IN THE COURT OF APPEALS OF NORTH CAROLINA

2022-NCCOA-606

No. COA22-167

Filed 6 September 2022

Mecklenburg County, Nos. 19 JT 172-175

IN THE MATTER OF: Z.M., M.M., M.M., Z.M., Minor Children.

Appeal by Respondent-Appellant Father and Respondent-Appellant Mother from an order entered 10 November 2021 by Judge Kimberly Y. Best in Mecklenburg County District Court. Heard in the Court of Appeals 13 July 2022.

Senior Associate County Attorney Marc S. Gentile for Petitioner-Appellee Mecklenburg County Department of Social Services, Youth and Family Services

Robert W. Ewing for Respondent-Appellant Father.

Freedman Thompson Witt Ceberio & Byrd PLLC, by Christopher M. Watford, for Respondent-Appellant Mother.

Stephen M. Schoeberle for the Guardian ad Litem.

JACKSON, Judge.

¶ 1 Respondent-Father and Respondent-Mother appeal from the trial court's order terminating their parental rights to ten-year-old Z.M. ("Zee"), eight-year-old M.M.

("Mia"), seven-year-old M.M. ("Molly"), and five-year-old Z.M. ("Zoe") (collectively "the children").[1] After careful review, we affirm.

I. Factual and Procedural Background

¶ 2 On 4 February 2019, Charlotte-Mecklenburg Police and Fire Services responded to an emergency call reporting a fire in the apartment where the children lived with Respondent-Mother and her boyfriend. Authorities determined that the fire started when Molly, then four-years-old, ignited a wrapper on a lit candle and threw the wrapper into a garbage bag, the contents of which quickly caught fire. Respondent-Mother was sleeping at the time. On 5 February 2019, authorities alerted the Mecklenburg County Department of Social Services, Youth and Family Services division ("YFS") to the situation, and YFS initiated a Child Protective Services Investigation.

¶ 3 The investigation revealed that prior to the fire, the apartment had been without power or hot water for three days and that the apartment lacked a solid patio door. Due to the additional damage from the fire, Respondent-Mother informed YFS that she intended to take the children and stay with Respondent-Mother's mother. Respondent-Mother reported that she did not know the whereabouts of Respondent-Father and that he was not involved with the children at that time.

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[1] We use pseudonyms for all juveniles mentioned in this opinion to protect their privacy and for ease of reading. *See* N.C. R. App. P. 42(b).

¶ 4 Social workers from YFS followed up with the family in early April 2019 and found that Respondent-Mother and the children were living in a motel. Further YFS investigation revealed that Zee had not attended school since September 2018. Additionally, Zee and Molly had been diagnosed with sickle cell disease, but neither had had any medical follow-up in over two years, and the youngest child, Zoe, had not been evaluated for sickle cell disease since birth. The YFS social worker requested Respondent-Mother take the children to an urgent care or emergency room to ensure they were in good health. Respondent-Mother never took the children to be seen by a medical professional, even after YFS offered to assist with transportation. YFS was also concerned that Respondent-Mother was pregnant with her fifth child[2] and was not receiving any regular prenatal care. Additionally, prior records indicated that YFS had received and investigated multiple reports, dating to Zee's birth in 2012, alleging that Respondent-Mother did not address the children's medical or educational needs.

¶ 5 On 8 April 2019, YFS was granted non-secure custody of the children. On 9 April 2019, YFS filed a juvenile petition alleging the children to be neglected and dependent. Zee and Mia were placed with one foster mother, and Molly and Zoe were placed with another foster mother. On 26 July 2019, the trial court entered an order

[2] This child is not a party to the YFS petition or this appeal.

adjudicating all four children neglected and dependent under N.C. Gen. Stat. § 7B-101(9), (15). The trial court ordered that the children remain in YFS custody and awarded Respondent-Mother and Respondent-Father each four hours of unsupervised visitation. The court also ordered specialized medical care for Zee and Molly and directed both parents to comply with their respective case plans, submit to Parenting Capacity Evaluations ("PCEs"), engage in the Families in Recovery Stay Together ("FIRST") assessment, complete an evidence-based parenting course, and engage in family therapy. The trial court further ordered Respondent-Father to pursue mental health services.

