IN THE COURT OF APPEALS OF NORTH CAROLINA

2022-NCCOA-462

No. COA22-51

Filed 5 July 2022

Davidson County, Nos. 19 JA 27-28

IN THE MATTER OF: I.B.M., N.L.M.

Appeal by Respondent from order entered 18 August 2021 by Judge Carlton Terry in Davidson County District Court. Heard in the Court of Appeals 8 June 2022.

Sheri A. Woodyard for Petitioner-Appellee Davidson County Department of Social Services.

Smith, Anderson, Blount, Dorsett, Mitchell & Jernigan, L.L.P., by Michael W. Mitchell and Andrew M. Benton, for Guardian ad Litem.

Richard Croutharmel for Respondent-Appellant-Mother.

JACKSON, Judge.

¶ 1 Respondent-Mother appeals from the trial court's permanency planning order ceasing reunification efforts between her and her children and eliminating reunification from their permanent plan. Respondent-Mother argues that the trial court abused its discretion in ceasing reunification efforts by failing to make necessary findings under N.C. Gen. Stat. § 7B-906.2(d). We disagree and affirm the decision of the trial court.

I. Background

¶ 2 In September 2018, the Lexington Police Department responded to a call at a Red Roof Inn where Respondent-Mother was staying with her two children, ten-year-old Ibrahim and nine-year-old Niles.[1] Police found the children crying and Respondent-Mother screaming as if she was being attacked. Respondent-Mother appeared to be hallucinating and under the influence of drugs. The police subsequently found methamphetamine and drug paraphernalia in the room. Respondent-Mother was arrested and charged with child abuse and drug offenses. Because Respondent-Father[2] could not be found, the children were placed temporarily with their paternal uncle and enrolled in school.

¶ 3 On 23 November 2018, Respondent-Father picked up the children from their uncle, and in December 2018, the children and Respondent-Father were reunited with Respondent-Mother. The children remained with their parents until February 2019. During these few months, the family lived in Lexington, Salisbury, and Thomasville, frequently moving from hotel to hotel or staying with friends. The children were not enrolled in school during this time.

¶ 4 Respondent-Father and Respondent-Mother's relationship is characterized by frequent domestic violence. In 2012, Respondent-Father was convicted of assaulting

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[1] To protect the children's privacy, the pseudonyms are agreed upon by the parties pursuant to N.C. R. App. P. 42(b).

[2] Respondent-Father is not a party to this appeal.

Respondent-Mother. In January 2019, the police were called to the family's room at a Comfort Inn where the parents were loudly arguing. At the time, Respondent-Mother had untreated substance abuse issues, and Respondent-Father had pending methamphetamine, cocaine, and marijuana charges.

¶ 5 A DSS social worker, J. Ledbetter, began investigating the family in February 2019, and she met with Respondent-Mother on 11 February and 19 February. At some point that same month, Respondent-Mother left the children with a paternal aunt for a few hours "to get some money." After two hours had passed, the children called their paternal uncle, whom they had previously stayed with, to come get them. After Respondent-Mother retrieved Ibrahim and Niles, the children called their uncle again and told him they were afraid of being at the residence where Respondent-Mother had taken them.

¶ 6 The next day, Respondent-Mother called Social Worker Ledbetter asking for transportation to enroll the children in school. When the social worker arrived, Respondent-Mother "became irate" with the social worker, saying that the children did not need to be enrolled in school, and that she was leaving town with the children. That same day, DSS filed juvenile petitions and took the children into nonsecure custody.

¶ 7 On 29 March 2019, Respondent-Mother entered a case plan with DSS, agreeing to address her mental health, substance abuse, domestic violence, and parenting

skills. She also agreed to obtain steady employment and a suitable place to live. However, Respondent-Mother failed to attend the 3 July 2019 adjudication hearing and the children were adjudicated to be neglected.

