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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA22-835

Filed 19 December 2023

Mecklenburg County, No. 18 JT 199

IN THE MATTER OF: Z.J.

Appeal by Mother from order entered 29 June 2022 by Judge Aretha V. Blake in Mecklenburg County District Court. Heard in the Court of Appeals 21 November 2023.

Senior Associate County Attorney Marc S. Gentile for petitioner-appellee Mecklenburg County Youth and Family Services.

Anné C. Wright for respondent-appellant mother.

Mobley Law Office, P.A., by Marie H. Mobley, for guardian ad litem.

PER CURIAM.

Mother appeals from the trial court's order terminating her parental rights to her minor child Zelda¹ pursuant to N.C.G.S. § 7B-1111(a), based on the grounds of neglect, willful failure to make reasonable progress, and dependency. The trial court's findings of fact are supported by clear, cogent, and convincing evidence, and

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

these findings of fact support its conclusion that Mother's parental rights could be terminated pursuant to N.C.G.S. § 7B-1111(a). We affirm.

BACKGROUND

On 7 May and 11 May 2018, the Mecklenburg County Youth and Family Services ("YFS") filed a petition and amended petition alleging Mother's three-month-old minor child, Zelda, to be neglected and dependent. The petitions alleged that YFS received a report in February 2018 that Mother had given birth to Zelda. At the time of the report, Mother's three older children were in the custody of YFS. Mother had previously been diagnosed with mild mental retardation, adjudicated incompetent on 19 July 2010, and was assigned a guardian and payee to assist her.

Zelda was discharged from the hospital into Mother's care based upon an understanding between YFS and Mother that Mother was going to be living with Zelda's maternal grandmother, who would help with Zelda's care, and that Mother would participate in the parenting education program, Smart Start. However, in April 2018, Mother and Zelda's maternal grandmother got into a disagreement, and Zelda's maternal grandmother moved out of the home, leaving Mother as the sole caretaker of Zelda. Mother did not participate with Smart Start as previously recommended.

The petitions also alleged that, on 3 May 2018, Mother ran out of formula for Zelda after missing her WIC appointment. Mother did not call her payee for funds to purchase the formula, but instead left Zelda with an ex-boyfriend who had been

residing with her for a few days so she could donate plasma to get money for the formula. As a result, Zelda did not eat between 10:00am and 4:00pm, at which time a YFS employee brought formula to the home.

YFS received another report on 5 May 2018, after Mother contacted law enforcement and reported that her ex-boyfriend had assaulted her. Mother informed YFS that the ex-boyfriend had hit her and tried to grab her phone while she was holding Zelda, and that Zelda was also hit as a result.

On 7 May 2018, Mother again ran out of money to purchase formula for Zelda, after she spent the \$190.00 she received from her payee on the day prior on home decorations. At this time, Mother still had not gone to her WIC appointment. Mother indicated she would need to donate plasma again in order to purchase the formula. Mother had also allowed a man to move into her home but would not provide his name to YFS.

The petitions also referenced a 2015 parenting capacity evaluation (“PCE”) “which indicated significant concerns regarding [Mother’s] ability to appropriately care for and protect her child,” her poor judgment and reasoning, and her “poor decision making as to interpersonal relationships and how it jeopardizes her well-being and security” The petitions alleged those same concerns continued to exist at the time of the petitions and placed Zelda at risk. The petitions also alleged Mother had repeatedly refused to take medication or actively participate in therapy to treat her mental health symptoms throughout YFS’s involvement. YFS obtained

nonsecure custody of Zelda on 7 May 2018.

On 6 June 2018, the trial court held an adjudication hearing on the juvenile petitions. In an order entered 18 July 2018, the trial court adjudicated Zelda neglected and dependent based on findings consistent with the petitions' allegations. In a separate dispositional order entered 25 July 2018, the trial court continued Zelda's placement in YFS custody and allowed Mother eight hours of supervised visitation per week. The trial court ordered Mother to engage in evidence-based parenting classes and mental health services with additional focus on domestic violence, to attend case plan appointments, to maintain weekly contact with YFS, to cooperate and communicate with the guardian ad litem ("GAL"), to obtain and maintain steady employment, and to maintain suitable housing that was safe for Zelda. In an amended dispositional order entered 20 September 2018, the trial court set the primary permanent plan for Zelda as reunification with a secondary plan of legal guardianship.

