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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA22-302

Filed 18 April 2023

Union County, No. 20 JT 04

IN THE MATTER OF: B.M.

Appeal by respondent-mother and respondent-father from orders entered 17 December 2021 and 13 January 2022 by Judge Erin Hucks in Union County District Court. Heard in the Court of Appeals 27 February 2023.

Perry, Bundy, Plyler & Long, LLP, by Ashley J. McBride, for petitioner-appellee Union County Division of Social Services.

Kimberly Connor Benton for respondent-appellant mother.

Anné C. Wright for respondent-appellant father.

Ward and Smith, P.A., by Mary V. Cavanagh and Jordan P. Spanner, for guardian ad litem.

PER CURIAM.

Respondent-mother and respondent-father appeal the trial court's orders terminating each of their parental rights in the minor child, B.M. ("Blake").¹ Respondents argue that the trial court erred by concluding grounds existed to

¹ Pseudonyms are used to protect the identities of the minor children and for ease of reading.

terminate their parental rights, and respondent-mother argues that the trial court erred by determining termination of her parental rights was in Blake's best interests. We affirm the trial court's orders.

BACKGROUND

The Union County Department of Social Services ("DSS") received a Child Protective Services referral on 25 June 2019 concerning the safety of Blake and his older brothers, Bryant and Ben.² Law enforcement officers conducting a traffic stop had arrested respondent-father in front of his children and charged him with felony trafficking opium/heroin, felony trafficking in opiates by possession, and felony possession with intent to sell and deliver heroin. DSS alleged in a petition that both respondents had issues with substance abuse and that previous reports concerned an injurious environment, substance abuse, and physical injury. Pursuant to a Temporary Safety Placement, Blake was placed with his paternal grandparents, who were required to supervise him when around respondents. DSS created a plan for respondents to address substance abuse, child characteristics, and physical health; however, respondents met with DSS only once, on 27 December 2019.

On 13 January 2020, DSS filed a petition alleging that Blake was a neglected and dependent juvenile. Following a Child Protective Services report that respondent-mother was engaging in ongoing drug use in the paternal grandparents'

² Respondents' parental rights to Bryant and Ben are not at issue in this appeal.

home, DSS filed a second petition alleging Blake was neglected and dependent. The trial court entered a nonsecure custody order placing Blake in the custody of DSS on 24 February 2020.

The trial court conducted an adjudication and disposition hearing and adjudicated Blake a neglected juvenile by order entered 31 March 2020. The court found that Blake lived in an environment injurious to his welfare. Respondents had unaddressed substance abuse issues, had failed to maintain contact with DSS, refused to create a case plan, refused to initiate Intensive Family Preservation Services and Parenting Classes, refused requested drug screens, had not allowed DSS to assess their home for safety and sanitation, had engaged in a pattern of severe and dangerous conduct which would cause injury to a juvenile, and failed to abide by the safety plan in place. Respondent-mother had submitted to a substance abuse assessment but was not forthcoming. In its disposition, the trial court ordered DSS to retain custody of Blake and allowed respondents one hour of supervised visitation per week.

Following the permanency planning hearing on 13 October 2020, the trial court found that respondents were not making substantial progress in their respective case plans. Neither respondent had completed a substance abuse assessment or parenting class until a week before the hearing. Respondent-father had overdosed on 8 June 2020 and was brought back with Narcan. Respondents' visitation with Blake had been inconsistent; and, for a seven-week period, neither respondent attempted any

contact. Respondent-father had fallen asleep twice during a visitation. Neither respondent had had any contact with the guardian ad litem. The trial court set a primary permanent plan of adoption along with a secondary concurrent plan of guardianship. The court also directed DSS to initiate a termination of parental rights proceeding.

On 25 January 2021, DSS filed a “Motion for Termination of Parental Rights” alleging the following grounds for terminating respondents’ parental rights: neglect under N.C. Gen. Stat. § 7B-1111(a)(1); failure to pay a reasonable portion of the cost of the juvenile’s care for six continuous months under N.C. Gen. Stat. § 7B-1111(a)(3); and dependency under N.C. Gen. Stat. § 7B-1111(a)(6).

