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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA23-32

Filed 01 August 2023

Union County, Nos. 21 JT 36-37

IN THE MATTER OF: K.M. & K.M., Minor Children.

Appeal by respondent from order entered 8 September 2022 by Judge William F. Helms, III in Union County District Court. Heard in the Court of Appeals 19 July 2023.

*Plyler, Long & Corigliano, LLP, by Ashley J. McBride, for petitioner-appellee Union County Department of Social Services.*

*Speaks Law Firm, PC, Garron T. Michael, for the respondent-appellant-father.*

*Elon University School of Law, GAL Appellate Advocacy Clinic, by Alan D. Woodlief, Jr., for guardian ad litem.*

TYSON, Judge.

Respondent appeals an order terminating his parental rights. We affirm.

**I. Background**

Respondent is the biological father of three-year-old twins, Kevin and Kristen (collectively the “Twins”). See N.C. R. App. P. 42(b) (pseudonyms used to protect the identity of juveniles).

The Twins' Respondent-mother suffered from drug and alcohol additions. She had previous Union County Division of Social Services ("DSS") cases on her other children and had lost custody of those children. Respondent did not reside with the Twins or their mother, but he had visitation with them over the weekends.

DSS filed a petition alleging the Twins were neglected and dependent on 19 March 2021. DSS alleged the Twins' mother abused alcohol daily to the point of passing out from intoxication. Respondent-mother and other family members would "get into altercations while in the presence of the children." During one of the altercations, Respondent-mother became angry with the Twins' maternal grandmother and "threw" Kristen at her. The Twins had missed healthcare appointments, had not been fed regularly, had not been properly cleaned and changed, and had been left in the care of an individual, who did not have the capability to care for them.

DSS petitioned the district court for nonsecure custody of the Twins after the temporary safety plan with their maternal grandmother was disrupted when Respondent-mother moved into her residence. DSS was granted nonsecure custody on 20 April 2021.

The district court held a hearing on 11 May 2021 and entered an initial adjudication and disposition order on 17 June 2021. The district court adjudicated the Twins to be neglected. The district court found Respondent was present during an altercation between the Twins' mother and their grandmother. During the

altercation, Respondent had threatened the grandmother. Respondent also had “multiple pending charges regarding substance use, possession[,] and assault” against him.

Respondent’s case plan required him to “participate in an accredited parenting education program” and “complete a substance abuse assessment and follow the recommendations.” The court order provided Respondent with weekly visitation with the Twins.

The district court held a permanency planning hearing, at which Respondent attended and testified, on 26 October 2021. The district court entered a permanency planning order on 24 November 2021, which found Respondent had entered into a case plan, had obtained employment, and had been residing with his grandmother for two or three months. The district court found the Twins’ mother and Respondent were not making adequate progress on their parenting plans and ordered a permanent plan of reunification with a secondary concurrent permanent plan of adoption. The court also ordered the Twins to remain in foster care.

The district court held another permanency planning hearing on 2 February 2022. The district court found Respondent was in attendance at the hearing, had attended visitations with the Twins, had maintained employment, but did not have appropriate housing. The district court determined both parents were not making adequate progress with their parenting plans, concluded reunification efforts would

be futile and changed the primary permanent plan for Twins to adoption with a secondary plan of guardianship.

DSS filed a petition to terminate Respondent's and respondent-mother's parental rights to both children on 4 April 2022. The district court held a hearing on 10 August 2022. The district court entered an order terminating both Respondent and respondent-mother's rights to both children on 8 September 2022. Respondent-mother did not appeal. Respondent appeals.

## **II. Jurisdiction**

Jurisdiction lies in this Court pursuant to N.C. Gen. Stat. § 7B-1001(a)(7) (2021).

## **III. Issues**

Respondent argues the district court erred in terminating his parental rights ("TPR") pursuant to: (1) N.C. Gen. Stat. § 7B-1111(a)(1) (abuse or neglect); (2) N.C. Gen. Stat. § 7B-1111(a)(6) (dependency); and, (3) N.C. Gen. Stat. § 7B-1111(a)(3) (willful failure to support).