Following a 14 January 2019 hearing, the trial court entered an amended review order on 23 April 2019 continuing Zelda's placement with YFS. The trial court found that Mother had not made adequate progress within a reasonable period of time, and that she needed to follow through with her case plan objectives. The trial court ordered Mother to address her parenting education and mental health needs, comply with her medication management, and demonstrate the parenting skills learned in her parenting education. "Due to [Mother's] demonstrated lack of impulse

control,” Mother was allowed only four hours of supervised visitation per week.

The next hearing was held on 1 May 2019. In a permanency planning order entered 14 May 2019, the trial court changed the primary permanent plan for Zelda to adoption, with secondary plans of guardianship and reunification. The trial court found that Mother was not making adequate progress within a reasonable period of time; was not actively participating in or cooperating with her case plan, YFS, or the GAL; and was “acting in a manner inconsistent with the health and safety of the juvenile by not visiting the juvenile regularly and by not complying with her case plan activities to address the identified safety concerns that caused the juvenile to be placed in custody.” Specifically, the trial court found that Mother had not been consistently involved with her therapy, having attended only one outpatient appointment since January 2019; had failed to register for parenting education in November 2018 and March 2019; had attended only one life skills session in February 2019, during which she got into a verbal altercation with her boyfriend at the time and was asked to leave; and did not have any contact with Zelda from 16 November 2018 until 10 April 2019, although she had contacted the foster parents during that time to request updates on the child.

The trial court held a subsequent review hearing on 6 August 2019. In an order entered 20 September 2019, the trial court found Mother was still not making adequate progress on her case plan, in that she refused to sign releases for YFS to verify her participation in mental and physical health services, had not attended

parenting classes since November 2018, and had been terminated from her therapy services.² The trial court ordered YFS to cease reunification efforts with Mother and to file a petition to terminate Mother's parental rights within sixty days of entry of the order.

On 31 October 2019, YFS filed a motion to terminate Mother's parental rights, alleging the grounds of neglect, willful failure to make reasonable progress to correct the conditions that led to Zelda's removal from her care, and dependency. *See* N.C.G.S. § 7B-1111(a)(1), (2), (6) (2021).

The trial court held a hearing on the motion over multiple days between 15 February and 4 May 2022. In an order entered 29 June 2022, the trial court terminated Mother's parental rights pursuant to N.C.G.S. § 7B-1111(a)(1), (a)(2), and (a)(6), concluding that grounds existed to terminate her parental rights as alleged in the petition and that termination of her parental rights was in Zelda's best interest. Mother appealed.

ANALYSIS

Mother argues on appeal that the trial court's order terminating her parental rights should be vacated because the trial court denied her fundamental fairness in the termination hearing by failing to comply with the statutory requirement that all termination hearings be held no more than 90 days from the filing of the termination

² Mother raises no argument on appeal regarding her legal capacity to sign these releases.

petition barring enumerated extenuating circumstances. N.C.G.S. § 7B-1109 (2021). Mother also argues that the trial court erred by terminating her parental rights pursuant to N.C.G.S. § 7B-1111(a)(1), (2), and (6) based on insufficient or erroneous findings of fact.

A. Fundamental Fairness

Mother first argues that the trial court's order should be vacated because she was denied a fundamentally fair procedure when the trial court presided over the termination hearing more than 90 days after the filing of the petition to terminate her parental rights, in violation of N.C.G.S. § 7B-1109.