The trial court conducted another permanency planning hearing on 2 June, 20 July, and 21 July 2021. In its order entered 24 August 2021, the trial court found that respondents had made progress in addressing their identified needs. Both had completed the Nurturing Parenting and Parenting Support Program and completed a substance abuse assessment. Respondent-mother had regularly attended recommended substance abuse classes, obtained housing, maintained employment, applied skills taught in parenting class during visitations, and been appropriate during visitation. Respondent-father’s substance abuse assessment had been completed days before the July hearing dates, and his recommended treatment was unknown. He had completed a negative drug screen on 12 July 2021; he had obtained housing; he had applied skills learned in parenting classes during visitation; and his

visitations were appropriate. Respondent-father also completed the Treatment Accountability for Safer Communities (“TASC”) program through his supervised probation.

However, despite their progress, the trial court noted additional concerns regarding respondents’ behavior and decisions. Though respondent-father had been on probation for two-and-a-half years, he did not know his probation officer and had not been drug tested through probation since February 2021. Though he was not to be around anyone known to use, possess or sell any controlled substances as a condition of his probation, respondent-mother’s best friend overdosed in respondents’ home in February 2021; and, in June 2021, was allowed to stay “a couple of days,” during which time she overdosed again. The court found it “clear” that respondent-father has not been “entirely honest with this court or with his treatment providers, specifically with regard to his drug use.” Respondent-father had had three different substance abuse assessments, had been discharged from substance abuse treatment in April 2021 for non-attendance, and did not re-engage with treatment until July 2021. During visitations, respondents had given the juveniles false hope and expectations of being reunified with respondents which had negatively impacted the children and caused confusion. The court found that, despite the progress made, “both parents in this case continue to make decisions that negatively impact the safety of their home for their children.” The court left unaltered the primary

permanent plan of adoption and the secondary concurrent plan of guardianship. The court also ceased visitation between respondents and Blake.

Following a hearing on DSS's motion conducted on 16 November 2021, the trial court adjudicated the existence of grounds to terminate respondents' parental rights due to neglect and dependency based on clear, cogent and convincing evidence in its order entered on 17 December 2021. In its disposition order entered 22 January 2022, the court terminated respondents' parental rights in Blake after concluding it was his best interests to do so. Respondents appeal.

ANALYSIS

A termination of parental rights proceeding involves a two-stage process consisting of an adjudication stage and a disposition stage. N.C. Gen. Stat. §§ 7B-1109, 1110 (2021); *In re N.D.A.*, 373 N.C. 71, 74 (2019). At the adjudication stage, the petitioner bears the burden of proof to establish the existence of any of the grounds set forth in N.C. Gen. Stat. § 7B-1111 authorizing the termination of the respondent's parental rights. N.C. Gen. Stat. § 7B-1109(e)-(f) (2021). The trial court's findings of fact at that stage "shall be based on clear, cogent, and convincing evidence." N.C. Gen. Stat. § 7B-1109(f) (2021). "[A]n adjudication of any single ground in N.C.G.S. § 7B-1111(a) is sufficient to support a termination of parental rights." *In re N.B.*, 377 N.C. 349, 353 (2021) (quoting *In re E.H.P.*, 372 N.C. 388, 395 (2019)).

We review a trial court’s adjudication of grounds to terminate parental rights to determine “whether the trial court’s findings of fact are supported by clear, cogent, and convincing evidence and whether those findings support the trial court’s conclusions of law.” *In re B.O.A.*, 372 N.C. 372, 379 (2019) (citing *In re Moore*, 306 N.C. 394, 404 (1982)). “Findings of fact that are supported by clear, cogent, and convincing evidence are deemed conclusive even if the record contains evidence that would support a contrary finding. Unchallenged findings of fact are binding on appeal.” *In re M.S.*, 378 N.C. 30, 35 (2021) (marks and citations omitted).

A

We first consider respondent-father’s challenge to the adjudication of neglect as a ground to terminate his parental rights in Blake. Respondent-father argues the evidence does not indicate a probability of repetition of neglect.