¶ 6 At a Review Hearing on 2 October 2019, the trial court found that Respondent-Mother had completed a FIRST assessment but that she had not complied with the referred substance abuse or domestic violence assessments. At that time, Respondent-Mother was unemployed and renting a bedroom with her boyfriend, and she maintained regular communication with the assigned social worker. The trial court found that Respondent-Father had not completed a mental health assessment, and three of his four drug screens were positive for marijuana. At that time, his visits with the children had been suspended due to Respondent-Father missing three consecutive visits. Both parents had completed the PCEs as directed. Although Respondent-Father reported seeking employment, the court found that "[b]oth parents need employment." The court also noted that "Sickle Cell disease is serious

causing repeated crisis, lots of pain and bone issues. It will take a lot of engagement to care for the girls." The trial court ordered that the children remain in YFS custody, that Respondent-Father enroll in Drug Court, that supervised visitation be reinstated for Respondent-Father, and that both Respondent-Father and Respondent-Mother fully cooperate with their case plans.

¶ 7 At a Permanency Planning Hearing on 22 and 23 September 2020, the trial court found that Respondent-Father had completed the psychological evaluation as ordered and that he was attending parenting class and group therapy sessions. Respondent-Father was complying with virtual visitation but was not complying with the in-person visitation plan. At that time, Respondent-Father remained unemployed and did not have independent housing. The psychological evaluation showed that Respondent-Father had diagnoses of Major Depressive Disorder, Other Specified Personality Disorder (Paranoid and Narcissistic Personality Features), and Cannabis Use Disorder in early remission. The court commended Respondent-Father's progress with substance use, parenting, and program participation, but noted that "time is of the essence and the Court nor the children can wait two (2) years." The court reemphasized the need for Respondent-Father to have employment and housing, noting that "predictability and reliability [are] important for the children." Further, the court found that Respondent-Father was

> acting in a manner inconsistent with the health and safety

> of the juveniles as demonstrated by his continued inability to follow the guidelines to resume visits with his daughters, his lack of financial stability, housing, and inability to accept accountability as it relates to his following and completing the tasks outlined by the Court and YFS.

¶ 8 At the same Permanency Planning Hearing, the court found that Respondent-Mother was not in contact with the children, YFS, the guardian ad litem, or her attorney. Additionally, Respondent-Mother was not actively participating in her case plan and was acting in a manner inconsistent with the health and safety of the juveniles. Neither of the parents were "making adequate progress within a reasonable period of time under the plan." The trial court ordered that the children remain in YFS custody, that Respondent-Mother establish and maintain regular therapy sessions and that Respondent-Father schedule a medication management appointment. The trial court ordered visitation to remain suspended for Respondent-Mother—her visitation rights had been suspended earlier in 2020 after several missed visits—and Respondent-Father was ordered to arrive on time for three scheduled visits in order to continue in-person visitation. Respondent-Father was also ordered to contact the social worker once per week and to prioritize emails from YFS. Again, the court noted "[t]he children have significant medical needs and [Respondent-Father] needs to be more involved. . . . [Respondent-Father] needs to be knowledgeable about the children's medical and educational needs."

¶ 9 The court held a Permanency Planning Review Hearing on 6, 8, and 11 January 2021. At that time, Respondent-Mother was not engaged in services, was not visiting the children, and was not involved in their educational or medical needs and appointments. The court found that Respondent-Father was engaged in parenting education and had implemented strategies during visits. However, Respondent-Father had not followed through with mental health treatment or housing resources, and his employment was not stable. Further, the trial court noted that

> the girls need consistency, stability, reliability, and predictability and [Respondent-Father] has not been able to demonstrate these regarding visitation. [Respondent-Father] must be involved medically, educationally, and with the children's mental health. The children have experienced neglect, medical neglect, and trauma. [Respondent-Father] must be able to demonstrate that he can meet their needs. Parenting these children involve[s] being fully engaged.