N.C.G.S. § 7B-1109 requires that the hearing on the termination of parental rights “shall be held in the district at such time and place as the chief district court judge shall designate, but no later than 90 days from the filing of the petition or motion unless the judge pursuant to subsection (d) of this section orders that it be held at a later time.” N.C.G.S. § 7B-1109(a) (2021). Subsection (d) states that “[c]ontinuances that extend beyond 90 days after the initial petition shall be granted only in extraordinary circumstances when necessary for the proper administration of justice, and the court shall issue a written order stating the grounds for granting the continuance.” N.C.G.S. § 7B-1109(d) (2021).

Our Supreme Court has held that mandamus is the appropriate remedy when the trial court fails to hold a timely termination of parental rights hearing as required by N.C.G.S. § 7B-1109. *In re C.R.L.*, 377 N.C. 24, 28 (2021); *see also In re T.H.T.*, 362

N.C. 446, 455 (2008). In child welfare cases,

[a] writ of mandamus ensures that the trial courts adhere to statutory time frames without the ensuing delay of a lengthy appeal. Moreover, the availability of the remedy of mandamus ensures that the parties remain actively engaged in the district court process and do not “sit back” and rely upon an appeal to cure all wrongs.

In re T.H.T., 362 N.C. at 455.

Mother argues that the trial court’s violation of N.C.G.S. § 7B-1109 created a delay that affected the integrity of the hearing itself, and, therefore, the order terminating her parental rights should be vacated. She contends that, had the hearing been held within the statutory period of 90 days, it would have occurred within a few months of reasonable efforts being ceased and before services were stopped by the COVID-19 pandemic. She further contends the delay caused “unnecessary interference with the parent-child relationship” because YFS unilaterally suspended Mother’s visitation without a court order during the pandemic.

In *In re C.R.L.*, our Supreme Court held that the father’s failure to file a petition for writ of mandamus at any point during the 33 months between the filing of the termination petitions and the termination hearing was fatal to his appeal. *In re C.R.L.*, 377 N.C. at 28. In so holding, our Supreme Court rejected the father’s arguments that the violation caused “a delay that was so egregious that it should be considered presumptively prejudicial” and “that the significant delay necessarily

diminished his bond with his sons while at the same time strengthening their bond with their foster family[.]” *Id.* Our Supreme Court reasoned that the father offered no explanation for his failure to file for the writ; “[i]nstead, he sat on his rights and allowed the delay to continue without objection.” *Id.* “[I]f [the] respondent-father believed he was being harmed by the trial court’s delay in violation of [N.C.G.S.] § 7B-1109, the proper recourse was a petition for writ of mandamus.” *Id.* at 29.

Mother acknowledges our Supreme Court’s holding that mandamus is the appropriate remedy for the trial court’s failure to hold a timely hearing on a petition to terminate parental rights and concedes that her trial counsel and Rule 17 guardian ad litem failed to seek such a writ. However, Mother argues “it would be unfair to impute [her trial counsel’s and guardian ad litem’s] lack of action” to her.

We are not persuaded. Although the trial court failed to hold the termination hearing within the statutory time limit, Mother’s proper remedy was to seek a writ of mandamus. *In re C.R.L.*, 377 N.C. at 28-29. Mother did not file for the writ during the 27.5 months between the filing of the termination motion and the termination hearing. Instead, she waited until the day of the hearing, after YFS had presented all of its evidence, to first raise the N.C.G.S. § 7B-1109 violation in an oral motion to dismiss. Thus, like the father in *In re C.R.L.*, Mother “missed [her] opportunity to remedy the violation of N.C.G.S. § 7B-1109.” *Id.* at 29. “It is now too late to obtain relief from the statutory violation, and a new hearing would be both futile and unfair.” *Id.*

So long as “the integrity of the trial court’s decision is not in question, a new hearing [based solely upon the statutory violation] serves no purpose, but only ‘compounds the delay in obtaining permanence for the child.’” *Id.* at 28 (quoting *In re T.H.T.*, 362 N.C. at 453). As discussed below, we hold that the trial court did not err by terminating Mother’s parental rights pursuant to N.C.G.S. § 7B-1111(a)(2). Accordingly, we are bound by our Supreme Court’s holding that “this statutory violation should have been remedied while it was occurring by the filing of a petition for writ of mandamus[,]” and Mother’s argument as to the violation of N.C.G.S. § 7B-1109 fails. *Id.* at 27.