Pursuant to N.C. Gen. Stat. § 7B-1111(a), a trial court may terminate parental rights on the ground that: “(1) The parent has . . . neglected the juvenile.” N.C. Gen. Stat. § 7B-1111(a)(1) (2021). N.C. Gen. Stat. § 7B-101 defines a neglected juvenile as “[a]ny juvenile less than 18 years of age . . . (ii) whose parent, guardian, custodian, or caretaker does any of the following: . . . e. Creates or allows to be created a living environment that is injurious to the juvenile’s welfare.” N.C. Gen. Stat. § 7B-101(15) (2021). Our Supreme Court has observed that

[i]n the event that a child has not been in the custody of the parent for a significant period of time prior to the termination hearing, requiring the petitioner . . . to show

that the child is currently neglected by the parent would make termination of parental rights impossible. In such circumstances, the trial court may find that a parent's parental rights in a child are subject to termination on the grounds of neglect in the event that the petitioner makes "a showing of past neglect and a likelihood of future neglect by the parent."

In re N.D.A., 373 N.C. at 80 (quoting *In re D.L.W.*, 368 N.C. 835, 843 (2016)) (citations and quotation marks omitted). When assessing the likelihood of future neglect, "[t]he determinative factors must be the best interests of the child and the fitness of the parent to care for the child at the time of the termination proceeding." *In re Z.G.J.*, 378 N.C. 500, 509 (2021) (quoting *In re Ballard*, 311 N.C. 708, 715 (1984)).

Under finding of fact 20 of its adjudication order, the trial court made the following determinations:

(A) [Respondent-father] has neglected the juvenile[]

(B) Based on the historical facts of this case, there is a high probability of repeated neglect if the juvenile[] [is] returned to [respondent-father]

Respondent-father does not challenge the finding that he neglected Blake. Respondent-father challenges the determination that there is high probability of repeated neglect if Blake is returned to him under 20(B). Specifically, respondent-father challenges findings of fact 18(B)–(D) as not supported by the evidence and challenges finding of fact 18(B) as not relevant to the determination of his ability to care for Blake at the time of the termination hearing.

In finding of fact 18(B), the court observed that, “[i]n June 2021, the respondent parents allowed [Ms. T.] to stay at their home again for a number of days. During that time, while at the home of respondent/parents, [Ms. T.] again overdosed. [Ms. T.] was administered Narcan. [Ms. T.] later passed away following this incident.” Respondent-father contends that the finding is unsupported as the testimony indicates that “this friend had ‘drugs in her system’ when she was taken to the hospital,” but DSS did not know the cause of her death. Respondent-father mischaracterizes this finding of fact. We do not read this finding as a statement that Ms. T. died as a result of a drug overdose. Respondent-father does not challenge that Ms. T. “overdosed again” in June 2021 while staying in respondents’ home. We uphold finding of fact 18(B).

Respondent-father further argues that finding of fact 18(B) is not relevant to the determination of his ability to care for Blake at the time of the termination hearing, as there was no evidence he was aware Ms. T. was abusing any substances and no children were in the home. We note an unchallenged finding that Ms. T. had overdosed in respondents’ home four months earlier in February 2021, after DSS filed its motion to terminate parental rights. Testimony presented by a social worker provided that respondent-father was at his home when Ms. T. overdosed in June. Finding of fact 18(B) is relevant to the determination of respondent-father’s fitness to care for Blake at the time of the termination hearing and the probability of

repetition of neglect if Blake was returned to respondent-father. Respondent-father's argument is overruled.

In challenged finding of fact 18(C), the trial court found that “[Respondent-father] has completed a substance abuse assessment but has failed to attend any recommended treatment.” A social worker testified that, after DSS filed the motion to terminate parental rights, respondent-father submitted to a substance abuse assessment, and it was recommended that he participate in forty hours of substance abuse counseling. Respondent-father was ultimately discharged for non-attendance. The social worker testified that respondent-father had attended a substance abuse treatment class through his probation; but, “based on what DSS had recommended and what Daymark had recommended, substance abuse assessment, [] he [did] not” follow through with any treatment of his substance abuse. We uphold finding of fact 18(C).

Under finding of fact 18(D), the court observed that “[Respondent-father] has failed to address his substance abuse in any way.” However, the social worker testified that respondent-father did complete “at least some form of drug education and/or treatment” through the TASC program. Because finding of fact 18(D) lacks evidentiary support, we will not consider it in our review of the termination of respondent-father's parental rights. *See In re N.G.*, 374 N.C. 891, 901 (2020) (disregarding findings not supported by evidence).