¶ 10 The trial court concluded that neither Respondent-Parent was making adequate progress within a reasonable period of time and that both Respondent-Parents were acting in a manner inconsistent with the health or safety of the juveniles. The court ordered that Respondent-Father be given one more chance at in-person visits and that Respondent-Mother's visits remain suspended. Additionally, the court ordered YFS to file a termination of parental rights petition within sixty days. YFS filed a motion to terminate parental rights on 23 February 2021.

¶ 11 The trial court held another Permanency Planning Review Hearing on 28 April 2021. At that time, Respondent-Mother had not complied with requests for random drug screens, had not provided verification of mental health treatment, and had not verified any source of employment or income other than plasma donation. Respondent-Father had not attended the last three sessions of drug treatment court and tested positive for marijuana on 8 February 2021. Respondent-Father provided proof of employment but declined housing opportunities and remained in a home with his mother and other family members. Additionally, Respondent-Father was unwilling to engage in further mental health services. The trial court also found that Respondent-Father did not ask questions of the children's foster parents or follow up regarding the children's medical appointments.

¶ 12 The trial court concluded that neither Respondent-Parent was making adequate progress within a reasonable period of time or actively participating in or cooperating with the case plan and YFS. Respondent-Mother was acting in a manner inconsistent with the health or safety of the children due, in part, to "her lack of engagement with her children, and the lack of engagement in services to support her mental health and stability." Respondent-Father was acting in a manner inconsistent with the health and safety of the juveniles due, in part, to "his continued inability to follow guidelines to resume visits with his daughters, his lack of appropriate housing, his inability to accept accountability . . . his lack of engagement

in court ordered mental health services, . . . and lack of consistency and engagement with his children." The trial court ordered Respondent-Father to continue scheduled virtual visits and to "seek out therapy services and/or resources to assist him with meeting his own needs and working towards being able to meet the needs of his children." Respondent-Mother was ordered to schedule regular telephone contact with the children, obtain stable employment, access therapy services, and submit to random drug screens.

¶ 13 The hearing on the petition for termination of parental rights spanned four sessions of court on 3 June, 15 June, 22 June, and 20 July 2021. Following adjudication, the trial court determined that multiple grounds existed to terminate the parental rights of both Respondent-Parents. During the disposition, the trial court heard testimony from the YFS social worker, both foster mothers, and Respondent-Mother. On 10 November 2021, the trial court entered a written order terminating the parental rights of both Respondent-Parents.

¶ 14 Respondent-Mother and Respondent-Father filed timely notices of appeal on 1 December and 2 December 2021, respectively.

II. Standard of Review

¶ 15 The North Carolina Juvenile Code provides a two-step process for termination of parental rights: an adjudicatory stage followed by a dispositional stage. *See* N.C. Gen. Stat. §§ 7B-1109, -1110 (2021). During adjudication, the petitioner bears the

burden of proving by "clear, cogent, and convincing evidence" that one or more grounds for termination exist under N.C. Gen. Stat. § 7B-1111(a). *Id.* § 7B-1109(e), (f). If the trial court concludes that such grounds exist, the court proceeds to disposition and "determine[s] whether terminating the parent's rights is in the juvenile's best interest." *Id.* § 7B-1110(a).

¶ 16 Accordingly, we review orders terminating 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 conclusions of law. *In re B.O.A.*, 372 N.C. 372, 379, 831 S.E.2d 305, 310 (2019). "A trial court's finding of fact that is supported by clear, cogent, and convincing evidence is deemed conclusive even if the record contains evidence that would support a contrary finding." *Id.* Any unchallenged findings of fact are deemed to be supported by competent evidence and are binding on appeal. *In re A.R.A.*, 373 N.C. 190, 195, 835 S.E.2d 417, 421 (2019). Further, "we limit our review of challenged findings to those that are necessary to support the district court's determination that [grounds] existed in order to terminate [a parent's] parental rights." *Id.* We review the trial court's conclusions of law *de novo*. *In re N.D.A.*, 373 N.C. 71, 74, 833 S.E.2d 768, 771 (2019).

III. Analysis

¶ 17 The trial court concluded that multiple grounds existed under N.C. Gen. Stat. § 7B-1111 for terminating each Respondent-Parent's parental rights, including under

N.C. Gen. Stat. §§ 7B-1111(a)(1), (a)(2), (a)(3), (a)(6), and (a)(7) for Respondent-Mother, and under N.C. Gen. Stat. §§ 7B-1111(a)(1), (a)(2), (a)(3), and (a)(6) for Respondent-Father.

