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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA22-799

Filed 06 June 2023

Harnett County, Nos. 18-JT-134, 18-JT-136, 18-JT-137, 18-JT-138

IN THE MATTER OF: J.C., T.C., J.C. Jr., A.C.

Appeal by Respondent-Father from Order entered 3 June 2022 by Judge Joy A. Jones in Harnett County District Court. Heard in the Court of Appeals 9 May 2023.

Duncan B. McCormick for Petitioner-Appellee Harnett County Department of Social Services.

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

Marie H. Mobley for Guardian Ad Litem.

RIGGS, Judge.

Appellant-Father appeals from the trial court's order terminating his parental rights to his minor children, J.C., T.C., J.C. Jr., and A.C. The trial court's termination order entered on 3 June 2022 was decided on the statutory grounds of (1) neglect and (2) that Appellant-Father willfully left his children in foster care placement for more than 12 months without a showing of reasonable progress in correcting the conditions which led to the removal of the children. Appellant-Father's appointed appellate

counsel filed a no-merit brief pursuant to Rule 3.1(e) of the North Carolina Rules of Appellate Procedure (2023). After careful review of the record, we affirm the trial court's order for termination of parental rights.

I. Facts and Procedural History

Appellant-Father ("Father") is the biological father of J.C. (born in May of 2013), T.C. (born in July of 2014), J.C. Jr. (born in June 2012), and A.C. (born in August of 2011).¹ The family has a history of interactions dating back to 2013 with Harnett County Department of Social Services ("DSS"). These interactions involve ten Children's Protective Services ("CPS") complaints alleging domestic violence between the parents, improper medical care, improper supervision, injurious environment, and unsanitary living conditions, among other things. Father and the biological mother were married at the time DSS became involved with the family in 2013. However, the parents separated in May of 2018.

The children have been in DSS custody since 23 August 2018. On 4 January 2019, the children were adjudicated as neglected. On 9 August 2019, the trial court held the first permanency planning review hearing and ordered continuation of Father's reunification case plan. On 7 February 2020, the trial court ceased all reunification efforts for Father and established a primary plan for adoption and a secondary plan for guardianship. The court ordered this change in plan because of

¹ Father's minor children J.C., T.C., J.C. Jr., and A.C., collectively, will be referred to as "the children."

Father's pattern of combative behavior with DSS, his failure to make reasonable progress in completion of the reunification case plan, and his failure to take responsibility for the reasons the children were removed from their home.

On 30 July 2021, the trial court held the termination hearing and heard evidence on the motion to terminate Father's parental rights. Father was present and testified at the hearing. The trial court concluded that two grounds existed for termination of Father's parental rights under N.C. Gen. Stat. § 7B-1111(a) (2021). First, the court found that the petition satisfied § 7B-1111(a)(1) with neglect as a basis of termination. Second, the court also found that the petition satisfied § 7B-1111(a)(2) as a basis for termination because Father willfully left the children in foster care "for more than 12 months prior to the filing of the motion to terminate without a showing to the satisfaction of the court that reasonable progress under the circumstances had been made in correcting the conditions which led to the removal of the [children]." Based on over 10 pages of adjudicatory factual findings, the trial court concluded as a matter of law it was in the children's best interest to terminate Father's parental rights. Accordingly, the trial court entered its order for termination of Father's parental rights on 3 June 2022, and Father timely appealed.

II. Analysis

When a no-merit brief is filed pursuant to Rule 3.1(e) of North Carolina Rules of Appellate Procedure, this Court must "conduct an independent review of the issues set out in the no-merit brief filed by respondent's counsel[.]" *In re L.E.M.*, 372 N.C.

396, 402, 831 S.E.2d 341, 345 (2019). This Court reviews the “trial court’s adjudication of grounds 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 I.J.W.*, 378 N.C. 17, 21, 859 S.E.2d 148, 151 (2021) (internal quotations and citations omitted). The trial court’s findings of fact are conclusive on appeal when supported by competent evidence, even if that evidence could sustain contrary findings. *In re L.T.R.*, 181 N.C. App. 376, 381, 639 S.E.2d 122, 125 (2007) (internal quotations and citations omitted). In termination of parental rights cases, a trial court’s conclusions of law are reviewed de novo. *In re S.N.*, 194 N.C. App. 142, 146, 669 S.E.2d 55, 59 (2008). “The trial court’s assessment of a juvenile’s best interest at the dispositional stage is reviewed only for abuse of discretion.” *In re Z.L.W.*, 372 N.C. 432, 435, 831 S.E.2d 62, 64 (2019).

Here, appellate counsel, finding no merit upon which to base an argument for relief, filed a no-merit brief on Father’s behalf pursuant to N.C. R. App. P. 3.1(e). Father was also advised by counsel of his right to file a *pro se* brief and provided with written instructions to do so—he did not file any additional *pro se* briefing. Pursuant to N.C. R. App. P. 3.1(e), this Court conducted an independent review of Father’s appeal. *In re L.E.M.*, 372 N.C. at 402, 831 S.E.2d at 345.

In Father’s no-merit brief, counsel identifies three potential issues that could arguably support an appeal. Further, counsel explains why he believed each issue lacked merit and would not alter the ultimate outcome of the case. Based upon our

Careful independent review of the issues contained in the no-merit brief, in addition to consideration of the entire record on appeal, *In re L.E.M.*, 372 N.C. at 403, 831 S.E.2d at 345, we agree with Father's counsel: the findings made by the trial court were based on competent evidence, and the trial court met its duty to support its conclusions of law with clear, cogent and convincing evidence. We find no error in the trial court's conclusions of law, and further, the trial court did not abuse its discretion in concluding that termination of Father's parental rights was in the best interest of the children.

III. Conclusion

For the foregoing reasons, we affirm the 2022 Order Terminating Parental Rights by the trial court.

AFFIRMED.

Judges Tyson and Arrowood concur.

Report per Rule 30(e).