¶ 8 Both parents attended the subsequent disposition hearing on 11 July 2019. In an order entered following the disposition hearing, the trial court found: (1) Respondent-Mother had made little progress with her plan: (2) she was not completing offered drug screens; (3) had not enrolled in or provided verification of enrollment in domestic violence or substance abuse treatment programs; (4) behaved antagonistically with DSS; (5) attended 12 of her 18 scheduled visits with the children, but occasionally behaved inappropriately, arrived late, or left early; (6) refused to sign releases allowing Social Worker Ledbetter to obtain information from her probation officer or parenting class; (7) denied use of illegal substances despite her drug charges; and, (8) did not understand why her children were in foster care. At the time, Respondent-Mother was also unemployed with no reported housing. Ultimately, the trial court ordered Respondent-Mother to attend domestic violence and parenting classes, complete random drug screens, obtain stable employment and housing, sign up for child support, obtain a valid driver's license, maintain contact with DSS, and sign releases for DSS to access her service provider information, as well as for her probation officer and any other treatment provider she attends.

¶ 9 On 28 August 2019, the trial court conducted a permanency planning hearing.

At this hearing, the trial court found that Respondent-Mother had made no progress on her case plan, was not participating in or cooperating with the plan, was not making herself available to DSS, and was acting in a manner inconsistent with the health and safety of the children. At this time, reunification with a parent remained part of the permanent plan.

¶ 10 On 23 October 2019, the trial court conducted another permanency planning hearing. Again, the trial court found that Respondent-Mother had not made progress, was not participating in the plan, and was acting contrary to the health and safety of the juveniles. The court also found that the children were doing well in the stability of their current placement and that Respondent-Mother had not demonstrated her ability to provide a safe and stable home for the children. In its permanency planning order, the trial court ceased reunification efforts between the children and their parents and changed the permanent plan to one of adoption and guardianship with a relative. Respondent-Mother did not appeal this order.

¶ 11 Another permanency planning hearing was held on 24 June 2020. At this hearing, the trial court found that Respondent-Mother had made significant progress on her plan in a reasonable time: she (1) was in therapy; (2) completed an eight-week domestic violence class and parenting classes; (3) was regularly attending visitation with her children; and, (4) had obtained stable housing and employment. The court also found that she was participating in the plan, making herself available to DSS

and the GAL, and was not acting in a manner inconsistent with the juveniles' health and safety. Consequently, the trial court changed the permanent plan to one of reunification. The trial court allowed Respondent-Mother to have supervised visits with the children, but excluded Respondent-Father, and ordered that Respondent-Mother complete substance abuse treatment.

¶ 12 On 23 September 2020, another permanency planning hearing was held with Respondent-Mother being present. The trial court again found that Respondent-Mother was making progress, participating in the plan, keeping contact with DSS and the GAL, and not acting inconsistently with the juveniles' health and safety. In addition to her progress from the previous hearing, Respondent-Mother had completed substance abuse treatment. Accordingly, the trial court ordered the children to be placed in a trial home placement with Respondent-Mother. The trial court also found that it was not in the children's best interest to have visits with Respondent-Father and ordered that Respondent-Father was not to have any contact with the children unless supervised by DSS.

¶ 13 On 18 November 2020, another permanency planning hearing was held with Respondent-Mother present. The trial court found, *inter alia*, that Respondent-Father had not enrolled in or completed domestic violence classes, made no progress, failed to participate in the plan, failed to maintain contact with DSS, and behaved contrary to the children's health and safety. The court continued to authorize the

trial home placement with Respondent-Mother, but ceased reunification efforts with Respondent-Father and ordered that Respondent-Father have no contact with the minor children.

¶ 14 At a review hearing on 2 December 2020, the trial court found that, immediately after the 18 November 2020 hearing, Respondent-Mother allowed the children to have contact with Respondent-Father in violation of the court's prior order. Following the 18 November 2020 hearing, Respondent-Mother picked up Respondent-Father and allowed him to stay at her home with the children for a few days, despite knowing he was not allowed contact with them. On 20 November 2020, Respondent-Mother drove Respondent-Father and the children to pick up Respondent-Father's girlfriend, over two hours away. An argument ensued during the drive, which led to a physical altercation between the parents while Ibrahim and Niles were present in the car. During the altercation, Respondent-Father had grabbed the steering wheel and taken $800 from Respondent-Mother's wallet. A police officer was alerted to their car stopped in the middle of the road, saw what was happening, and arrested Respondent-Father for assault on a female and common law robbery. Based on Respondent-Mother's testimony, the court found that Ibrahim and Niles did not appear upset about the incident because they had seen similar incidents in the past. Consequently, the trial court found that the children "were not the respondent/mother's priority and that she made a series of bad decisions," dissolved

the trial home placement, and returned the children to a group home at the recommendation of DSS.