¶ 18 "It is well established that an adjudication of any single ground for termination under N.C.G.S. § 7B-1111(a) will suffice to support a trial court's order terminating parental rights." *In re L.M.M.*, 375 N.C. 346, 349, 847 S.E.2d 770, 773 (2020) (citation omitted). Thus, if we affirm any of the grounds adjudicated by the trial court, we need not review the remaining grounds regarding that parent. *Id.*

A. Respondent-Mother

¶ 19 A court may terminate parental rights upon 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." N.C. Gen. Stat. § 7B-1111(a)(2). "In order for a respondent's noncompliance with a case plan to support termination of parental rights, there must be a nexus between the components of the court-approved case plan allegedly not met and the conditions which led to the child's removal from the home." *In re A.N.H.*, 381 N.C. 30, 35, 2022-NCSC-47, ¶ 17 (citing *B.O.A.*, 372 N.C. at 387, 831 S.E.2d at 315).

¶ 20 Particularly when evaluating a situation in which a parent has completed some aspects of their case plan, if a parent has failed to complete aspects of the case plan addressing the "core issues" which led to removal, *In re I.G.C.*, 373 N.C. 201, 205-06, 835 S.E.2d 432, 435 (2019), then the parent may have failed to show the trial court "that reasonable progress under the circumstances ha[d] been made in correcting those conditions which led to the removal of the juvenile[,]" N.C. Gen. Stat. § 7B-1111(a)(2). In such a case, whatever limited progress the parent did make in completing the case plan would not be considered *reasonable* progress towards correcting the conditions of removal. *B.O.A.*, 372 N.C. at 385-86, 831 S.E.2d at 314-15.

¶ 21 Regarding the conditions which led to removal, the 9 April 2019 non-secure custody order was based on "a reasonable factual basis to believe that . . . the juvenile[s] [are] in need of medical treatment to cure, alleviate, or prevent suffering serious physical harm . . . and [their] parent, guardian, or custodian is unwilling or unable to provide or consent to the medical treatment." The juvenile petition further established the lack of medical care and resulting complications for Zee and Molly, as well as the lack of stable housing, inconsistent communication, and concerns regarding Respondent-Mother's mental health and drug use, issues revealed through further investigation. *See B.O.A.*, 372 N.C. at 384-85, 831 S.E.2d at 314 ("[A] child's removal from the parental home is rarely the result of a single, specific incident and

is, instead, typically caused by the confluence of multiple factors, some of which are immediately apparent and some of which only become apparent in light of further investigation.").

¶ 22 In the agreed upon case plan Respondent-Mother signed on 23 May 2019, Respondent-Mother was required in part to manage her mental health issues, be involved in Zee and Molly's medical care and demonstrate an understanding of their medical needs, provide income verification, secure sufficient housing, and stay in regular contact with her social worker.

¶ 23 The crux of Respondent-Mother's argument is that the trial court erred in failing to account for the effects of COVID-19 response measures on Respondent-Mother's ability to comply with her case plan and "failed to address whether the Respondent-Mother willfully failed to make reasonable progress." *See In re McMillon*, 143 N.C. App. 402, 410, 546 S.E.2d 169, 175 (2001) ("Willfulness is established when the respondent had the ability to show reasonable progress but was unwilling to make the effort."). We are unpersuaded.

¶ 24 The trial court specifically made the following findings:

> 43. The mother had a newborn and COVID-19 impacted her ability to comply with doctors' appointments and random drug screens. The bus routes available to her were also affected by the COVID-19 pandemic. There were valid excuses for some of that failure, however, she should have been able to comply with some.

> 44. Both parents were to secure stable employment. Neither of them has substantially complied. During the COVID-19 pandemic all Americans received subsidies. The court considered what the parents could have done. While it is possible that one could not secure employment during the pandemic, neither parent provided any verification or documentation of their attempts to secure employment to show this was the case.

