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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA23-702

Filed 19 March 2024

Buncombe County, No. 20JT16

IN THE MATTER OF: C.W.M.

Appeal by respondent from order entered 26 April 2023 by Judge Susan M. Dotson-Smith in District Court, Buncombe County. Heard in the Court of Appeals 20 February 2024.

Buncombe County Department of Health and Human Services, by Jack Densmore, for petitioner-appellee.

Mercedes O. Chut for respondent-appellant.

Troutman Pepper Hamilton Sanders, LLP, by Mary K. Grob, guardian ad litem.

STROUD, Judge.

Respondent appeals from an order terminating her parental rights to her minor daughter under North Carolina General Statute Section 7B-1111(a)(1) for neglect, (a)(2) for willful failure to make reasonable progress with her case plan, and (a)(7) for willful abandonment. Since the trial court's findings of fact in the termination order are supported by clear and convincing evidence, and the findings

support the conclusion of failure to make reasonable progress, we affirm the termination order.

I. Background

Cathy¹ was born in Buncombe County, North Carolina in January 2020. Cathy tested positive for “methamphetamines and amphetamines” shortly after her birth. On 13 January 2020, a nonsecure custody order was entered giving Buncombe County Department of Health and Human Services (“DHHS”) “legal care, custody, and control” of Cathy. On 11 February 2020, the trial court entered a “first appearance order and order on nonsecure custody” (capitalization altered), which ordered Cathy “shall remain in the nonsecure custody of . . . [DHHS], with placement in [DHHS]’s discretion” and gave Mother “a minimum of one hour a week of supervised visitation[.]”²

On 14 August 2020, the trial court held an initial adjudication hearing and on 2 September 2020 entered an order adjudicating Cathy as “a neglected juvenile” due to ongoing substance abuse issues by Mother. Further, “Mother had an extensive Child Protective Services (“CPS”) history involving other minor children being removed from her care.” This order allowed Mother “a minimum of two hours of supervised visitation . . . per week” and ordered Mother to “participate in substance

¹ A pseudonym is used.

² Cathy’s father was a party to the termination proceeding at the trial level but is not a party to this appeal. Thus, this opinion will not address Cathy’s father.

abuse and mental health treatment, as recommended by RHA and provide [DHHS] with documentation.” According to the dispositional report filed by DHHS, Substance Abuse Intensive Outpatient Program (“SAIOP”) was recommended for Mother 3 times per week. After Mother was discharged from SAIOP “due to noncompliance[.]” she was recommended “for inpatient substance abuse care.” Mother’s noncompliance was due to testing positive for “methamphetamines and alcohol.”

The trial court entered an initial permanency planning order on 19 July 2021. In this order, the trial court found Mother had several positive drug screens from August 2020 through April 2021, drug screens requested by DHHS and not completed, and at least two instances when Mother provided a sample that was “considered positive as she provided cold urine.” This order also noted “Mother initially engaged in SAIOP with RHA; however, she has not provided [DHHS] or RHA with a negative drug screen since February of 2020.” Mother also “missed eleven visitations” and “was late to seven visitations.”

In a subsequent permanency planning order entered 3 August 2022, the trial court found:

19. [DHHS] requested hair follicle drug screens via email, text, and phone call without success. [Mother] indicated on February 1, 2022, that her phone does not work off WiFi, however she successfully texted the social worker this date, answered her phone and then hung up on the social worker. The social worker notes that all same day drug screen requests have been made by 9:30 a.m., at the latest[.]

In another permanency planning order entered 8 August 2022 the trial court found

[DHHS] was able to add [Mother's] ADATC [Alcohol and Drug Abuse Treatment Center] treatment recommendations to her case plan. . . . As a result, [DHHS] referred [Mother] to local provider, Women's Recovery Center, for assessment and individual therapy as was recommended by ADATC. [Mother] reported in December 2021 that she had yet to reach out to this provider. . . . Staff from Women's Recovery indicated in January of 2022 that [Mother] has not engaged in services.

On 19 April 2022, DHHS filed a termination of parental rights petition alleging grounds for termination under North Carolina General Statute Section 7B-1111(a)(1) for neglect, (a)(2) for willful failure to make reasonable progress with her case plan, and (a)(7) for willful abandonment. On 26 April 2023, the trial court entered an order terminating Mother's parental rights under each of the three grounds alleged in the petition. Mother appeals.

II. Failure to Make Reasonable Progress

Mother contends the trial court erred since "[c]lear, cogent, and convincing evidence does not support several findings of fact" and the findings of fact do not support the conclusion of willful failure to make reasonable progress. Because there are sufficient findings to support the trial court's conclusion Mother willfully failed to make reasonable progress, termination is proper under North Carolina General Statute Section 7B-1111(a)(2).