¶ 15 Another permanency planning hearing was held on 10 February 2021. At this hearing, Respondent-Mother admitted to using marijuana with her boyfriend while the children were in the home during the trial placement. She subsequently tested positive for marijuana twice during December 2020. Respondent-Mother also began domestic violence classes in January 2021, which she completed in April 2021, and obtained a domestic violence protection order ("DVPO") against Respondent-Father, which remained in effect until January 2022.

¶ 16 At this 10 February 2021 hearing, the court found that while Ibrahim and Niles were in their placement at the group home, Respondent-Mother had difficulty following the visitation guidelines. She did not follow the group home's COVID-19 protocols, brought her boyfriend to an in-person visit with the children at least once, and often invited other family members to participate in her virtual visits. The children discussed the Respondent-Mother's marijuana use during virtual visits and did not want to stay on the virtual visits the entire time due to "heightened anxiety." The children also reported that, on one occasion during the trial home placement, they did not feel comfortable around her boyfriend's family and wanted to return home but could not do so because Respondent-Mother was drinking alcohol and could not drive. Ibrahim and Niles also expressed that they did not want to return to their

mother's care and wanted the stability of placement with a relative.

¶ 17 At the 10 February 2021 hearing, the trial court ultimately found that, while Respondent-Mother was making progress, she had major setbacks. She was participating in the plan and maintaining contact with DSS and the GAL, but still behaving in a manner inconsistent with the health and safety of the children. The trial court found that Respondent-Mother did not recognize that her poor decision-making skills created safety concerns for Ibrahim and Niles, and that this behavior is what led to DSS involvement initially, as well as the dissolution of the trial home placement. The trial court again ordered that Respondent-Father have no contact with the children, changed the permanent plan to guardianship with a relative and reunification with Respondent-Mother, and ordered that Respondent-Mother have supervised virtual visits with the children.

¶ 18 On 16 June 2021, another permanency planning hearing was held, and on 18 August 2021, the trial court entered an order eliminating reunification with Respondent-Mother from the permanent plan. In its order, the trial court found that Respondent-Mother had made some progress on her plan, including completing parenting, domestic violence, and substance abuse classes, receiving mental health treatment, securing stable employment and housing, and obtaining a DVPO against Respondent-Father. However, the court also found that Respondent-Mother had "major setbacks," which included her repeated failed drug screens and substance

abuse, her repeated violations of court orders, her poor decision-making skills and blaming behavior, and her inability to acknowledge the initial child safety concerns that resulted in her losing custody. Additionally, the court found that it was in the children's best interest for them to remain in their current placement, acknowledging that the juveniles had expressed they did not want to return to Respondent-Mother's care and preferred the stability of being placed with relatives. Further details of this permanency planning hearing and order are elaborated as needed below.

¶ 19 Respondent-Mother timely filed notice of appeal from the 18 August 2021 order.

II. Discussion

A. Standard of Review

¶ 20 Our "review of a permanency planning review order is limited to 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 A.P.W.*, 378 N.C. 405, 410, 2021-NCSC-93, ¶14 (internal marks and citation omitted). The trial court alone has the duty to determine witness credibility, the weight given to testimony, and the reasonable inferences drawn from evidence, *In re D.W.P.*, 373 N.C. 327, 330, 838 S.E.2d 396, 400 (2020), and this Court will not reweigh evidence on appeal, *In re A.J.T.*, 374 N.C. 504, 510, 843 S.E.2d 192, 196 (2020).

¶ 21 The trial court's decision to cease reunification efforts and eliminate reunification from a juvenile's permanent plan at disposition is reviewed for abuse of discretion. *In re A.P.W.*, 378 N.C. at 410, 2021-NCSC-93, ¶15. "An abuse of discretion occurs when the trial court's ruling is so arbitrary that it could not have been the result of a reasoned decision." *In re J.H.*, 373 N.C. 264, 268, 837 S.E.2d 847, 850 (2020) (quotation and citation omitted).