These findings signal that the trial court recognized the added difficulties of the pandemic but was not convinced by the evidence that these difficulties should fully excuse Respondent-Mother's noncompliance.

¶ 25 Regarding Respondent-Mother's willfulness, the court heard testimony from Respondent-Mother that she has been able to attend all of her youngest child's (born in July 2019) doctor's appointments. Because she was able to attend appointments for this child during the pandemic, such evidence supports a finding that Respondent-Mother's failure to comply with the requirement that she be involved in the children's care and understand their medical needs in part by attending medical appointments was willful.[3]

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[3] In *In re J.S.*, 374 N.C. 811, 845 S.E.2d 66 (2020), our Supreme Court explained:

> The determination that respondent acted willfully is a finding of fact rather than a conclusion of law. However, the trial court's placement of this finding in its conclusions of law is immaterial to our analysis. We are obliged to apply the appropriate standard of review to a finding of fact or conclusion of law, regardless of the label which it is given by the trial court.

¶ 26 Even more crucially, Respondent-Mother has repeatedly demonstrated a lack of interest in or understanding of her children's medical needs, which is evidence that supports a finding of willfulness. *See e.g.*, *In re Bluebird*, 105 N.C. App. 42, 48-49, 411 S.E. 820, 823-24 (1992) (determining a parent's general lack of involvement with their child over a two-year span to support a finding of willfulness). Social Worker Carter testified that Respondent-Mother "has not reached out to [Social Worker Carter] at any point in time during this case to ask about any of the children's medical needs or updates." Mia and Zee's foster mother testified that Respondent-Mother did not ask about Mia or Zee's general health or academic performance or Zee's sickle cell disease very often. Additionally, Respondent-Mother never asked about Mia or Zee's occupational therapy or Zee's therapy.

¶ 27 Molly and Zoe's foster mother testified that when Respondent-Mother was told that Molly was going to have surgery to remove her adenoids, Respondent-Mother

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Id. at 818, 845 S.E.2d at 73 (internal marks and citations omitted). Despite Respondent-Mother's contention, a finding of willfulness is not required to be a separate determination by the trial court. The finding of willfulness in *J.S.* was contained in the trial court's conclusion of law that the respondent had willfully left the child in foster care for more than 12 months without making reasonable progress to correct the conditions which led to the removal of the minor child—tracking the statutory language of N.C. Gen. Stat. § 1111(a)(2). *Id.* at 818, 845 S.E.2d at 72-73. This is the same situation in the case at bar. The trial court made a finding of willfulness contained in its conclusion of law tracking the statutory language of N.C. Gen. Stat. § 1111(a)(2). Accordingly, we review to determine whether there is clear, cogent, and convincing evidence to support the trial court's finding of willfulness, and in turn whether that finding supports the conclusion of law. *B.O.A.*, 372 N.C. at 379, 831 S.E.2d at 310.

did "ask for the room number at one point, but didn't come to the hospital." Respondent-Mother did not follow up with Molly's foster mother after the surgery to see how Molly was doing. Molly and Zoe's foster mother also testified that in the six months preceding the hearing Respondent-Mother never asked about Molly or Zoe's general health or speech therapy, Molly's sickle cell disease, or Molly's occupational therapy even though she provided Respondent-Mother with information regarding the girls' appointments.

¶ 28 In addition to supporting a finding of willfulness, this testimony is clear, cogent, and convincing evidence that supports the trial court's finding that Respondent-Mother "[has] not participated in medical, educational, or therapeutic appointments nor [has she] demonstrated an understanding of the children's needs in this area."

¶ 29 We also note that the children were in custody for almost a year prior to the start of the pandemic. During that time, Respondent-Mother failed to secure employment or housing despite being provided information and resources such as bus passes and transportation, was not scheduling or attending mental health appointments, had been non-compliant with drug screens, was not maintaining consistent communication with YFS, missed in-person visitation meetings, and did not initiate phone calls with her children. While Respondent-Mother was caring for a baby during this period, Respondent-Mother's ability to complete these components

of her case plan was not complicated by COVID-19 and yet she failed to make reasonable progress. Particularly considering the needs of all four children and the medical needs of Zee and Molly, that Respondent-Mother did not take advantage of YFS assistance for employment and housing prior to the pandemic, missed visitation meetings, and generally failed to initiate communication with her children or their foster mothers supports a finding that Respondent-Mother willfully failed to make reasonable progress.