In challenging the termination of his parental rights due to neglect, respondent-father contends that he participated in substance abuse assessments on 26 January and 16 February 2021; he attended four group therapy sessions of the recommended group counseling; he engaged in the TASC Program as part of his supervised probation; he tested negative for drugs in May, June, and October 2020 and on 12 July 2021; and a hair follicle drug test conducted on 28 January 2021 was also negative. Respondent-father also states that he suffered from a severe back injury for which he was prescribed oxycodone. He contends that the last indication of abuse of the medication was in October 2020 when he fell asleep during visitation. Respondent-father contends that the evidence he previously abused alcohol or drugs was insufficient to terminate his parental rights as DSS had the burden of proving that his substance abuse would prevent him from providing the proper care and supervision of Blake at the time of the termination proceeding.

As the trial court observed in its adjudication order, Blake was adjudicated a neglected juvenile by order entered 31 March 2020 after the court found that he lived in an environment injurious to his welfare. Respondent-father had been arrested with a bag of pills while with Blake, had unaddressed substance abuse issues, and refused to submit to a drug screen. In its 5 November 2020 permanency planning order, the court found that, on 8 June 2020, respondent-father had overdosed and was brought back with Narcan and that, during a visitation conducted via video call, respondent-father fell asleep twice. As of the date that DSS filed its motion to

terminate parental rights (25 January 2021), respondent-father had not obtained a substance abuse assessment and had not undergone any treatment. He did not submit to a drug test from “June 2020 until 23 October 2020,” and he refused to submit to a hair follicle test in October 2020. After DSS filed its motion to terminate parental rights, Ms. T., respondent-mother’s best friend, overdosed while in respondents’ home in February 2021.

As discussed above, per finding of fact 18(B), Ms. T. stayed in respondents’ home in June 2021, during which time she overdosed again. Per finding of fact 18(C), respondent-father did complete a substance abuse assessment following DSS’s motion to terminate parental rights but failed to attend the recommended treatment.

Respondent-father’s failure to seek or complete recommended treatment for his substance abuse issues, along with the findings of substance abuse occurring in his home after DSS filed its motion to terminate his parental rights, supports the determination of a high probability of repeated neglect if Blake were to be returned to respondent-father. We uphold finding of fact 20(B) and affirm the trial court’s adjudication of neglect as a ground to terminate respondent-father’s parental rights in Blake under N.C. Gen. Stat. § 7B-1111(a)(1).

Because the adjudication of a single ground under N.C. Gen. Stat. § 7B-1111(a) is sufficient to support the termination of parental rights, we need not address respondent-father’s challenge to the trial court’s adjudication of dependency as a ground for termination. *See In re N.B.*, 377 N.C. at 353. Because respondent-father

does not challenge the trial court's best interests determination, *see* N.C. Gen. Stat. § 7B-1110, we affirm the trial court's termination of respondent-father's parental rights in Blake.

B

We next consider respondent-mother's challenge to the trial court's adjudication of neglect as a ground to terminate her parental rights in Blake. Respondent-mother also argues that the trial court's conclusion that there was a high probability of a repetition of neglect is unsupported by the findings of fact.

Respondent-mother challenges findings of fact 18(B) and 18(E) as unsupported by the evidence and finding of fact 19(B) as an unsupported conclusion of law.

In her challenge to finding of fact 18(B), set out above, respondent-mother contends that testimony proffered during the adjudication hearing provided that "the final autopsy results showed there were drugs in [Ms. T.]'s system when she was taken to the hospital, but it was uncertain if she died of a drug overdose." Again, we do not read finding of fact 18(B) as a statement that Ms. T. died as a result of an overdose, and it is unchallenged that she passed away following an overdose in respondents' home.

In finding of fact 18(E), the trial court made the following observation:

Respondent/Mother and Respondent/Father claim to have separated on or about [6 September 2021], and live at separate residences. As such the respondent/mother presented this court with a Separation Agreement. This court would note that the Separation Agreement was

dated, and apparently drafted on [30 August 2021]. *Within the Separation Agreement, the parties claim to have lived separate and apart since [7 September 2021], a date after which the agreement was purportedly drafted.* This court finds that the respondent/mother's testimony regarding the respondent/mother and respondent/father's relationship status is not credible.