B. Sufficiency of the Findings

¶ 22 "At a permanency planning hearing, 'reunification shall be a primary or secondary plan unless,' *inter alia*, 'the court makes written findings that reunification efforts clearly would be unsuccessful or would be inconsistent with the juvenile's health or safety.'" *In re J.H.*, 373 N.C. at 268, 837 S.E.2d at 850 (quoting N.C. Gen. Stat. § 7B-906.2(b) (2019)). Further, at the hearing, the trial court must make findings "which shall demonstrate the degree of success or failure toward reunification[,]" on each of the following:

> (1) Whether the parent is making adequate progress within a reasonable period of time under the plan.
>
> (2) Whether the parent is actively participating in or cooperating with the plan, the department, and the guardian ad litem for the juvenile.
>
> (3) Whether the parent remains available to the court, the department, and the guardian ad litem for the juvenile.
>
> (4) Whether the parent is acting in a manner inconsistent with the health or safety of the juvenile.

N.C. Gen. Stat. § 7B-906.2(d) (2019).[3] "Although use of the actual statutory language is the best practice, the statute does not demand a verbatim recitation of its language." *In re L.E.W.*, 375 N.C. 124, 129, 846 S.E.2d 460, 465 (2020) (internal marks and citation omitted).

1. Challenged Factual Findings

¶ 23 Respondent-Mother first challenges each of the following findings of fact made by the trial court. We hold that each are in turn supported by competent evidence.

> 36. The respondent/mother continued to use marijuana despite having completed the recommended sixteen group substance abuse classes.
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> . . .
>
> 41. [Respondent-Mother] continues to disregard court orders and repeatedly exercises poor judgment. [Respondent-Mother] does not have authorization from the Court to have in person visits with the minor children at this time. However, she emailed Ms. Ledbetter asking if she could attend church with the minor children and asked the group home staff questions about which church the boys attended.
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> . . .
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> 45. Ms. Ledbetter had numerous communications with [Respondent-Mother] as to what the court order allows regarding visitation with the minor children and her unwillingness to abide by the visitation orders and

[3] The General Assembly modified the permanency planning statutes, effective 6 October 2021. S.L. 2021-132, § 693. Because the hearing appealed from in this case took place prior to the effective date, we reference the previous version of the statute.

guidelines of the juveniles' group home.

. . .

66. It is not possible that the minor children could be placed with a parent now or within the next six months. Placement with a parent at this time is not in the best interest of the minor children for the reasons set out above and in the reports incorporated herein.

. . .

72. The best interest of the children would be served by retaining the children in their current placement.

73. The minor children returning to their home is contrary to their health and safety.

. . .

76. [Respondent-Mother] has poor decision-making skills, lacks sound judgment, and has difficulty accepting responsibility for her actions. She does not acknowledge the child safety concerns that initially brought the minor children into the Department's custody or that resulted in the dissolution of the trial home placement.

77. [Respondent-Mother] attempts to manipulate and take advantage of newly assigned case workers and house parents. She is in substance abuse treatment, but has failed multiple drug screens.

78. [Respondent-Mother] has used marijuana and alcohol while on psychotropic medication.

79. [Respondent-Mother] has continued to engage in mental health treatment, but blames others for her circumstances. She used marijuana (while her children were in her care) to cope with parental stress and her headaches.

. . .

84. It is not in the best interest of the minor children to have visits with the respondent/mother at this time.

. . .

88. The Davidson County Department of Social Services should be relieved of the obligation to make continued reasonable efforts with the respondent/mother as such efforts clearly would be unsuccessful or inconsistent with the juveniles' health and safety. The respondent/mother does not take responsibility for her actions and has not acknowledged the safety concerns (substance abuse, mental health, and domestic violence) that initially brought the minor children into the Department's custody or that caused the dissolution of the trial home placement.

89. The respondent/mother blatantly violated orders of the Court by allowing the minor children to have contact with the respondent/father during the trial home placement. The respondent/mother also (admittedly) used marijuana while the minor children where [sic] in her home during the trial home placement. Not only did she use illegal substances during the trial home placement, the juveniles were actually in the home when she did it.

. . .

91. While in substance abuse treatment, the respondent/mother repeatedly tested positive for marijuana and alcohol.

. . .

93. The Court finds it is likely that if the children returned to the respondent/mother's care, that she would return to her old behaviors and that the children would not receive proper care and supervision in a safe home.