¶ 30 Overall, Respondent-Mother failed to complete the components of her case plan that were the core issues of the conditions which led to removal, most importantly her understanding of and ability to care for her children's specific needs. Although Respondent-Mother did make some progress towards her case plan, she had failed to make reasonable progress over the 22-months her children had been in foster care prior to the filing of the TPR petition. Furthermore, there is clear and convincing evidence to support a finding that this failure was willful.

¶ 31 The trial court rightfully acknowledged that Respondent-Mother loves her children and has never given up on them. However, the needs of her children, particularly Zee and Molly, are great, and Respondent-Mother did not make reasonable progress to show she could appropriately meet these needs. Accordingly, we hold that the trial court's findings of fact support its conclusion of law that there were grounds under N.C. Gen. Stat. § 7B-1111(a)(2) sufficient to terminate

Respondent-Mother's parental rights to the children. Under *In re L.M.M.*, we need not address the other grounds regarding Respondent-Mother. 375 N.C. at 349, 847 S.E.2d at 773.

B. Respondent-Father

¶ 32 A court may terminate parental rights upon finding that "[t]he parent has abused or neglected the juvenile . . . within the meaning of G.S. 7B-101." N.C. Gen. Stat. § 7B-1111(a)(1) (2021). The definition of a neglected juvenile includes one "whose parent, guardian, custodian, or caretaker does . . . not provide proper care, supervision or discipline[,] [h]as abandoned the juvenile[,] or [h]as not provided or arranged for the provision of necessary medical or remedial care." *Id.* § 7B-101(15)(ii). When the grounds for termination of parental rights are "based upon a determination of neglect, if the child has been separated from the parent for a long period of time, there must be a showing of past neglect and a likelihood of future neglect by the parent." *In re J.M.J.-J.*, 374 N.C. 553, 556, 843 S.E.2d 94, 99 (2020) (internal marks and citation omitted).

¶ 33 Respondent-Father argues that the trial court erred in concluding that a ground existed to terminate his parental rights under N.C. Gen. Stat. § 7B-1111(a)(1) because he was the "non-offending parent" when the children were adjudicated neglected. We are unpersuaded.

¶ 34 Our Supreme Court has held that it is "not necessary that the parent whose rights are subject to termination be responsible for the prior adjudication of neglect." *J.M.J.-J.*, 374 N.C. at 565, 843 S.E.2d at 104. This is because "[i]n determining whether a child is neglected, the determinative factors are the circumstances and conditions surrounding the child, not the fault or culpability of the parent." *In re M.A.W.*, 370 N.C. 149, 154, 804 S.E.2d 513, 517 (2017) (quoting *In re Montgomery*, 311 N.C. 101, 109, 316 S.E.2d 246, 252 (1984)).

¶ 35 Respondent-Father makes no argument that the children were not adjudicated neglected. Therefore, we need only address the likelihood of future neglect. The trial court concluded "there is a strong probability of the repetition of neglect in the future. There is a substantial risk of future neglect based on the historical facts of this case and the lack of progress by the parent." This conclusion is supported by the following findings of fact relevant to Respondent-Father:

> 15. [Respondent-Father] was ordered at Disposition to pursue mental health services at Genesis.
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> . . .
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> 18. [Respondent-Father] did not pursue mental health services through Genesis.
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> . . .
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> 21(l). [Respondent-Father] is acting in a manner inconsistent with the health and safety of the juveniles as demonstrated by his continued inability to follow the guidelines to resume his visits with his daughters, his lack

of financial stability, housing and inability to accept accountability as it relates to his following and completing his tasks outlined by the Court and YFS.

. . .

23(d). The issues that remain with [Respondent-Father] is that the girls need consistency, stability, reliability, and predictability and the father has not been able to demonstrate these regarding visitation. [Respondent-Father] must be involved medically, educationally, and with the children's mental health. The children have experienced neglect, medical neglect and trauma. [Respondent-Father] must be able to demonstrate that he can meet their needs. Parenting these children involve[s] being fully engaged.

