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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA22-202

Filed 21 February 2023

Mecklenburg County, No. 19 JT 143

IN THE MATTER OF: A.A.C.D.

Appeal by respondent mother from order entered 9 November 2021 by Judge Aretha V. Blake in Mecklenburg County District Court. Heard in the Court of Appeals 30 January 2023.

Shawnea Taylor for petitioner-appellee Mecklenburg County Department of Social Services/Division of Youth and Family Services.

Poyner Spruill LLP, by Stephanie L. Gumm, for Guardian ad Litem.

David A. Perez for respondent-appellant mother.

PER CURIAM.

Respondent mother appeals from an order terminating her parental rights to A.A.C.D. (“Adam”).¹ After careful consideration, we affirm the termination order.

I. Background

Respondent mother’s family has an extensive history with Mecklenburg County Youth and Family Services (“YFS”), dating back to 2012.

¹ A pseudonym is used to protect the identity of the juvenile and for ease of reading.

On 24 March 2019, YFS received a report that respondent mother had tested positive for amphetamines while giving birth to Adam. Respondent mother communicated to hospital staff that she used methamphetamines at least two to three times per week while she was pregnant with Adam, which put him at “high risk.” Respondent mother also informed the staff that she had limited prenatal care while she was pregnant with Adam. The hospital staff reported concerns that respondent mother was impaired at times while she was in the hospital after giving birth to Adam. Respondent mother also refused hospital staff’s guidance not to sleep with Adam in her hospital bed.

At the time Adam was born, respondent mother lived with four of her five other children in a two-bedroom apartment, along with her friend and that friend’s four children (a total of ten people). YFS visited the apartment while respondent mother was in the hospital after giving birth to Adam and found that there was limited food in the home, including only a one-pound bag of rice, beans, and a half-full bag of tortillas.

Of respondent mother’s three school-age children living in the home at the time of Adam’s birth, none were enrolled in school. Respondent mother was not receiving any public assistance; both her food stamps and Temporary Assistance for Needy Families benefit had been terminated. One of respondent mother’s children living with her was several years behind on immunizations, and another had not had a wellness visit nor immunizations since he was born. When respondent mother

delivered Adam, YFS had no information regarding the whereabouts of her sixth child.

YFS filed a petition alleging the children to be neglected and dependent on or about 28 March 2019 and obtained nonsecure custody of the children. On 6 June 2019, based on the stipulated facts recited above, the trial court adjudicated Adam, as well as respondent mother's four other children who were in her custody, to be neglected and dependent. The court determined that it was in Adam's best interest to remain in YFS's custody.

In the Dispositional Hearing Order entered on 22 July 2019, the trial court ordered respondent mother to comply with her case plan, which required she obtain an assessment for substance abuse, domestic violence, and mental health issues; participate in therapy to address domestic violence and other trauma issues; participate in parenting classes; maintain her current residence in a clean and sanitary manner; and obtain employment.

On 3 December 2019, the trial court entered a permanency planning order (a "PPO") setting the permanent plan for Adam as reunification with a concurrent plan of legal guardianship. The court found that although Adam was placed with respondent mother in a trial home placement in the "early summer," he was removed prior to the 4 September 2019 review hearing due to concerns from the local department of social services regarding the family. The court also found that respondent mother had not made progress on her plan, having attended only one

parenting class, and having failed to take advantage of the support opportunities provided by YFS. The court again ordered respondent mother to comply with the components of her case plan.

Following a review hearing held on 10 December 2019 and 24 January 2020, the trial court entered an amended PPO on 1 April 2020 changing the primary permanent plan to legal guardianship with secondary concurrent plans of reunification and adoption. The court found respondent mother was not making adequate progress on her case plan and still needed to “complete substance abuse treatment, maintain stable housing, maintain employment and provide verification, sign releases, resume visitation, engage in domestic violence treatment, and participate in parenting classes.”

In a PPO entered on 31 August 2020, the trial court changed Adam’s primary plan to adoption with a secondary plan of reunification. The court found that respondent mother had not completed her case plan services, had not attended any parenting classes in over one year, and had recently been arrested on charges related to Adam’s father.