(Emphasis added). Respondent-mother contends the findings that "Respondent/Mother and Respondent/Father claim to have separated" and that, "[w]ithin the Separation Agreement, the parties claim to have lived separate and apart" are merely "recitations of the parents' testimony" which should not be considered by this Court. Respondent-mother also contends that, even if this Court determines that finding of fact 18(E) is not merely a recitation of testimony, the finding should be disregarded because respondent-mother explained the date discrepancy in her testimony.

In a nonjury trial, the trial judge has a duty to consider and weigh all the competent evidence, pass upon the credibility of the witnesses, determine the weight to be given their testimony and the reasonable inferences to be drawn therefrom, and, if different inferences may be drawn, "determine[] which inferences shall be drawn and which shall be rejected." *Knutton v. Cofield*, 273 N.C. 355, 359 (1968) (citing *Hodges v. Hodges*, 257 N.C. 774 (1962)); *see also Scott v. Scott*, 157 N.C. App. 382, 388 (2003) ("It is not the role of this Court to substitute its judgment for that of the trial court."). "[T]here is nothing impermissible about describing testimony, so long as the

court ultimately makes its own findings, resolving any material disputes[.]” *In re A.E.*, 379 N.C. 177, 185 (2021) (quoting *In re T.N.H.*, 372 N.C. 403, 408 (2019)).

The evidence before the trial court presented a discrepancy as to what date the parties separated. A social worker testified to respondent-mother’s report that respondent-father had moved out of respondent-mother’s residence at the beginning of September 2021. The social worker also testified that, at the time of the adjudication hearing, respondent-father was living with a relative and respondents had reportedly separated. Respondent-mother testified that she and respondent-father had separated at “the end of August, or August 30, 31. He did stay in the bedroom upstairs for approximately four or five days until he could find other living arrangements . . . and he moved out – it was around September, around the 4th or 5th.” At the close of the adjudication proceeding, the trial court acknowledged receipt of a separation agreement presented by respondent-mother which was “purportedly drafted” on 30 August 2021 but provided that the parties separated on 7 September 2021.

The trial court’s determination that the evidence of the date of separation and of the respondents’ relationship status was not credible was properly within the judge’s province. See *Knutton*, 273 N.C. at 359; *Scott*, 157 N.C. App. at 388. Respondent-mother’s challenge to finding of fact 18(E) is overruled.

In its adjudication order, the trial court made the following determination under finding of fact 19:

(A) [Respondent-mother] has neglected the juvenile[]

(B) Based on the historical facts of this case, there is a high probability of repeated neglect if [Blake] [is] returned to [respondent-mother]

Respondent-mother does not challenge the finding that she “has neglected the juvenile” under 19(A). She challenges the trial court’s determination that there was a high probability of repeated neglect if Blake were to be returned to her care under 19(B). First, she argues that 19(B) is incorrectly labeled as a finding of fact when it is more appropriately a conclusion of law or an ultimate finding of fact and that it is unsupported by evidence.

“As a general rule, . . . any determination requiring the exercise of judgment or the application of legal principles is more properly classified a conclusion of law.” *In re Helms*, 127 N.C. App. 505, 510 (1997) (citations omitted). Though the trial court labeled its determination as a finding of fact, “the trial court’s determination that neglect is likely to reoccur if [the juvenile] was returned to [respondent’s] care is more properly classified as a conclusion of law.” *In re J.O.D.*, 374 N.C. 797, 807 (2020). “[F]indings of fact [which] are essentially conclusions of law . . . will be treated as such on appeal.” *State v. Sparks*, 362 N.C. 181, 185 (2008) (alterations in original) (quoting *Harris v. Harris*, 51 N.C. App. 103, 107 (1981)).

Challenging the trial court’s determination that there was a high likelihood of repetition of neglect, respondent-mother contends that she made substantial progress in her case plan and “had made substantial changes by the time of the termination

hearing regarding the issues and concerns which brought DSS into her life.” As reflected in the trial court’s findings of fact, at the time of the termination of parental rights hearing, she had been employed for over a year; she had completed her substance abuse assessment, substance abuse treatment, and parenting classes; and she had maintained stable housing for over a year. Respondent-mother contends that remaining concerns surrounding her ability to care for Blake at the time of the termination hearing were insufficient to support the termination of her parental rights and that the mere possibility of future neglect is not a sufficient basis upon which to permanently sever the parent-child bond.