B. Termination of Parental Rights Under N.C.G.S. § 7B-1111(a)(2)

Mother next argues that the trial court erred in concluding grounds existed to terminate her parental rights pursuant to the following provisions of N.C.G.S. § 7B-1111(a):

(a) The court may terminate the parental rights upon a finding of one or more of the following:

(1) The parent has abused or neglected the juvenile. The juvenile shall be deemed to be abused or neglected if the court finds the juvenile to be an abused juvenile within the meaning of [N.C.G.S. §] 7B-101 or a neglected juvenile within the meaning of [N.C.G.S. §] 7B-101.

(2) The 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. No parental rights, however, shall

be terminated for the sole reason that the parents are unable to care for the juvenile on account of their poverty.

....

(6) That the parent is incapable of providing for the proper care and supervision of the juvenile, such that the juvenile is a dependent juvenile within the meaning of [N.C.G.S. §] 7B-101, and that there is a reasonable probability that the incapability will continue for the foreseeable future. Incapability under this subdivision may be the result of substance abuse, intellectual disability, mental illness, organic brain syndrome, or any other cause or condition that renders the parent unable or unavailable to parent the juvenile and the parent lacks an appropriate alternative child care arrangement.

N.C.G.S. § 7B-1111(a)(1), (2), (6) (2021). Mother contends that the trial court could not terminate her parental rights under these grounds because it failed to make any finding that there was not an alternative child care arrangement for Zelda available to Mother; it based its findings regarding Mother's ability to provide proper care and supervision for Zelda on a parenting evaluation completed over 6 years before the date of the termination hearing; its findings regarding Mother's failure to make reasonable progress towards correcting the conditions which led to Zelda's removal from the home were not supported by clear, cogent, and convincing evidence; and its findings regarding Mother's neglect of Zelda were based on outdated reports which failed to constitute clear, cogent, and convincing evidence.

We review a trial court's adjudication 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 (2019) (quoting *In re Montgomery*, 311 N.C. 101, 111 (1984)). “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.” *In re R.G.L.*, 379 N.C. 452, 456 (2021) (quoting *In re B.O.A.*, 372 N.C. 372, 379 (2019)). “Findings of fact not challenged by [the] respondent are deemed supported by competent evidence and are binding on appeal.” *In re T.N.H.*, 372 N.C. 403, 407 (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. “The trial court’s conclusions of law are reviewable de novo on appeal.” *In re C.B.C.*, 373 N.C. 16, 19 (2019).

“Only one ground is needed to support the termination of [a parent’s] parental rights. Therefore, if this Court upholds the trial court’s order in which it concludes that a particular ground for termination exists, then we need not review any remaining grounds [for the purposes of this appeal].” *In re E.Q.B.*, ___ N.C. App. ___, ___ (2023) (citations omitted). We hold the trial court did not err in concluding grounds existed to terminate Mother’s parental rights pursuant to N.C.G.S. § 7B-1111(a)(2), and accordingly, we do not address Mother’s arguments regarding N.C.G.S. § 7B-1111(a)(1) and (a)(6).

Pursuant to N.C.G.S. § 7B-1111(a)(2), a trial court may terminate a parent’s 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.G.S. § 7B-1111(a)(2) (2021).

Termination under this ground requires the trial court to perform a two-step analysis where it must determine by clear, cogent, and convincing evidence whether (1) a child has been willfully left by the parent in foster care or placement outside the home for over twelve months, and (2) the parent has not made reasonable progress under the circumstances to correct the conditions which led to the removal of the child.

In re Z.A.M., 374 N.C. 88, 95 (2020). “[T]he reasonableness of the parent’s progress [is] to be assessed as of the date of [the] termination hearing.” *In re D.A.A.R.*, 377 N.C. 258, 266 (2021) (citing *In re J.S.*, 374 N.C. 811, 815 (2020)).

