 626 S.E.2d 729, 735 (2006). A trial court possesses “ample authority to determine that a parent’s ‘extremely limited progress’ in correcting the conditions leading to removal adequately supports a determination that a parent’s parental rights in a particular child are subject to termination.” *In re B.O.A.*, 372 N.C. at 385, 831 S.E.2d at 314 (citation omitted).

¶ 22 The trial court placed Kim and Larry in DSS custody on March 13, 2017, after the children were found to be neglected juveniles as defined by section 7B-101. The children had been in the care and custody of DSS, and outside of the parental home, for approximately forty months at the time DSS filed its motion to terminate Mother’s parental rights on July 21, 2020. Based upon the children remaining in the care and custody of DSS for more than twelve months and pursuant to section 7B-1111(a)(2), we consider the reasonableness of Mother’s progress in correcting the conditions which resulted in the removal of the children from her care. § 7B-1111(a)(2); *In re B.J.H.*, 2021-NCSC-103 at ¶ 13.

¶ 23 Our Supreme Court has held “ ‘parental compliance with a judicially adopted case plan is *relevant* in determining whether grounds for termination exist pursuant to N.C.G.S. § 7B-1111(a)(2)’ provided that ‘the objectives sought to be achieved by the case plan provision in question address issues that contributed to causing the

problematic circumstances that led to the juvenile's removal from the parental home.’ ” *In re B.J.H.*, 2021-NCSC-103, at ¶ 62 (quoting *In re B.O.A.*, 372 N.C. at 384, 831 S.E.2d at 313-14). Accordingly, we look at Mother’s progress in correcting the conditions which resulted in the removal of her children.

1. Findings of Fact

¶ 24 Mother challenges three of the trial court’s findings of fact, contending they are unsupported by competent evidence or by the other findings of fact. The trial court made the following findings addressing Mother’s progress on the requirements of her Case Plan which was developed to address the conditions that led to her children’s removal from the home:

22 . . .

a. Attend and complete parenting classes and demonstrate skills learned therein during visits. She did complete parenting classes on March 1, 2018, and was appropriate during visitations.

b. Participate in scheduled visitation with the minor children. All visits went well

i. She did utilize seven visits with the minor children.

. . .

iv. She has had no visits since June 21, 2018.

c. Submit to random drug screens. She would have been offered a total of forty-six random drug screens. She submitted to nine screens, and passed all of those. She was

unable to be reached, or did not submit to nine other screens. She was incarcerated for twenty-eight possible screens.

d. Obtain a substance abuse and mental health assessment and follow all recommendations. She completed an assessment with DonLin Counseling in April 2018. She was recommended to complete counseling, continue treatment, and participate in random drug screens. Counseling was recommended for an adjustment disorder with anxiety.

i. She never received a certificate of completion. In September 2018, she received criminal charges for possession of narcotics, and due to those charges would be required to complete a new assessment.

ii. Respondent Mother reports currently attending Mountain Health Solutions since February 12, 2020. The Department is aware of her testing positive for THC two times in February and April of 2020, and once in May and October 2020.

iii. Respondent Mother contends she uses “smokable hemp,” CBD cigarettes, and CBD gummies that she obtains from the local convenience store. She has not discussed this use with her counselor at Mountain Health Solutions.

iv. [DSS] is unaware if she participated in any form of treatment from August 2019 through February 2020.

e. Mother has convictions for possession with intent to sell/deliver controlled substance, for offenses committed in September 2018.

f. Provide written statements regarding why the minor children came into the care of the Department. She completed her statements on March 20, 2018.

g. Maintain safe, appropriate, and stable housing for herself and the minor children, should the children be returned to her. She has not completed this item.

i. She was incarcerated when the children came into care. She was released on April 4, 2017. At this time, she was living in the home with her husband

ii. She went back into custody on June 21, 2017 and remained in custody until January 12, 2018.

iii. She was placed on house arrest from February 2018 through June 12, 2018. During most of this time, she was living with her husband . . . However, she had provided the Social Worker a contract for a rental home executed March 19, 2018.

iv. Social Worker believes that she and her husband . . . lived together in the rental home until approximately July 31, 2018. Social Worker was never able to do a home study on that home, but the home cursorily appeared appropriate from the outside.

v. [Mother] is currently out of custody after having been incarcerated from September 4, 2018 through August 27, 2019 because of absconding from probation on July 31, 2018.

vi. At this time, [Mother] rents a two-bedroom home and has maintained the residence since November of 2019. To [DSS's] knowledge, since January of 2020 she is living with an individual, [Mother's boyfriend] who would not be approved by [DSS]. [Mother] contends that she currently lives alone and that [Mother's boyfriend] has moved out.

h. Sign up to pay child support for the minor children. She signed a Voluntary Support Agreement on November 17, 2020, and she is currently under order to pay \$155/month

and her last payments were garnished from her employer. She also made a \$100 purge payment recently.

i. Participate in meetings with [DSS] and the GAL and in court hearings. She participated in most court hearings, and was not consistent in her participation with [DSS], GAL and the Court when she was not incarcerated. She had little contact with the Social Worker since 2018 until she was released from custody. Since being released she has participated in three out of four meetings with the Department, and she had generally remained in contact with her social worker.

j. Obtain and maintain employment. Previously she was employed two different times between incarcerations. She is employed at Tyson and has been since October 27, 2020. Previously, she worked at Packer Sanitation from September 16, 2019 until she became employed by Tyson.

...

39. Respondent Mother has made progress in recent months, however, she continues to test positive for THC and her home is not appropriate. Such is evidence of her continued neglect of the minor children due to her lack of progress to provide a safe and stable home for the minor children.