“[A] parent’s compliance with his or her case plan does not preclude a finding of neglect.” *In re K.Q.*, 381 N.C. 137, 145 (2022) (quoting *In re J.J.H.*, 376 N.C. 161, 185 (2020)); *see, e.g., In re D.W.P.*, 373 N.C. 327, 339 (2020) (recognizing the progress the respondent-mother made in completing her parenting plan, including completing parenting classes, attending therapy, and regularly visiting with her children, though upholding that trial court’s conclusion that neglect was likely to reoccur if the children returned to the respondent-mother’s care); *In re Y.Y.E.T.*, 205 N.C. App. 120, 131 (2010) (observing that “[t]he case plan is not just a check list” and “parents must demonstrate acknowledgment and understanding of why the juvenile entered DSS custody as well as changed behaviors”).

In its adjudication of grounds to terminate respondents’ parental rights, the trial court acknowledged that respondent-mother completed her substance abuse

treatment following DSS's filing of the motion to terminate her parental rights as well as her parenting classes and that she had maintained employment and stable housing. However, the court also observed that, per its 31 March 2020 order, Blake "live[d] in an environment injurious to the juvenile[s] welfare" due, in part, to respondent-mother's unaddressed substance abuse issues. Respondent-mother had refused to submit to a drug screen. Following the permanency planning hearing conducted on 13 October 2020, the trial court found that respondent-mother had not completed a substance abuse assessment until 12 October 2020. At the time DSS filed its Motion for Termination of Parental Rights in January 2021, respondent-mother had not engaged in services to address substance abuse, had been dishonest about her substance abuse, had not submitted to requested drug tests "from June 2020 until 23 October 2020," and had refused to submit to a hair follicle test requested in October 2020. In the month following DSS's filing of its motion, Ms. T. suffered an overdose in respondent's home. Four months later, in June 2021, the same friend stayed in respondents' home for "a number of days[.]" where she suffered another overdose.

For most of the nineteen months between the adjudication of neglect on 31 March 2020 and the termination of parental rights hearing conducted on 16 November 2021, including a significant period after the motion for termination of parental rights was filed, respondent-mother failed to address her substance abuse issues. Even after DSS filed its motion to terminate parental rights, substance abuse

continued to occur in her home. The findings of fact support the conclusion that “there is a high probability of repeated neglect” if Blake is returned to respondent-mother. Respondent-mother’s argument is overruled.

We affirm the trial court’s adjudication of neglect as a ground to terminate respondent-mother’s parental rights in Blake under N.C. Gen. Stat. § 7B-1111(a)(1). We need not address respondent-mother’s challenge to the trial court’s adjudication of dependency. *See In re N.B.*, 377 N.C. at 353.

C

Respondent-mother next challenges the trial court’s determination that termination of her parental rights was in Blake’s best interests.

If the trial court adjudicates the existence of one or more grounds for termination of parental rights, “the court proceeds to the dispositional stage, at which the court must consider whether it is in the best interests of the juvenile to terminate parental rights.” *Id.* (quoting *In re D.L.W.*, 368 N.C. at 842); *see also* N.C. Gen. Stat. § 7B-1110 (2021). In making its determination,

[t]he court may consider any evidence, including hearsay evidence as defined in G.S. 8C-1, Rule 801, that the court finds to be relevant, reliable, and necessary to determine the best interests of the juvenile. In each case, the court shall consider the following criteria and make written findings regarding the following that are relevant:

- (1) The age of the juvenile.
- (2) The likelihood of adoption of the juvenile.

(3) Whether the termination of parental rights will aid in the accomplishment of the permanent plan for the juvenile.

(4) The bond between the juvenile and the parent.

(5) The quality of the relationship between the juvenile and the proposed adoptive parent, guardian, custodian, or other permanent placement.

(6) Any relevant consideration.

N.C. Gen. Stat. § 7B-1110(a) (2021).