Mother challenges several of the trial court’s findings regarding her case plan progress:

a. Finding of Fact 12

12. With respect to DV [domestic violence], there is no evidence that the respondent mother has had any new DV, but due to the respondent mother’s history with DV, due to DV being a removal condition, and due to mother exposing the juvenile (prior to removal) to potentially unsafe men, DV remains an important component of her case plan. The [c]ourt needs to be assured that the respondent mother will make safe choices and without completion of this treatment/service, the [trial c]ourt cannot be so assured. Respondent mother has completed four DV classes in the nearly four years that [Zelda] has been in YFS custody. Respondent mother did not complete this service. The

Covid pandemic did suspend access to DV services for a few months in mid 2020, but services restarted in the fall of 2020.

Mother first challenges the portion of this finding stating that, “due to the respondent mother’s history with DV, due to DV being a removal condition, and due to the mother exposing the juvenile (prior to removal) to potentially unsafe men, DV remains an important component of her case plan.” Mother argues there was no evidence presented at the termination hearing that Mother had a history of domestic violence incidents, aside from the one that led to the CPS report, nor that Mother had exposed Zelda to potentially unsafe men.

However, Mother’s argument is misplaced, as these findings pertain to the historical facts of the case. The trial court took judicial notice of the court file. In its adjudication order, the trial court found that Mother had a domestic violence incident with her ex-boyfriend on 5 May 2018, and that the police officer who responded to this incident also responded to Mother’s “residence on at least four other occasions to remove men that the mother ha[d] allowed into the home.” The trial court also found that Mother “expose[d] the juvenile to men with whom it is unclear the extent of their relationship and/or whether or not she knows them well enough to be around her infant child” and that she “d[id] not recognize the dangers of permitting men that she does not know into her home around her and the juvenile.” The trial court incorporated these findings into its termination order “by reference as if fully set forth” therein. The trial court also found that Mother’s PCE stated Mother’s “history

was reported to be significant for experiences and exposure to traumatic incidents including domestic violence within [the] household” These findings demonstrate that Mother had a history with domestic violence and exposed the juvenile to potentially unsafe men whom she had just met, and that she required law enforcement to remove these men from her home. Accordingly, this portion of the finding is supported by clear, cogent, and convincing evidence and is conclusive on appeal.

Mother also challenges the portion of the finding stating that YFS resumed domestic violence services in fall of 2020, following a suspension during the COVID-19 pandemic, arguing that there is no evidence to support this finding. We agree. The record does not contain any indication of when the domestic violence services resumed. Therefore, we disregard this specific portion of the finding.

b. Finding of Fact 13

13. With regard to mental health, this was a significant need for respondent mother prior to the filing of the aforesaid juvenile petition and this need continues. Since the disposition, to the extent that the respondent mother has engaged in any mental health services, her engagement has been both very limited and very recent. It appears that respondent mother attempted to start services recently, but has only done an intake session. She has only signed limited releases in favor of the various parties to this action despite being ordered to sign general releases so that the parties and [the trial c]ourt can have a full picture of her status and progress.

Mother takes issue with multiple parts of this finding. First, Mother

challenges the portion of the finding stating that mental health “was a significant need for respondent mother prior to the filing of the aforesaid juvenile petition[,] and this need continues.” She contends that there was not clear and convincing evidence to support a finding that she had a continued need for mental health services at the time of the termination hearing. Specifically, she notes that the trial court made numerous findings regarding the PCE conducted back in 2015, but that this evaluation was insufficient to show that she had a need for services six and a half years later, at the time of the termination hearing.