. . .

26. [Respondent-Father] did not follow through with mental health treatment as ordered by the court following Dr. Johnson's evaluation.

. . .

39. The parents were to be involved in the children's medical care due to two of the children having sickle cell disease and the prior medical neglect.

. . .

45. [Respondent-Father] engaged in parenting education classes and believed he had learned about boundaries from it. It was recommended he take additional parenting classes, but he refused to do so.

. . .

48. Two of the children have sickle cell disease and accompanying medical issues. They both received various medications and see a hematologist. Prior to coming into

> care, the children hadn't seen the doctor since 2018 or 2017. [Zee] was also not attending school since September 2018 when placed in care. The children were behind in immunizations and had growth concerns. The parents were required to be involved in the children's medical care and demonstrate an understanding of their medical needs. The parents were to attend school appointments. [Zee] and [Mia] both have received therapy while in care for trauma related issues. The parents have not participated in medical, educational, or therapeutic appointments nor have they demonstrated an understanding of the children's needs in this area. [Respondent-Father] reported he was unaware the children were in therapy, but apparently neither parent inquired as to what services the children were receiving.
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> 52. [Respondent-Father] did not attend any educational or medical appointments for [Zoe] or [Molly]. There was "some contact" between the father and [Zoe and Molly's foster mother].
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> 70. [Respondent-Father] made some improvements but did not engage in further services as recommended and court ordered.
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> 71. The parents should have continued to follow through and receive the recommended mental health treatment but did not do so.

¶ 36 Taken as a whole, these findings demonstrate that Respondent-Father has not participated in his children's medical or therapeutic care or education, nor did he inquire into what services they were receiving. Throughout the proceedings Respondent-Father failed to demonstrate an understanding of his children's needs—

medical, therapeutic, educational, or otherwise. Therefore, it was appropriate for the trial court to find there was "a substantial risk of future neglect," specifically "not provid[ing] or arrang[ing] for the provision of necessary medical or remedial care." N.C. Gen. Stat. § 7B-101(15)(ii).

¶ 37 Further, the findings made by the trial court were supported by clear and convincing evidence. Social Worker Carter testified that Respondent-Father "was requested to seek services through mental health through Atrium and declined to do so." Social Worker Carter also testified that after the July 2020 hearing she informed Respondent-Father that YFS "had to get confirmation from him in advance to do the visitations, and again, [Social Worker Carter] did not hear from [Respondent-Father], so the in-person visits were not reinstated." Further, as of the January 2021 hearing, Respondent-Father "declined to participate in any additional mental health counseling. . . . He also declined to get a medication evaluation." At the same hearing, Respondent-Father "was adamant that he didn't want his daughters to take any kind of medications and that his daughters—none of his children had a mental health problem." After the court told Respondent-Father that he needed to ask about his daughters' academics and medical needs

> he would ask the [foster] parents how are their medical needs, how were they doing in school, or how were their academic needs. We were pleased that he was doing this but also advised [Respondent-Father], had a conversation with [Respondent-Father], you need to actually do more

> than just what the judge told you in court in terms of the language that—the intent is for you to truly understand how they are doing. So we encouraged him to dig a little deeper, be more intentional in his questions, like how is she doing in math? How is she doing in English? What happened at the medical appointment? When is she scheduled to go back again? But [Respondent-Father] didn't do those things. The questions continued to be very vague, and after maybe the first two to three, maybe four calls, he stopped asking the questions, and the foster parents would—again, they would provide the information to him via text, but [Respondent-Father] never reached out independently to say, you know, tell me what happened, or tell me what they did, or tell me how she responded to this.

¶ 38 When asked if Respondent-Father "attended medical appointments or inquired about the children's medical needs such that he demonstrated an understanding of their medical condition and needs," Social Worker Carter responded "[n]o." Social Worker Carter further testified that she didn't believe Respondent-Father had "demonstrated an understanding of his children's emotional and developmental needs."