After maintaining custody of Adam for over two years, YFS petitioned to terminate respondent mother’s parental rights on 19 April 2021 (the “TPR Petition”). YFS alleged grounds existed to terminate respondent mother’s parental rights based on neglect pursuant to N.C. Gen. Stat. § 7B-1111(a)(1), willful failure to make reasonable progress pursuant to N.C. Gen. Stat. § 7B-1111(a)(2), willful failure to pay

a reasonable portion of Adam’s cost of care pursuant to N.C. Gen. Stat. § 7B-1111(a)(3), dependency pursuant to N.C. Gen. Stat. § 7B-1111(a)(6), and willful abandonment pursuant to N.C. Gen. Stat. § 7B-1111(a)(7).

After a hearing on the TPR Petition, the trial court entered an order on 9 November 2021 (the “TPR Order”), finding that respondent mother’s parental rights to Adam were subject to termination on four grounds: N.C. Gen. Stat. § 7B-1111(a)(1)–(2) and (6)–(7). The trial court also found that termination of respondent mother’s parental rights was in Adam’s best interests, and, accordingly, terminated respondent mother’s parental rights. Respondent mother appealed the TPR Order on 9 December 2021.

II. Analysis

On appeal, respondent mother challenges the trial court’s adjudication of grounds for termination of her parental rights on all four grounds—N.C. Gen. Stat. § 7B-1111(a)(1)–(2) and (6)–(7).

A. Standard of Review

We review a trial court’s decision that grounds exist to terminate parental rights “to determine whether the findings are supported by clear, cogent and convincing evidence and the findings support the conclusions of law.” *In re E.H.P.*, 372 N.C. 388, 392, 831 S.E.2d 49, 52 (2019) (citation omitted). “Findings of fact not challenged by respondent are deemed supported by competent evidence and are binding on appeal.” *In re T.N.H.*, 372 N.C. 403, 407, 831 S.E.2d 54, 58 (2019).

“Moreover, we review only those findings necessary to support the trial court’s determination that grounds existed to terminate respondent’s parental rights.” *Id.* at 407, 831 S.E.2d at 58–59. “The trial court’s conclusions of law are reviewable de novo on appeal.” *In re C.B.C.*, 373 N.C. 16, 19, 832 S.E.2d 692, 695 (2019).

B. Reasonable Progress

Respondent mother first argues the trial court erred in concluding grounds existed under N.C. Gen. Stat. § 7B-1111(a)(2). Section 7B-1111(a)(2) states that the trial court may terminate parental rights when “[t]he parent has willfully left the juvenile in foster care . . . for more than 12 months without showing to the satisfaction of the court that reasonable progress under the circumstances has been made in correcting th[e] conditions which led to the [juvenile’s] removal[.]” N.C. Gen. Stat. § 7B-1111(a)(2) (2021). “To terminate rights on this ground, the court must determine two things: (1) whether the parent willfully left the child in foster care for more than twelve months, and if so, (2) whether the parent has not made reasonable progress in correcting the conditions that led to the removal of the child from the home.” *In re C.M.S.*, 184 N.C. App. 488, 494, 646 S.E.2d 592, 596, *disc. rev. denied*, 361 N.C. 693, 654 S.E.2d 248 (2007).

“A finding of willfulness does not require a showing of fault by the parent.” *In re Oghenekevebe*, 123 N.C. App. 434, 439, 473 S.E.2d 393, 398 (1996). “Willfulness is established when the respondent had the ability to show reasonable progress, but was unwilling to make the effort.” *In re McMillon*, 143 N.C. App. 402, 410, 546 S.E.2d

169, 175, *disc. rev. denied*, 354 N.C. 218, 554 S.E.2d 341 (2001). “A finding of willfulness is not precluded even if the respondent has made some efforts to regain custody of the children.” *In re Nolen*, 117 N.C. App. 693, 699, 453 S.E.2d 220, 224 (1995).

In the instant case, the evidence supports the trial court’s finding that Adam had been in the custody of YFS and placed in foster care for more than twelve months prior to the filing of the TPR Petition. Respondent mother’s only argument in support of her contention that termination was improper under § 7B-1111(a)(2) is that she made reasonable progress in correcting the conditions that led to Adam’s removal from the home.

1. Challenged Findings

Respondent mother first challenges the following findings of fact from the TPR Order:

7. [Respondent mother] has failed to make adequate progress on addressing the issues that brought the children into custody. Throughout this case she has made inconsistent efforts to engage with YFS such that there is insufficient evidence that she has addressed the substance use issue which brought [Adam] into custody. Specifically, her use of crystal methamphetamines 2 to 3 times per week during her pregnancy reflects a significant issue with substance use and potential addiction, especially during her pregnancy. She completed a 20-hour class at Anuvia which did not sufficiently address her substance use issues. The [c]ourt ordered [her] to engage with Daymark for a substance use assessment and services, however she did not follow through.