A. Standard of Review

In a termination of parental rights proceeding, "the petitioner must show by

clear, cogent and convincing evidence that a statutory ground to terminate exists.” *In re S.N.*, 194 N.C. App. 142, 145-46, 669 S.E.2d 55, 58 (2008) (citation omitted). Further, “[t]he standard of review in termination of parental rights cases is whether the findings of fact are supported by clear, cogent and convincing evidence and whether these findings, in turn, support the conclusions of law.” *Id.* at 146, 669 S.E.2d at 58-59 (citation and quotation marks omitted). “The trial court’s conclusions of law are fully reviewable *de novo*[.]” *Id.* at 146, 669 S.E.2d at 59 (citations and quotation marks omitted).

B. Findings of Fact

Mother first contends “[c]lear, cogent, and convincing evidence does not support several findings of fact.” Mother argues findings 18b, 20-27, 30, and 40 are “[e]rroneous findings related to [Mother’s] substance abuse issues and treatment” and findings 18c, 19, 34, and 35 are “[r]emaining erroneous findings” for various reasons. While Mother challenges nearly every finding which addresses her conduct, many of her challenges to differing findings are identical or similar. Thus, rather than address Mother’s challenges to the findings by number, we will address her challenges by substance.

1. Findings 18b, 20-27, 30, and 40

Findings 18b, 20-27, 30, and 40 state:

18. At the time of disposition, [Mother was] ordered to:

. . . .

b. [Mother] was ordered to participate in substance abuse and mental health treatment as recommended by RHA, and provide [DHHS] with the documentation of the same; the evidence was [Mother] did not fully complete any substance abuse program other than the JFK ADATC in-patient substance abuse treatment program, in which she completed 14 days of rehabilitation treatment after several days of detox treatment, and even after that at least one return to use in October 2022; additionally, [Mother] did not complete individual counseling as was recommended.

. . . .

20. [Mother] has three other biological minor children. Two of [Mother's] other children have been adopted by the maternal step-grandmother, [redacted]. The third other child, S.K., resides in the sole legal and physical custody of that child's biological father, as determined appropriate by the Court in Buncombe County The minor child S.K. was removed from [Mother's] care after [Mother] and S.K. tested positive for illicit substances at the time of S.K.'s birth.

21. [Mother] has a history of substance use that is of a long-standing and enduring nature. [Mother]'s evidence submitted on the date of the hearing on grounds (November 30, 2022) was [Mother] engaged in the JFK ADATC in-patient substance abuse treatment program, in which she completed 14 days of rehabilitation treatment after several days of detox treatment from August 19, 2021 to September 7, 2021. Per the discharge summary from ADATC, as submitted by [Mother], [Mother] was to:

- a. Engage with individual therapy;
- b. Engage with medication management and treatment;
- c. Attend AA/NA/DRA meetings;
- d. Engage with peer support services;

- e. Engage with parenting skills resources;
- f. Engage with medication-assisted treatment (“MAT”); and
- g. Encouraged to attend 12 steps and other mutual help meetings to work with her sponsor; she was advised to avoid high risk situations and triggers for relapse; and was encouraged to regularly practice safe coping/grounding skills she identified as being most helpful for relapse prevention.

22. [Mother’s] testimony was she was receiving suboxone (MAT treatment) for approximately three weeks following her discharge from ADATC. [Mother] indicated she stopped receiving MAT treatment due to issues with Mountain Mobility and attending daily. After stopping the suboxone due to transportation issues, [Mother] has testified she did not ‘need it anymore.’ [Mother] also testified she attended AA/NA meetings following her discharge from ADATC in September 2021. [Mother] also testified to receiving services for medication management through the Dale Fell Clinic; [Mother] testified she receives an Abilify shot through Dale Fell every three months and her last shot was approximately three and a half months before her testimony.

23. Despite successfully completing ADATC, [Mother] testified she has had at least a return to use of methamphetamine in October 2022.

24. At the time of the hearing in November 2022, [Mother] had a pending charge for possession of a Schedule II controlled substance.

25. [Mother] testified that since her discharge from ADATC she has attended online AA/NA meetings, attended a motivational seminar, sought to stay away from unhealthy relationships, and to work on her coping skills and to engage in healthy activities such as doing crafts and helping her landlord.

26. There was no specified follow up care for [Mother] following her discharge from ADATC. However, the Court notes [Mother] was previously recommended to engage with substance abuse intensive outpatient (SAIOP) treatment and this was never completed.

27. [Mother] testified she had not followed up with parenting skills resources, had not engaged with individual therapy.

....

30. During Ms. Mencher's time working with the family, [Mother] was recommended for SAIOP. It took quite some time for [Mother] to engage with this recommended level of care. Ms. Mencher testified [Mother] engaged with SAIOP until approximately July of 2021. [Mother] did not successfully complete SAIOP at that time. [DHHS] continued to recommend [Mother] engage with SAIOP.

....