¶ 24 Findings of Fact 36, 77, 78, 79, 89, and 91, i.e. the challenged findings

concerning Respondent-Mother's marijuana use and failed drug screens, are all supported by competent evidence. At the outset, Respondent-Mother does not challenge Finding of Fact 31, which finds that Respondent-Mother smoked marijuana in her home during a trial placement with her children in another room. Respondent-Mother also does not challenge Finding of Fact 33, which found she was diagnosed with alcohol and cannabis use disorder, or Findings of Fact 34 and 35, which found that she failed six drug screens by testing positive for marijuana. These findings are therefore binding. As for the challenged findings regarding Respondent-Mother's continued marijuana use throughout her substance abuse treatment, we find that they are supported by competent evidence in the Record. The DSS report catalogues nine random drug screens between 12 January and 4 June 2021, six of which were positive for marijuana. The trial court could reasonably infer from these positive test results that Respondent-Mother continued to use marijuana. Although Respondent-Mother testified that CBD oil caused her positive test results, determining the weight and credibility of testimony is the exclusive province of the trial court. *See In re D.W.P.*, 373 N.C. at 330, 838 S.E.2d at 400 ("The trial judge's decisions as to the weight and credibility of the evidence, and the inferences drawn from the evidence are not subject to appellate review.").

¶ 25 Related to the above findings on her substance abuse, Respondent-Mother also argues that the trial court abused its discretion in making these findings because

"there were never any reports that [her substance abuse] had detrimentally affected her children[.]" We do not find this argument persuasive. We are unaware of any precedent in permanency planning cases holding that the trial court must make a specific finding that the respondent-parent's illegal drug use is detrimental to the child,[4] and, in this case, the trial court could reasonably infer that Respondent-Mother's substance abuse would be contrary to the children's health and safety.

¶ 26 Findings of Fact 66, 73, 84, and 93, i.e. the challenged findings addressing that placement or visitation with Respondent-Mother would be contrary to the juveniles' interests, health, and safety, are all supported by competent evidence. The DSS report as well as the testimony from Social Worker Ledbetter cite the history of domestic violence between Respondent-Mother and Respondent-Father, as well as Respondent-Mother's mental health, drug use, and poor judgment, as reasons for why reunification was not recommended. Respondent-Mother argues that her progress, particularly her decision to obtain a DVPO against Respondent-Father, exhibits good judgment and therefore negates these findings. However, because the findings are supported by competent evidence in the Record, and we may not reweigh evidence on

[4] In support of this proposition, Respondent-Mother cites *In re Phifer*, 67 N.C. App. 16, 25, 312 S.E.2d 684, 689 (1984), which held that, on its own, alcohol abuse could not support a termination of parental rights ("TPR") for neglect without a finding that the substance abuse negatively affected the child. We do not find *Phifer* particularly persuasive here, in part because this is not a TPR case, and also because the trial court here relied on more than simply Respondent-Mother's substance abuse to cease reunification efforts.

appeal, we leave the trial court's findings undisturbed.

¶ 27 We also leave Finding of Fact 72, which is more appropriately categorized as a conclusion of law, undisturbed. Finding 72 states that it is in the children's best interest to remain in their current placement. The determination of the children's best interest is in the trial court's discretion, which may only be reviewed for an abuse of discretion. *In re B.C.T.*, 265 N.C. App. 176, 185, 828 S.E.2d 50, 57 (2019). In addition to the supported findings regarding the children's health and safety, the trial court specifically found, and Respondent-Mother does not challenge, the "children do not wish to return home to the respondent/mother's care[,]" the children "desire stability[,]" and the "children do not trust the respondent/mother[.]" Based on the above supported findings, we hold this conclusion is supported by appropriate findings of fact and the trial court did not abuse its discretion when determining the children's best interests.

¶ 28 Findings of Fact 76 and 77, which indicate that Respondent-Mother lacks sound judgment, has poor decision-making skills, has difficulty accepting responsibility for her actions, does not acknowledge child safety concerns, and manipulates others, are supported by competent evidence. When asked about her failed drug screens, Respondent-Mother admitted her test results were positive, but she equivocated on the reasons behind the results, as follows:

> [Respondent-Mother]: But I-I was not aware that I was

being tested for alcohol. I didn't know that it wasn't okay for me to drink honestly. . . And the marijuana, although it does says in the letter from my therapist that they're uncertain if that's what it was. I'm not going to lie to you about something that a clinical psychologist or therapist told me to do.

. . .

[Counsel]: But you were notified what the result was?

[Respondent-Mother]: I don't know if it was, you know, directly after that, but-

[Counsel]: And you can-now you say that you tested positive because you use CBD oil?