## **IV. Standard of Review**

"The burden in these proceedings is on the petitioner or movant to prove the facts justifying the termination by clear and convincing evidence." N.C. Gen. Stat. § 7B-1111(b) (2021). "We review a trial court's adjudication . . . to determine whether the findings are supported by clear, cogent, and convincing evidence and [whether] the findings support the conclusions of law. The trial court's conclusions of law are

reviewable de novo on appeal.” *In re K.J.E.*, 378 N.C. 620, 622, 862 S.E.2d 620, 621-22 (2021) (citation omitted).

**V. Termination of Parental Rights for Willful Failure to Support**

If the trial court properly adjudicates the evidence, makes supported findings of fact, and concludes at least one statutory ground supports termination, “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.” *In re D.L.W.*, 368 N.C. 835, 842, 788 S.E.2d 162, 167 (2016) (citations and quotation marks omitted). “[A]n adjudication of any single ground for terminating a parent’s rights under N.C.G.S. § 7B-1111(a) will suffice to support a termination order.” *In re J.S.*, 374 N.C. 811, 815, 845 S.E.2d 66, 71 (2020) (citation omitted).

A district court may terminate parental rights where “[t]he juvenile has been placed in the custody of a county department of social services . . . , and the parent for a continuous period of six months next preceding the filing of the petition or motion, has willfully failed for such period to pay a reasonable portion of the cost of care for the juvenile although physically and financially able to do so.” N.C. Gen. Stat. § 7B-1111 (a)(3) (2021). The district court concluded multiple grounds existed to terminate Respondent’s parental rights pursuant to N.C. Gen. Stat. § 7B-1111 (a)(3).

The district court found:

The juveniles have been placed in the custody of the Union

County Division of Social Services and in a foster home, and [Respondent], for a continuous period of six months next (sic) preceding the filing of the motion, has willfully failed for such period to pay a reasonable portion of the cost of care for the juveniles although physically and financially able to do so, to wit:

[Respondent] has been employed through (sic) this case with Active Waste Solutions and previously testified that he makes \$135.00 per day and works 5 days per week. He has failed to pay any amount of his income greater than \$0.00 for the use and benefit of the minor children. He has failed to pay any amount greater than \$0.00 for the use and benefit of the minor children (sic).

Respondent challenges this finding because the DSS employee who testified did not define the relevant statutory six-month period. The relevant six-month period can be ascertained by calculating the six-month period from the date of the filing of the TPR complaint. DSS filed a petition to terminate Respondent's parental rights to both children on 4 April 2022. The district court held a hearing on 10 August 2022 and entered an order terminating Respondent's parental rights to both children on 8 September 2022. The district court's findings show Respondent had: (1) made no contributions to the cost of the Twins' care; and, (2) reported wages greater than zero during the six months preceding the filing of the motion. These findings support the trial court's conclusions to terminate Respondent's parental rights for failure to support. N.C. Gen. Stat. § 7B-1111(a)(3) (2021). Respondent's argument is overruled.

## **VI. Conclusion**

The findings of fact and the trial court's conclusions thereon in the order terminating Respondent's parental rights are supported by "clear and convincing evidence" in the record. N.C. Gen. Stat. § 7B-1111(b) (2021). "[W]here the trial court finds multiple grounds on which to base a termination of parental rights, and an appellate court determines. . . at least one ground support[s] a conclusion that parental rights should be terminated, it is unnecessary to address the remaining grounds." *In re E.H.P.*, 372 N.C. 388, 395, 831 S.E.2d 49, 53-54 (2019) (citation and internal quotation marks omitted).

The trial court's conclusion to terminate Respondent's parental rights to the Twins for Respondent's willful failure to provide any support or to pay a reasonable portion of the cost of their care for more than six months is affirmed. *It is so ordered.*

AFFIRMED.

Judges DILLON and COLLINS concur.

Report per Rule 30(e).