“The trial court’s dispositional findings of fact are reviewed under a ‘competent evidence’ standard.” *In re K.N.K.*, 374 N.C. 50, 57 (2020) (citing *In re A.H.*, 250 N.C. App. 546, 565-66 (2016)). Unchallenged findings of fact are binding on appeal. *In re K.N.L.P.*, 380 N.C. 756, 759 (2022). “We review a trial court’s assessment of a juvenile’s best interests only for abuse of discretion.” *In re N.C.E.*, 379 N.C. 283, 287 (2021) (citing *In re A.R.A.*, 373 N.C. 190, 199 (2019)). “Under that standard, we defer to the trial court’s decision unless it is ‘manifestly unsupported by reason or one so arbitrary that it could not have been the result of a reasoned decision.’” *In re C.V.D.C.*, 374 N.C. 525, 529 (2020) (quoting *Briley v. Farabow*, 348 N.C. 537, 547 (1998)).

Respondent-mother argues that the trial court abused its discretion by determining that termination of her parental rights was in Blake’s best interests. Respondent-mother contends that the trial court’s determination was unsupported by its findings of fact. Respondent-mother challenges findings of fact 4, 7(D), and 10.

In finding of fact 4, the trial court found that grounds exist for the termination of parental rights of respondent-mother based on respondent-mother's history of neglect as to Blake and the high probability of repeated neglect if Blake were to be returned to respondent-mother. Because we affirm the trial court's determination that grounds to terminate parental rights exist under N.C. Gen. Stat. § 7B-1111(a)(1), we overrule respondent-mother's challenge.

In finding of fact 7(D), the trial court made the following observations:

The bond between the minor child [Blake] and the parents is severely diminished. The minor child came into DSS custody on February 21, 2020. The parents had visitations with the minor children until COVID-19 protocols were such that the parents had visitation via Zoom platform which was supervised by DSS. During this time, there were inconsistencies with the parents' visitation. The parents began in-person visitation in April of 2021 and continued in-person visitation until July of 2021. Throughout the life of the case, the parents made false promises to the minor child and misled the minor child. For example, the parents told the minor child that he would be able to come home, that they were doing everything DSS required of them, and that the parents had gifts for the minor child at their home. This court found that such visitation was detrimental to [Blake] and in an Order filed August 24, 2021, from July 21, 2021 Permanency Planning Hearing, this court found, specifically that the minor children in this case have been negatively impacted by the visits with the parents in that the children have expressed confusion as to why they are not able to come home and that they are being given false hope and expectations of being reunified with their parents.

As such, it is clear to this court that the parents' actions have damaged and diminished the bond that existed

between the minor child, [Blake] and the parents. Although it is clear that both the Respondent/Mother and Respondent/Father love and care deeply for the minor child [Blake], there is not a strong bond between the child and the parents. The minor child does not ask about either parent and has indicated to [a social worker] and to [a GAL volunteer] that he desires to stay with/live with his foster family.

(Emphasis added).

Respondent-mother contends the finding that “the parents’ actions have damaged and diminished the bond” with Blake placed the blame on their relationship status with respondent-mother. Respondent-mother contends that the trial court failed to consider the impact of her inability to have in-person visitation for over a year due to COVID-19 protocols and DSS’s delay in resuming in-person visits until ordered by a court.

At the disposition hearing conducted on 7 December 2021, a social worker testified that Blake “still talks about [respondent-mother] and occasionally will ask about her, but on a daily basis, there is no bond.” The social worker believed the bond was “broken because of time away.” At the time of the disposition hearing, Blake had not been in respondents’ home for almost two years and respondents had not seen or spoken to Blake in over four months due to a no-contact order. Because of COVID-19 protocols, DSS required that visitation be conducted via web call during 2020 and into 2021 until the trial court ordered DSS to conduct in-person visitation in April 2021. A social worker testified that a court ordered visitations to stop in July 2021

“[b]ecause they were detrimental to the children.” Respondents’ assertions that they were doing everything that DSS asked of them and that they were doing everything they could to get the children back caused the children to feel “that they were possibly going to be going home soon, and so because that wasn’t happening in the near future . . . it was having a negative impact on them.” These discussions between respondents and the children were ongoing until “the last few visits.”