40. Respondent Mother has not adequately addressed her substance abuse or instability issues; hence there exists a substantial likelihood of repetition of the same neglect that led to the minor children coming into care.

¶ 25 Based on its findings of fact, the trial court concluded that grounds existed for termination of Mother's parental rights because the children had been left willfully in foster care for more than 12 months without Mother "making reasonable progress to correct the conditions that led to their removal, specifically substance abuse,

parenting skills, and stable housing.” The court further concluded, “[c]onsidering that [Mother] made very little progress early on her Family Services Case Plan, has recently made some but not substantial progress on her Family Services Case Plan, and the children have been in care for forty-four months she has not made reasonable progress to address the issues that brought the children into care.”

a. Findings of Fact 39 and 40

¶ 26 Mother challenges the trial court’s findings of fact 39 and 40 that she lacked progress in providing a safe home due to not adequately addressing her substance abuse and instability issues. Mother contends that the evidence indicates that her progress with the Case Services Plan “remedied the neglect that previously existed in [her] home.

¶ 27 The record before us tends to show the children were removed from Mother’s home in July 2016 and adjudicated as neglected on March 13, 2017, because of “improper supervision, substance abuse by [Mother] and her significant other, lack of food in the home, and domestic violence between [Mother] and her partner.” The undisputed evidence also demonstrates Mother’s children had been in DSS custody approximately forty-four months since their removal from Mother’s home. Mother was aware of the reasons and conditions that led to her children’s removal from the home, and she signed a Case Plan on April 11, 2017, agreeing to address the conditions. She entered the Case Plan more than three years before the termination

of parental rights hearing.

¶ 28 The undisputed findings demonstrate that despite undergoing a substance abuse assessment in April 2018, Mother never obtained a certificate of completion for substance abuse treatment. Further, Mother was required to complete a new substance abuse assessment after receiving new criminal charges for possession of narcotics in September 2018. The undisputed findings recount a lapse of nearly three years from the time Mother signed her Case Plan to her beginning substance abuse treatment in February 2020. Despite Mother's entry into substance abuse treatment, she continued to test positive for THC throughout 2020, including a positive result one month before the termination hearing. The evidence presented at trial and the uncontested findings of fact support findings of fact 39 and 40 and show that despite Mother's intermittent and recent progress toward certain elements of her Case Plan, she continued to test positive for THC and was unable to provide a safe home for her children. We hold that these findings of fact support the trial court's conclusion that while Mother made some progress towards her Case Plan, considering the extended length of time that Mother was given to be successful in her Case Plan, Mother failed to make meaningful progress in correcting the conditions that led to her children's removal.

b. Findings of Fact 22(g)

¶ 29 Next, Mother contests the trial court's findings of fact 22(g) which further led

to the trial court's determination that her home did not constitute suitable or proper housing for the children. Mother argues that no evidence was presented at adjudication to prove Mother's boyfriend was residing with her at the time of the termination hearing. We disagree.

¶ 30 At the termination hearing, two competing testimonies were offered as to with whom Mother resided. Ms. Brewer, the foster care social worker assigned to the family, testified Mother's boyfriend, who had his own Child Protective Services history and could not be around the children, lived in the two-bedroom home with her until at least September 2020. Ms. Brewer testified that she contacted Mother's landlord on November 6, 2020, who reported that there was a man who came with Mother to pay rent, but the landlord could not verify whether he lived with Mother. Mother testified she lived alone in the two-bedroom mobile home and that her boyfriend had moved out permanently. Our Court has held:

[T]here is a difference between arguing that there is *no evidence* to support a finding by the trial court, and arguing that there is evidence which *contradicts* that finding. In a nonjury proceeding such as this, the findings of fact "are conclusive on appeal when supported by any competent evidence, even if the evidence could sustain contrary findings."

In re C.M., 273 N.C. App. 427, 430, 848 S.E.2d 749, 751-52 (2020) (quoting *In re Norris*, 65 N.C. App. 269, 275, 310 S.E.2d 25, 29 (1983)), *aff'd per curiam*, 377 N.C. 105, 2021-NCSC-33. Thus, the trial court's findings of fact are conclusive on appeal

when any competent evidence is offered to support the finding. The evidence presented tends to show Mother continued to reside with her boyfriend at the time of the termination hearing. Notwithstanding evidence that could lead to contrary findings, the trial court acted within its discretion to weigh the credibility of the evidence in the record and determine that Mother still resided with her boyfriend, whose CPS history contributed to making the home unsuitable and unsafe for the children. *See id.*

¶ 31 By the time of the termination hearing on November 18, 2020, Mother had met several conditions of her Case Plan: specifically, finishing parenting classes; obtaining employment; signing an agreement to pay child support; providing a written statement of why her children were placed with DSS; and maintaining communication with her social worker and DSS representatives. Despite Mother's efforts, she failed to make meaningful progress in improving the conditions of her home. The evidence and undisputed findings of fact demonstrate that from the time the children were removed from Mother's home, Mother made intermittent, inconsistent, and only recent progress to address the core issues of why her children were removed from the home.

III. Conclusion

¶ 32 We hold that the trial court's findings are supported by competent evidence and the trial court's conclusion that grounds existed to terminate Mother's parental

IN RE: K.E.M., L.H.M.

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Opinion of the Court

rights pursuant to section 7B-1111(a)(2) are supported by its findings. Accordingly, we affirm the trial court's order terminating Mother's parental rights to her minor children. It is so ordered.

AFFIRMED.

Judges ZACHARY and COLLINS concur.

Report per Rule 30(e).