While we agree a large portion of the trial court’s findings are based on information contained in the 2015 PCE, the findings from this PCE are nevertheless sufficient to show Mother’s continued need for services. The unchallenged findings regarding the PCE indicate that Mother’s “behavioral health history is significant for involvement with all levels of services including outpatient counseling, placement in Psychiatric Residential Treatment Facilities, and multiple psychiatric hospitalizations . . . secondary to aggressive, threatening and paranoid behavior” Mother had previously been diagnosed with bipolar disorder, mood disorder, depressive disorder, impulse control disorder, oppositional defiant disorder, PTSD, and ADHD, and she had been prescribed various medications to control her behavior. Mother’s mental health issues were one of the conditions which led to Zelda’s removal from the home, and Mother was ordered to engage in mental health services in order to correct those conditions. At the termination hearing, YFS employee Latiqua Hardy

testified that, as of the permanency planning hearings that took place in November 2021 and January 2022, Mother had not engaged in any mental health services. Hardy also testified that Mother had only signed a limited release that prevented YFS from obtaining information regarding her mental health services. Mother testified that she was in the process of trying to start therapy at the time of the termination hearing but was waiting on money from her payee. This testimony shows that Mother did not engage in any mental health services in order to alleviate her mental health issues for the majority of the case and only recently completed an intake shortly before the termination hearing. Her need for those services continued at the time of the termination hearing; this finding is supported by clear, cogent, and convincing evidence.

Mother next challenges the portion of the finding stating that, “to the extent that the respondent mother has engaged in any mental health services, her engagement has been both very limited and very recent.” Mother asserts that she “has been participating in mental health services most of her life.” However, as mentioned above, Hardy testified that Mother had not engaged in any mental health services between the filing of the juvenile petition and the November 2021/January 2022 permanency planning hearings. Respondent testified that she attempted to reengage with her previous therapist in the months leading up to the termination hearing, but their office was closed. This testimony shows that Mother had not engaged in any services to address her mental health issues since Zelda came into

custody until at least January 2022, and that she only attempted to reengage in therapy a few months prior to the termination hearing. This testimony constitutes clear, cogent, and convincing evidence to support this portion of the trial court's finding.

Mother also contends that the portion of this finding stating she “has only signed limited releases in favor of the various parties to this action[,] despite being ordered to sign general releases” is unsupported by the evidence. Hardy testified that Mother was ordered to sign releases for YFS at the August 2021 hearing. She testified that Mother initially signed a general release for YFS, but during the 5 October 2021 CFT meeting, Mother “limited the release to not be included to her mental health provider, stating that she did not want [Hardy] talking to any mental health provider or therapist by [herself.]” This is clear and convincing evidence to support the trial court's finding that Mother only signed a limited release regarding her mental health; however, there is no evidence in the record that Mother failed to provide general releases for her other services. Therefore, we disregard only the portion of the finding which indicates she failed to provide general releases for her other services.

c. Finding of Fact 16

16. The respondent mother was permitted to restart her visitation in approximately August 2021. Due to an overall lack of service and case plan engagement and progress, her visitation remains supervised. She administered inappropriate discipline at one [child visit] since her

visitation restarted.

Mother challenges the portion of this finding which states that her visitation remained supervised “due to an overall lack of service and case plan engagement and progress.” She claims there was no evidence presented as to why her visits were never changed to unsupervised. As previously noted, the trial court took judicial notice of the court file. In its 23 April 2019, 14 May 2019, and 20 September 2019 permanency planning and review orders, the trial court found that Mother was not making reasonable progress on her case plan. The trial court also found that Mother struggled with impulse control and anger, and that she needed to address her parenting education, to meet her mental health needs, and to demonstrate parenting skills learned in her parenting education. In the 14 May 2019 permanency planning order, the court found that Mother had not been consistently involved in her therapy, had not completed a parenting course, and was not cooperating with YFS. As a result of this demonstrated lack of progress, the trial court continued to order supervised visitation. Clear, cogent, and convincing evidence supports the trial court’s finding that Mother demonstrated a “lack of service and case plan engagement and progress” which led it to continue supervised visitation, and Mother’s challenge to this finding is meritless.

Mother also challenges the trial court’s findings related to her failure to alleviate the conditions which led to Zelda’s removal from the home:

10. The removal conditions . . . included domestic violence

(DV), mental health, and parenting. As of the completion of the TPR hearing, these removal issues had not been dealt with sufficiently and/or resolved in a timely manner and appear to still be present as of this hearing.

