An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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-574

No. COA22-161

Filed 16 August 2022

Alleghany County, No. 19JT13

IN THE MATTER OF:

N.C.
A Minor Juvenile.

Appeal by respondent-mother from order entered 23 November 2021 by Judge Robert J. Crumpton in Alleghany County District Court. Heard in the Court of Appeals 12 July 2022.

Edward Eldred for respondent-appellant-mother.

Robert C. Montgomery for the Guardian ad Litem.

Anne C. Wright for petitioner-appellee Alleghany County Department of Social Services, no brief.

GORE, Judge.

¶ 1 Respondent, mother of the minor child N.C. ("Nicole"),[1] appeals from the trial court's 23 November 2021 Order terminating her parental rights. Respondent-father

[1] We use a pseudonym to protect the identity of the minor child and for ease of reading. *See* N.C.R. App. P. 42(b).

is not a party to this appeal. This Court has jurisdiction to hear this appeal pursuant to N.C. Gen. Stat. §§ 7A-27(b) (2021), 7B-1001(a)(7).

¶ 2 Appellate counsel for respondent-mother filed a no-merit brief pursuant to N.C.R. App. P. 3.1(e). When a no-merit brief is filed in a juvenile matter, this Court is tasked with conducting a careful and independent review of the issues identified by counsel. *In re L.E.M.*, 372 N.C. 396, 402, 831 S.E.2d 341, 345 (2019). After careful review, we conclude the issues identified by counsel in respondent-mother's brief as arguably supporting the appeal are meritless. Accordingly, we affirm the trial court's order.

I.

¶ 3 Respondent-mother gave birth to Nicole on 14 March 2019. On 18 April 2019, the Alleghany Department of Social Services ("DSS") received and investigated a report that respondent-mother was not properly feeding Nicole and was handling her roughly. Respondent-mother agreed to a Safety Plan in which DSS would provide in-home services, and she was referred to Daymark Recovery Services for substance abuse and mental health assessments. However, respondent-mother refused treatment for both issues.

¶ 4 On 20 June 2019, respondent-mother brought Nicole to the Health Department with concerns about Nicole's left leg turning purple. The Health Department review stated that exposure to cigarette smoke was a possible cause. Respondent-mother

became homeless on 5 July 2019 and frequently moved Nicole to new locations. On 8 July 2019, respondent-mother returned to the Health Department reporting that Nicole was turning purple multiple times a week. Respondent-mother also brought Nicole to a hospital on 10 July 2019 with concerns over blood in Nicole's stool.

¶ 5 The next day, DSS filed a Juvenile Petition for non-secure custody alleging neglect. An Out of Home Family Service Agreement ("OHFSA") was created, requiring respondent-mother to demonstrate parenting skills, take parenting classes, refrain from using illegal substances, obtain permanent housing, and attend appointments for Nicole. After a hearing on 17 September 2019, the Alleghany County district court found that Nicole was neglected and ordered respondent-mother to comply with the OHFSA. While DSS arranged for respondent-mother to have meetings with Nicole, respondent-mother frequently missed these visits, including on one occasion due to not being a "morning person." Respondent-mother also missed many of the required parenting classes. Respondent-mother was successful in securing housing and employment and was participating in mental health services, which led the trial court to conclude that she was doing well on her case plan. However, the trial court also issued an order in January 2020 requiring respondent-mother to complete a psychological evaluation, which she subsequently failed to attend. Respondent-mother was also arrested in Tennessee in February 2020 for driving without a license, assaulting an officer, and resisting arrest.

¶ 6 At the Permanency Planning Hearing held on 7 July 2020, the trial court found that respondent-mother had not complied with her case plan and that reasonable efforts to reunify respondent-mother with Nicole, including visitations, should be ceased. A subsequent Permanency Planning Order changed the primary plan for Nicole from reunification to adoption, with a concurrent plan of guardianship, and found that Nicole was doing very well with her current foster placement, who were interested in adopting her.

¶ 7 On 16 February 2021, DSS filed a petition to terminate respondent-mother's parental rights under N.C. Gen. Stat. § 7B-1111(a). The petition alleged five grounds for termination, including neglect, willful failure to make reasonable progress, failure to pay a reasonable portion of child care, incapability, and abandonment. Respondent-mother was personally served with a summons on 16 March 2021, although the returning deputy failed to sign the summons. Respondent-mother subsequently filed two motions to dismiss, claiming insufficient service of process and failure to state a claim.

¶ 8 At the adjudication and disposition hearing held on 30 September 2021, respondent-mother failed to make an appearance. The trial court found there was clear and convincing evidence on the grounds of neglect, willful failure to make reasonable progress, incapability, and abandonment. The trial court then determined that termination of parental rights was in the best interest of Nicole. The

written order was entered on 23 November 2021.

¶ 9 On 30 November 2021, respondent-mother timely filed notice of appeal from the trial court's Order terminating her parental rights.

II.

¶ 10 Counsel for respondent-mother identifies three issues that arguably support an appeal, namely: insufficient process, ineffective counsel, and lack of grounds for terminating parental rights. Ultimately, however, counsel for respondent-mother concedes that each of these potential issues lack merit. Counsel for respondent-mother has satisfied the requirements of N.C.R. App. P. 3.1(e) by advising his client that she had the option of filing a *pro se* brief with this Court and providing her with the trial transcript and record on appeal. Respondent-mother has not submitted a *pro se* brief to this Court.

¶ 11 Upon conducting an independent review, we are satisfied that the district court's 23 November 2021 Order terminating respondent-mother's parental rights is based on clear and convincing evidence, and that it is based on proper legal grounds. We therefore affirm the trial court's Order.

AFFIRMED.

Judges TYSON and INMAN concur.

Report per Rule 30(e).