[Respondent-Mother]: It was CBD oil. It actually comes in a little pen that you smoke. It's just like a vape.

[Counsel]: And you continued to use that knowing that your drug screens would test positive? Would show that you tested positive for marijuana?

[Respondent-Mother]: At that time-all I know is they told me that marijuana usually stays in your system for 30 days. And whenever-as soon as I found out that it-that I did test positive for it that's when I stopped using it.

[Counsel]: What time of day were these tests? . . .

. . .

[Respondent-Mother]: I don't know exactly what time. I usually got Tuesdays and Thursdays, I go from 4:00 to 5:00. . . .

[Counsel]: So you tested positive for alcohol on February 23rd at 4:00 or 5:00 in the afternoon?

[Respondent-Mother]: I don't see why I would have

> been unless I drank that night.
>
> [Counsel]: You took the tests between 4:00 or 5:00 p.m.? Correct?
>
> [Respondent-Mother]: Yes, ma'am.
>
> [Counsel]: And you tested positive for alcohol between 4:00 and 5:00 on February 23rd?
>
> [Respondent-Mother]: I'm not—I'm not sure about that, ma'am. I don't know how long it stays in your system.
>
> [Counsel]: So are you saying that you think that you tested positive from the night before?
>
> [Respondent-Mother]: Honestly, I'm really not sure. I've never been tested.

Additionally, Respondent-Mother testified as follows about her unauthorized visits to the children's group home:

> [Respondent-Mother]: Okay. I'm allowed to take the kids snacks or any other gifts that they want. Because the children have not been with me I do try to spoil them as much as I can. . . . I had brought them snacks on different occasions which I'm allowed to do that and it's always been like that since they've been there. I drop them off at the office and they give them to the kids. . . . Well, I called them first and I asked them, I said, "you know, the office is closed, is it possible I can come by and just drop them off at the cottage." The house parent agreed with that. Their lack of communication is the reason why I got in trouble for that.

The GAL also submitted a report, citing the mother's above behaviors as barriers to achieving the permanent plan, which at the time involved reunification. Based on

Respondent-Mother's testimony, the GAL report, and further testimony from Social Worker Ledbetter about the same behavior, we hold there was competent evidence to support the trial court's findings.

¶ 29 Finding of Facts 41 and 45, which state that Respondent-Mother disregarded court orders, exercised poor judgment, and received multiple warnings from her social worker regarding her unauthorized in-person visits, are also supported by competent evidence. In addition to the above examples of Respondent-Mother's behavior, Respondent-Mother actually admits to allowing the children to have contact with Respondent-Father and to visiting the group home, both of which were in violation of court orders. The DSS report also describes four incidents where Respondent-Mother visited the group home or drove through the group home's campus without authorization, and confirms that Social Worker Ledbetter emailed Respondent-Mother reminders about the order on two occasions in February and April 2021, and called her to speak about her violations in May 2021.

¶ 30 Respondent-Mother challenges Finding of Fact 88, not as unsupported by competent evidence, but argues it is a conclusion of law that may not serve as a basis for the trial court's decision to cease reunification efforts. However, as further described below, Finding of Fact 88 encompasses a required statutory finding outlined by N.C. Gen. Stat. § 7B-906.2(b), and is therefore a necessary component of the trial court's permanency planning order.

2. Required Statutory Findings for Eliminating Reunification

¶ 31 Respondent-Mother also argues that the trial court failed to make the necessary findings under § 7B-906.2(d). We disagree. Here, the trial court made the following findings in accordance with the statute:

> 75. The Court finds that the respondent/mother made some progress within a reasonable period of time, but she has had major setbacks. She is somewhat participating in and cooperating with the plan, and the Department and the Guardian *ad Litem*, and is making herself available to the Court, the Department of Social Services, and the Guardian *ad Litem*. The respondent/mother is acting in a manner inconsistent with the health or safety of the juveniles.
>
> . . .
>
> 88. The Davidson County Department of Social Services should be relieved of the obligation to make continued reasonable efforts with the respondent/mother as such efforts clearly would be unsuccessful or inconsistent with the juveniles' health and safety. The respondent/mother does not take responsibility for her actions and has not acknowledged the safety concerns (substance abuse, mental health, and domestic violence) that initially brought the minor children into the Department's custody or that caused the dissolution of the trial home placement.