. . . .

25. The respondent mother is not an appropriate placement due to the noted lack of adequate service engagement and progress. Based upon the lack [of] amelioration of the removal conditions, there is reasonable probability that the respondent mother's incapability to provide a proper and safe placement will continue for the foreseeable future.

Mother specifically argues that she did not fail to adequately address domestic violence issues, noting that there had been no further domestic violence incidents in the four years leading up to the termination hearing; that YFS failed to meet its burden to prove she failed to reasonably address her mental health issues; and that she had completed a parenting education class. She contends that she made reasonable progress, and that the only component of her case plan which was not completed was her engagement in mental health services. We are not persuaded.

“[P]arental 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)” *In re B.O.A.*, 372 N.C. at 384. “However, compliance or noncompliance with a case plan is not, in and of itself, determinative of a parent's reasonable progress in correcting the conditions that led to a child's removal from the home.” *In re B.J.H.*, 378 N.C. 524, 554 (2021) (citing *In re J.S.*, 374 N.C. at 815). A trial court should refrain from finding that a parent has failed to make reasonable

progress in correcting the conditions that led to the child’s removal “simply because of his or her failure to fully satisfy all elements of the case plan goals.” *In re B.O.A.* 372 N.C. at 385 (marks omitted). “On the other hand, 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)[.]” *Id.*

While we agree with Mother that she made some progress on her case plan over the 45 months that elapsed between the time YFS obtained nonsecure custody of Zelda and the time of the termination hearing, we do not agree that the trial court erred by concluding this progress was not reasonable. Zelda was removed from Mother’s care and adjudicated to be neglected and dependent due to Mother’s domestic violence, mental health, and parenting issues. The trial court’s findings reflect that, after nearly four years since Zelda came into custody, Mother had not completed the domestic violence component of her case plan, having attended only four classes. Although there was no evidence that Mother had been involved in any new domestic violence incidents during this time, her failure to complete the domestic violence component of her case plan supported the trial court’s finding that Mother may still make unsafe choices regarding the men to whom she exposes Zelda. Furthermore, Mother did not enroll in the parenting program ordered by the trial court until 16 November 2021, over three years after it was ordered in 2018, and only

three months before the start of the termination hearing. Due to her delay in completing this service, she was not able to demonstrate any learned skills at her visitations prior to the termination hearing. Finally, Mother acknowledges she failed to complete the mental health component of her case plan and only completed an intake session shortly before the termination hearing. The trial court's findings reflect that Mother's mental health issues were a major concern of the court in her ability to properly care for Zelda, and that participating in mental health treatment was an important component of her case plan.

Although Mother made some progress on her case plan by obtaining housing and completing a parenting course, the trial court's findings regarding her failure to timely and sufficiently address the removal conditions support the trial court's conclusion that Mother failed to make reasonable progress under N.C.G.S. § 7B-1111(a)(2). *See In re T.M.L.*, 377 N.C. 369, 380 (concluding that while the father "made some last-minute attempts to comply with the case plan by the time of the termination hearing . . . [his] partial steps—undertaken after DSS had filed petitions to terminate his parental rights and two years or more after the children's removal from the home—[were] insufficient to constitute reasonable progress under N.C.G.S. § 7B-1111(a)(2)"). The trial court did not err in terminating Mother's parental rights to Zelda pursuant to N.C.G.S. § 7B-1111(a)(2).

CONCLUSION

Mother forfeited her opportunity to remedy the trial court's violation of

IN RE: Z.J.

Opinion of the Court

N.C.G.S. § 7B-1109 by failing to file a petition for writ of mandamus while the termination motion was pending. The trial court made sufficient findings of fact, supported by clear, cogent, and convincing evidence, to support its conclusion that Mother's parental rights were subject to termination under N.C.G.S. § 7B-1111(a)(2).

AFFIRMED.

Panel consisting of: Judges MURPHY, COLLINS, and HAMPSON.

Report per Rule 30(e).