8. [Respondent mother] failed to address her mental health issues. She did not engage in therapy or medication management in order to address her post-partum depression and suicidal ideations. [She] has not participated in mental health treatment which was required as part of the case plan to address the issues that brought the children into custody.

9. Housing was an issue that brought the children into custody and housing has not been addressed as required by [the] case plan. [Respondent mother] is currently living with a friend. She has been employed at various points throughout this case but has not provided verification of income. [She] has an ongoing ability to work and meet her financial needs.

10. [Respondent mother] completed a parenting class; however, she did not follow through or participate significantly in visits with [Adam] to demonstrate any learned parenting skills. She has not visited with [Adam] since September or October 2020. She has failed to show that she has the ability to parent [Adam] as necessary to meet his needs. [She] has not provided support for [Adam] or sent any cards, gifts, or letters to show her love or care for the child. The [PPO] found that during that review period, [she] attended 4 of 18 visits scheduled with [Adam]. She had an in-person visit scheduled for several hours, yet she conducted a video chat that only lasted 9 minutes. [She] did not provide any support to the child.

. . . .

12. With regard to reasonable progress under the circumstances, the [c]ourt finds that [it] is relevant that the circumstances which existed at [Adam]’s birth, were that there were 3 school aged children . . . in the home with [respondent mother] at that time. The household conditions and . . . the conditions of the children who were in the home at the time that [Adam] was born, showed that [respondent mother] needed to address significant issues that led to the removal of the children. [Respondent

mother] was not meeting the children's medical, mental health, or educational needs as reflected in later orders by the [c]ourt.

. . . .

15. At the time of the Permanency Planning Review Hearing conducted on November 13 and . . . 16, 2020, the [c]ourt found that [respondent mother] had not shown in the 20 months that the children had been in custody, that she could meet the high needs of the girls. She failed to actively engage in their visits or their education. She was not in a position to meet their high needs or provide a safe and secure home for them. The [c]ourt awarded guardianship to the paternal relatives.

. . . .

21. [Adam] has been in YFS custody since March 28, 2019 and placed outside of the home in foster care for more than 12 months as of the date of the TPR petition, . . . April 19, 2021. There has been no showing to the satisfaction of the [c]ourt that reasonable progress under the circumstances has been made in correcting the conditions that led to the juvenile's removal from the home.

22. The child is currently neglected as [respondent mother] ha[s] shown a complete failure to provide personal contact, love, care, or affection to the child.

23. Throughout this case [respondent mother] ha[s] failed to make any progress in addressing the issues or conditions that caused the juvenile to come into YFS custody or led to his adjudication. The same issues that caused the juvenile and his siblings to enter YFS custody still exist at this time. [Respondent mother] ha[s] not been, and [is] not currently participating in or cooperating with the plan, YFS or GAL. [She] ha[s] not made and [is] not currently making adequate progress within a reasonable time under [her] case plan[]. [She] ha[s] acted and [is] currently acting in a manner that is inconsistent with the health and safety of

the juvenile.

24. The issues of substance use and parenting have not been addressed by [respondent mother]. The issues of housing and mental health have not been addressed by [her]. This failure to address the issues that brought the juvenile into custody is indicative of a high probability of the ongoing repetition of neglect.

25. [Respondent mother] has a CPS history that involves this child as well as her other 5 older children involving the same issues that were not addressed in this matter. These children are not in the custody of [respondent mother] due to her failure to alleviate the issues that brought them into custody. Guardianship of [3 of her other children] was granted to parental relatives. [Her 2 other children] were returned to the custody of their father.

Respondent mother challenges findings seven, twenty-one, twenty-two, twenty-three, and twenty-four as being inconsistent with the evidence. These findings all relate to whether respondent mother made reasonable progress in remedying the issues that led to Adam's removal. As explained herein below, we disagree with respondent mother's contention that the trial court's findings that she failed to show reasonable progress in correcting the issues that led to Adam's removal are inconsistent with the evidence.