¶ 32 We hold that these findings satisfy the requirements of § 7B-906.2(b) and (d). Finding 88 parallels the language of § 7B-906.2(b), finding that reunification "efforts clearly would be unsuccessful or inconsistent with the juveniles' health and safety." *See* N.C. Gen. Stat. § 7B-906.2(b) (2019). Additionally, in Finding 75, the trial court considers each enumerated factor of § 7B-906.2(d), addressing Respondent-Mother's

progress, participation in the plan, availability to the court, DSS, and thw GAL, and behavior with regard to the children's health and safety. *See* N.C. Gen. Stat. § 7B-906.2(d) (2019).

¶ 33 However, Respondent-Mother argues that the required findings under N.C. Gen. Stat. § 7B-906.2(d)(1)-(2) were not made, because the order "contains no finding of Respondent-Mother's lack of reasonable progress and lack of participation or cooperation with the case plan, DSS, and the GAL[.]" Respondent-Mother's argument reflects a misunderstanding of § 7B-906.2(d)(1)-(2), which requires only that the trial court make findings regarding the adequacy of respondent-parent's progress and participation in the plan, not that the trial court specifically find that the respondent-parent failed to progress or failed to participate in the plan. In *In re L.R.L.B.*, our Supreme Court addressed a similar argument regarding § 7B-906.2(d)(3), explaining that

> [u]nlike the specific finding that 'reunification efforts clearly would be unsuccessful or would be inconsistent with the juvenile's health or safety' which is required by N.C.G.S. § 7B-906.2(b) before eliminating reunification from the permanent plan, *no particular finding under N.C.G.S. § 7B-906.2(d)(3) is required to support the trial court's decision.* N.C.G.S. § 7B-906.2(d) merely requires the trial court to make 'written findings as to each of the' issues enumerated in N.C.G.S. § 7B-906.2(d)(1)-(4), and to consider whether the issues 'demonstrate the [parent's] degree of success or failure toward reunification[.]' N.C.G.S. § 7B-906.2(d). A finding that the parent has remained available to the trial court and other parties

> under N.C.G.S. § 7B-906.2(d)(3) *does not preclude the trial court from eliminating reunification from the permanent plan based on the other factors* in N.C.G.S. § 7B-906.2(d). *Cf. In re R.D.*, 376 N.C. 244, 259, 852 S.E.2d 117 (2020) (concluding that the balancing of the six dispositional factors in N.C.G.S. § 7B-1110(a) "is uniquely reserved to the trial court and will not be disturbed by this Court on appeal").

In re L.R.L.B., 377 N.C. 311, 325-26, 2021-NCSC-49, ¶35 (emphases added) (brackets in original). Therefore, applying this same reasoning to the other factors of § 7B-906.2(d), we hold that the trial court's findings satisfied the statute's requirements. Although the trial court found that Respondent-Mother was making herself available to the court, DSS, and the GAL, the court also found that she was only "somewhat" participating and cooperating with the plan, that she had made "some progress" but had "major setbacks," and she was acting in a manner contrary to the children's health and safety. In balancing these factors, which is "uniquely reserved to the trial court[,]" *In re R.D.*, 376 N.C. at 259, 852 S.E.2d at 128, the trial court was not precluded from eliminating reunification from the permanent plan.

III. Conclusion

¶ 34 Based on the above, we cannot say that the trial court's decision to eliminate reunification from the permanent plan was "so arbitrary that it could not have been the result of a reasoned decision." *See In re J.H.*, 373 N.C. at 268, 837 S.E.2d at 850. In making its decision to cease reunification efforts and eliminate reunification from

the permanent plan, the trial court relied on Respondent-Mother's continued substance abuse, repeated failure to follow court orders, poor decision-making skills, blaming behaviors, and the juveniles' expressed desire for a stable home with a relative other than Respondent-Mother. Although Respondent-Mother had shown improvement under the plan, as exemplified by her completing parenting, domestic violence, and substance abuse classes, obtaining a DVPO against Respondent-Father, and securing a stable job and housing, all of which the trial court acknowledged in its order, it is not the role of this Court to reweigh this evidence on appeal.

¶ 35 For the forgoing reasons, the trial court's order is affirmed.

AFFIRMED.

Judges DILLON and TYSON concur.

Report per Rule 30(e).