The evidence indicates that respondent-mother’s conduct caused the trial court to cease visitation between respondents and Blake and supports the finding that respondent-mother’s “actions have damaged and diminished the bond that existed between the minor child, [Blake,] and [respondent-mother].” *See In re K.N.K.*, 374 N.C. at 56. Respondent-mother’s challenge to finding of fact 7(D) is overruled.

In finding of fact 10, the court found that “[t]he best interests of juvenile [Blake] require that the court terminate the parental rights of [respondent-mother] to [Blake].” Respondent-mother challenges the finding as an unsupported conclusion or ultimate finding.

“[T]he determination of a child’s best interests is in the nature of a conclusion of law rather than pure fact-finding[.]” *In re M.A.I.B.K.*, 184 N.C. App. 218, 229 (2007) (citing *Helms*, 127 N.C. App. at 511). “In making its best interests determination, the trial court must consider all of the factors in N.C.G.S. § 7B-1110(a), even though it is not required to expressly make written findings as to each.” *In re A.M.*, 377 N.C. 220, 232 (2021) (citing *In re A.R.A.*, 373 N.C. at 199).

Though she acknowledges that the trial court considered each of the statutory factors under N.C. Gen. Stat. § 7B-1110(a), respondent-mother contends that the court failed to consider the impact of the COVID-19 pandemic and whether the inability to have in-person visitation for over a year caused a rift between herself and Blake. Respondent-mother also contends that the court failed to consider whether it was in Blake's best interests to have a relationship with his brothers.

Though respondent-mother had contact with Blake via web calls, the evidence of the detrimental effect of not having in-person visitation for over a year was uncontested. Thus, the trial court was not required to make findings of fact on the issue. *In re E.F.*, 375 N.C. 88, 91 (2020) ("Although the trial court must 'consider' each of the statutory factors, we have construed [N.C. Gen. Stat. § 7B-1110(a)] to require written findings only as to those factors for which there is conflicting evidence.") (citing *In re A.R.A.*, 373 N.C. at 199). Also, a juvenile's relationship with siblings is not a criteria the trial court *must* consider under N.C. Gen. Stat. § 7B-1110(a).

The trial court made the following unchallenged findings of fact in accordance with N.C. Gen. Stat. § 7B-1110(a). *See K.N.L.P.*, 380 N.C. at 759. At the time of the disposition hearing, Blake was six years old and had not been in respondents' custody for almost two years. *See* N.C. Gen. Stat. § 7B-1110(a)(1). His foster family indicated they have a "strong desire to adopt [Blake]." *See id.* § 7B-1110(a)(2). Termination of respondent-mother's parental rights would help achieve the permanent plan of

adoption for Blake. *See id.* § 7B-1110(a)(3). Blake has developed a strong bond with his foster parents—his proposed adoptive parents—over the twenty-two months he has been in placement with them. His foster parents treat him as their own child, and he refers to them as “mom” and “dad.” *See id.* § 7B-1110(a)(5). As a relevant consideration, the court found that Blake’s therapist indicated that it was in Blake’s best interests to not have contact with his brothers. This was after Bryan consistently bullied Blake to the point that Blake was fearful to be around his brother without the foster parents present. *See id.* § 7b-1110(a)(6). In addition to the unchallenged findings of fact, we uphold the finding that the bond between respondents and Blake is “severely diminished”; and, although respondent-mother loves and cares deeply for Blake, there is not a strong bond between Blake and respondent-mother. *See id.* § 7B-1110(a)(4).

The trial court’s findings of fact demonstrate its consideration of the statutory factors under N.C. Gen. Stat. § 7B-1110(a) and that it “performed a reasoned analysis weighing those factors.” *In re Z.A.M.*, 374 N.C. 88, 101 (2020). We uphold the trial court’s conclusion that termination of respondent-mother’s parental rights in Blake was in his best interests as it is not “manifestly unsupported by reason or so arbitrary that it could not have been the result of a reasoned decision.” *C.V.D.C.*, 374 N.C. at 529.

Accordingly, we affirm the trial court’s termination of respondent-mother’s parental rights in Blake.

IN RE: B.M.

Opinion of the Court

AFFIRMED.

Before a panel consisting of Judges ZACHARY, MURPHY, and ARROWOOD.

Report per Rule 30(e).