In regard to respondent mother's challenge to finding seven, "the trial court is not required to make findings of fact on all the evidence presented, nor state every option it considered." *In re J.D.O.*, 381 N.C. 799, 815, 874 S.E.2d 507, 519 (2022) (cleaned up). The trial court previously determined that the Anuvia class was insufficient to address respondent mother's substance abuse issues and ordered her

to engage in further treatment with Daymark. The social worker testified at the termination hearing that DSS had concerns in 2019 that the Anuvia class was not sufficient to address respondent mother's substance abuse issues given "the seriousness of [respondent] mother being positive for meth." The social worker further confirmed that the trial court previously found the class "was not appropriate to address the significant substance abuse [respondent mother] was partaking in." Because the trial court previously found the class to be insufficient and ordered respondent mother to engage with Daymark in August 2019 to address her substance abuse issues, no further findings as to how the Anuvia class was insufficient were necessary to support the court's conclusion.

Respondent mother challenges finding twenty-one on the ground that the trial court "was measuring reasonable progress through the filing of the termination petition . . . rather than, as required, through the termination hearing." It is clear that this finding, in referencing the twelve-month timeframe, was referring to the need for the child to have been out of the home for twelve months in order to terminate under these grounds—which is measured at the time of the petition for termination.

As to respondent mother's challenge to finding twenty-two, that finding indicates that she did not provide personal contact, love, care, or affection to Adam. Respondent mother's only retort to this is that she "sen[t Adam] her love" through weekly contact with his foster mother. Speaking with the foster mother is not providing Adam with personal contact or affection. Respondent mother's visitation

had been terminated due to her inconsistent attendance; her failure to visit on a consistent basis prevented her from providing Adam with personal contact, love, care, and affection.

Respondent mother challenges the portion of finding of fact twenty-four stating that she did not address her substance abuse and parenting issues. However, she was ordered to engage with Daymark to address her substance use, and she does not dispute that she failed to do so. She was also ordered to complete a parenting class and demonstrate her learned skills. Respondent mother does not dispute that she failed to demonstrate any learned parenting skills, but asserts she was unable to do so because her visitation was ceased. Her visitations were ceased due to her own actions as discussed in greater detail below.

In addition, respondent mother challenges findings of fact nine and twenty-four as insufficiently specific with regard to her reasonable progress on maintaining adequate housing because they do not indicate how her housing was inadequate. Respondent mother's case plan required her to obtain and maintain housing sufficient to meet the needs of her children. However, the trial court found respondent mother had not addressed her housing issues as required by the case plan because she was still living with a friend at the time her parental rights to Adam were terminated. The social worker testified at the termination hearing that the only portion of the case plan respondent mother had completed was the parenting classes.

Respondent mother argues that finding twelve is erroneous in that the finding

impliedly connects the conditions of the household and her other children who were residing with her at the time of Adam's birth to the reasons for Adam's removal. The trial court specifically found that it was "relevant" that, at the time of Adam's removal, respondent mother was not meeting her other children's medical, mental health, or educational needs, and the condition of the house and the children who were in respondent mother's care at the time of Adam's birth showed she "needed to address significant issues" before the children could be returned to her care.

The trial court adjudicated Adam's four siblings as neglected and dependent. Respondent mother's failure to address the issues that led to the other children coming into custody is indicative of her inability to provide proper care to Adam if he were returned to her care. *See* N.C. Gen. Stat. § 7B-101(15) ("In determining whether a juvenile is a neglected juvenile, it is relevant whether that juvenile . . . lives in a home where another juvenile has been subjected to . . . neglect by an adult who regularly lives in the home.").

Respondent mother challenges findings fifteen and twenty-five as not supporting the conclusion and irrelevant. As finding of fact fifteen is not necessary to support the conclusion, we need not address her challenge. *See T.N.H.*, 372 N.C. at 407, 831 S.E.2d at 58 ("We review only those findings necessary to support the trial court's determination that grounds existed to terminate respondent's parental rights." (cleaned up)).

Finding of fact twenty-five discusses respondent mother's failure to address

the issues that led to her other children being removed from her custody. However, the court specifically found that the social services history of the other children involved the same issues that respondent mother failed to address in this matter. Additionally, her failure to meet the education, health, and housing needs of her other children is relevant to her ability to meet the needs of Adam and provide proper care. See N.C. Gen. Stat. § 7B-101(15).

2. Conclusion that Ground Existed

Respondent mother challenges the trial court's conclusion that grounds existed under N.C. Gen. Stat. § 7B-1111(a)(2) because she sufficiently addressed the substance abuse and parenting issues that brought Adam into care by completing some substance abuse and parenting classes.