¶ 39 Zee and Mia's foster mother testified that Respondent-Father asked about Zee's sickle cell disease "maybe two or three times" and did not ask about Zee's general health or academic performance very often. Respondent-Father never asked about Zee's therapy or occupational therapy or Mia's general health or occupational therapy. Molly and Zoe's foster mother testified that Respondent-Father "never specifically asked about [Molly's] sickle cell disease" or for updates concerning her

occupational or speech therapy. She further testified that Respondent-Father did not usually keep the set time arranged for him to call his children.

¶ 40 When asked why he thought his in-person visitation was stopped, Respondent-Father testified "[p]ersonally, I don't think it really had anything to do with me calling, showing up. I think it was, just got tired of wanting to come out there, so find a logical excuse why they would be suspended." This supports the trial court's finding that Respondent-Father was not able to follow guidelines or accept accountability regarding visitation. Respondent-Father also did not provide any opposing testimony indicating that he attended any of his daughters' medical or therapeutic appointments or that he inquired into their medical needs beyond the general inquiries mentioned by the foster parents.

¶ 41 Taken as a whole, the trial court had substantial evidence that Respondent-Father was not engaged with his children's extensive medical and therapeutic care. It was therefore appropriate for the trial court to find that Respondent-Father had not "demonstrated an understanding of the children's needs in this area." While the trial court recognized that Respondent-Father did make progress in some areas of his case plan, ultimately Respondent-Father's lack of progress in this area was sufficient support for the conclusion that he was willful in allowing there to be "a substantial risk of future neglect."

¶ 42 As with Respondent-Mother, the trial court rightfully acknowledged that Respondent-Father loves his children and has never given up on them. However, the medical, therapeutic, and educational needs of his children, particularly Zee and Molly, are great, and Respondent-Father has not shown he can appropriately meet these needs. Accordingly, we hold that the trial court's findings of fact support its conclusion of law that there were grounds under N.C. Gen. Stat. § 7B-1111(a)(1) sufficient to terminate Respondent-Father's parental rights to the children. Under *In re L.M.M.*, we need not address the other grounds regarding Respondent-Father. 375 N.C. at 349, 847 S.E.2d at 773.

1. Indian Child Welfare Act

¶ 43 Respondent-Father also argues that the trial court erred in not commencing an investigation into the applicability of the Indian Child Welfare Act (ICWA) after he informed YFS that his grandfather was "Blackfoot." This argument is without merit.

¶ 44 In relevant part, the regulation states that a court "has reason to know" that a child is an Indian child if any participant in the hearing "informs the court that the child is an Indian child" or "informs the court that it has discovered information indicating that the child is an Indian child." 25 C.F.R. § 23.107(c)(1), (2). An "Indian child" is defined as "any unmarried person who is under age eighteen and is either

(a) a member of an Indian tribe or (b) is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe." 25 U.S.C. § 1903(4).

¶ 45 Our Supreme Court has held that a court does not have reason to know that a child is an Indian child when a party "reports Cherokee Indian Heritage," and "reported there is [a] possible distant Cherokee relation on her mother's side of the family but no further specifics are known." *In re C.C.G.*, 380 N.C. 23, 29, 2022-NCSC-3 ¶ 18. This is because "Indian heritage, which is racial, cultural, or hereditary does not indicate Indian tribe membership, which is political." *Id.* at 30, 2022-NCSC-3 ¶ 19. Thus, statements of actual or possible Indian heritage do not indicate Indian tribe membership.

¶ 46 Here, Respondent-Father relies on a statement he made to YFS before the 14 January 2020 Review Hearing that "his grandfather was Blackfoot." However, the YFS report states "the department spoke with [Respondent-Father's] mother about this. [Respondent-Father's] mother shared they really don't know anything, this is what has been handed down and *she is not aware of any tribal registration or connection*." (Emphasis added.) Much like the report in *In re C.C.G.*, Respondent-Father's statement, which does not indicate his own or his children's tribal membership, does not give the court reason to know that any of the children involved is an Indian child. Accordingly, ICWA does not apply in this case.

IV. Conclusion

¶ 47 For the foregoing reasons, we affirm the trial court's order terminating the parental rights of Respondent-Mother and Respondent-Father to the children.

AFFIRMED.

Judge CARPENTER concurs.

Judge MURPHY concurs in result only.

Report per Rule 30(e).