Our appellate courts have “treated parental compliance with a broadly drafted case plan as pertinent to the inquiry required by N.C.G.S. § 7B-1111(a)(2).” *In re B.O.A.*, 372 N.C. 372, 383, 831 S.E.2d 305, 313 (2019). Indeed, our courts have consistently recognized:

that 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) even when there is no direct and immediate relationship between the conditions addressed in the case plan and the circumstances that led to the initial governmental intervention into the family's life, *as long as 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.*

Id. at 384, 831 S.E.2d at 313–14 (emphasis added).

Our Supreme Court “has stated that a trial judge should refrain from finding that a parent has failed to make reasonable progress in correcting those conditions which led to the removal of the juvenile simply because of his or her failure to fully satisfy all elements of the case plan goals.” *In re A.B.C.*, 374 N.C. 752, 760, 844 S.E.2d 902, 909 (2020) (cleaned up). Nonetheless, “a trial court has 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 pursuant to N.C.G.S. § 7B-1111(a)(2).” *B.O.A.*, 372 N.C. at 385, 831 S.E.2d at 314 (cleaned up).

Respondent mother’s case plan required her to do the following: obtain treatment for substance use, domestic violence, and mental health issues; participate in therapy to address domestic violence and other trauma issues; participate in parenting classes and demonstrate what she learned; maintain and obtain housing and employment sufficient to meet the needs of her children; communicate regularly with YFS and the guardian *ad litem* (“GAL”); and attend visits with the children.

The unchallenged and supported findings show that at the time of the termination hearing, respondent mother was not participating in her case plan or cooperating with YFS or the GAL. Respondent mother did not engage with Daymark as ordered by the court to address her substance abuse issues, participate in any therapy or medication management to address her post-partem depression or suicidal

ideations, obtain sufficient housing for herself and the children, consistently visit with Adam, or consistently maintain contact with YFS or the GAL. Respondent mother may have obtained employment at various times throughout the case, but she did not provide any verification of her income, as was required by her case plan.

Although respondent mother completed parenting classes, the court found that “she did not follow through or participate significantly in visits with [Adam] to demonstrate any learned parenting skills.” Respondent mother argues she was not provided sufficient opportunity to demonstrate her parenting skills because the court terminated her visitation. However, the record demonstrates that by August 2020 respondent mother’s visitations were terminated due to her inconsistent attendance and her own stated desire to no longer participate in visits to save money; as a result, respondent mother “failed to show that she has the ability to parent [Adam] as necessary to meet his needs.”

Respondent mother acknowledges that she failed to address her mental health issues in that she did not obtain any mental health treatment. However, she argues her mental health issues did not lead to Adam’s removal and therefore her failure to address this issue is not relevant to her progress on addressing the conditions that led to Adam’s removal. We disagree. The Adjudication Order recites a long history of domestic violence issues involving respondent mother, and the court ordered her to participate in therapy “to address domestic violence and other trauma issues.” Respondent mother’s progress, or lack thereof, in addressing this issue is relevant in

determining reasonable progress under N.C. Gen. Stat. § 7B-1111(a)(2). *Id.* at 384, 831 S.E.2d at 313–14.

Finally, as respondent mother testified at the termination hearing, “[I] attend[ed] the orientation for domestic violence classes. I attended Anuvia, and I also completed the parenting classes.” These minimal efforts are insufficient to demonstrate reasonable progress.

The trial court’s conclusion that respondent mother willfully failed to make reasonable progress toward correcting the conditions that led to Adam’s removal was supported by clear, cogent, and convincing evidence and sufficient findings of fact. Therefore, the court did not err in concluding grounds existed to terminate respondent mother’s parental rights under N.C. Gen. Stat. § 7B-1111(a)(2).

The finding of one statutory ground for termination of respondent mother’s parental rights to Adam under N.C. Gen. Stat. § 7B-1111(a) is sufficient to support termination. *Id.* at 380, 831 S.E.2d at 311. Thus, we need not consider respondent mother’s arguments regarding the remaining grounds for termination. *See id.* Respondent mother has not challenged the trial court’s conclusion that termination of her parental rights was in Adam’s best interests.

III. Conclusion

Based on the foregoing, the termination order entered 9 November 2021 is hereby affirmed.

AFFIRMED.

IN RE: A.A.C.D.

Opinion of the Court

Panel consisting of Judges ZACHARY, MURPHY, and ARROWOOD.

Report per Rule 30(e).