40. There is a strong possibility that there would be a repetition of neglect if [Cathy] was returned to the care of . . . [Mother]. [Mother] has submitted documentation of completing ADATC detox but no further documentation of her engagement with any additional substance abuse programs. [Mother] also has not provided any recent drug screens, but did admit to at least one return to use following her discharge from ADATC, to include in October 2022. [Mother's] limited engagement has not alleviated the conditions which led to the removal of the minor child.

a. Mother's Failure to Complete SAIOP

While Mother's brief challenges nearly every finding regarding her, she challenges findings 18b, 26, 30, and 40 by stating "[t]he record contains no evidence that [Mother] failed to 'complete' SAIOP[.]" However, shortly after this argument Mother states she "remained in SAIOP for the next ten months . . . when she was

‘formally discharged’ for ‘noncompliance.’” Mother claims that since “RHA/SAIOP recommended [she] attend the in-patient ADACT (sic) program instead of SAIOP[.]” Mother did not fail to complete SAIOP. However, as Mother’s own brief states, Mother was “formally discharged” from the program due to “noncompliance[.]” this language is lifted directly from the trial court’s 10 March 2022 permanency planning order, where the trial court found Mother was “formally discharged” for “noncompliance.” This noncompliance was due to, *inter alia*, substance abuse. Mother’s participation in the in-patient ADATC program does not change the fact she was discharged from SAIOP for “non-compliance.” There is “clear, cogent and convincing evidence” in the record that Mother failed to complete “any substance abuse program other than the JFK ADATC in-patient substance abuse program[.]” *Id.* at 146, 669 S.E.2d at 58-59 (citation and quotation marks omitted).

b. Court Ordered Treatment

Next, Mother contends findings 18b, 26, 30, and 40 are not supported by the evidence since “[f]urther participation in SAIOP or any other substance abuse program was not an ADACT (sic) discharge recommendation” and “the trial court did not order [Mother] to complete SAIOP, or other substance abuse treatment, after completing ADACT (sic), nor did SAIOP remain part of [Mother’s] case plan.” Mother essentially claims after she was discharged from ADATC she was not required to do any further substance abuse treatment, including SAIOP, since the “10 March 2022 permanency planning hearing . . . ordered [Mother] to ‘engage in recommended

substance abuse treatment,’ without defining the term ‘recommended.’”

However, the initial adjudication order entered on 2 September 2020 states Mother must “participate in substance abuse and mental health treatment, as recommended by RHA[.]” RHA specifically recommended Mother attend “SAIOP group 3 times per week.” This requirement remained unchanged, and on 10 March 2022, the trial court again ordered Mother to “engage in recommended substance abuse treatment, as previously ordered.” In an order entered 8 August 2022, the trial court stated “[s]ince the last court hearing, [DHHS] was able to add [Mother’s] ADATC treatment recommendations to her case plan as [Mother] provided this information.” Mother’s testimony shows she knew what ADATC recommended:

Q: Did you receive, at that time, did you receive a written documentation that showed something about what happened and what [ADATC’s] recommendations were?

A: Yes.

....

Q: . . . did you – on the ADATC documentation that you received at the time that you just testified is placed before you, did you review those recommendations on the documentation from ADATC?

A: Yeah.

....

Q: Based on your review of the document that you received from ADATC what did you understand was being recommended for further treatment?

A: To follow up with medication management as well as

individual counseling. Attend AA or NA meetings or support group, and stay away from harmful people and places that kind of activity.

As the trial court consistently ordered Mother to complete SAIOP, and Mother's discharge recommendations after completing ADATC became part of her case plan, these findings regarding whether treatment was ordered are supported by "clear, cogent and convincing evidence." *Id.*

c. ADATC Characterization

Mother also challenges findings 18b, 21, and 40, stating "[t]he trial court erroneously characterized ADOCT (sic) as a 'detox' program, apparently not understanding that ADOCT (sic) also involved the substance abuse treatment" and finding 21 "inaccurately describes the length of time [Mother] remained in detox at ADOCT (sic) as 'several days.'" Mother later admits she spent nineteen days in treatment at ADATC, including "three days of detox." Finding 18b states "[Mother] completed 14 days of rehabilitation treatment after several days of detox treatment[.]" The trial court understood ADATC included both detox and rehabilitation treatment, and Mother's characterization that the trial court "incorrectly refer[red] to ADOCT (sic) as merely a detox program" is without merit. Further, the plain meaning of the word "several" as used by the trial court is "more than two but fewer than many." Merriam-Webster's Collegiate Dictionary 1140 (11th ed. 2005). As Mother's brief states, she was in detox for three days, which is "more than two but fewer than many." *Id.* Thus, this challenge is overruled.

d. ADATC Discharge

Mother challenges findings 18b, 21, and 26 as unsupported since: (1) finding 21 lists discharge requirements Mother “was to” follow after discharge from ADATC but finding 26 states “[t]here was no specified follow up care for [Mother] following her discharge from ADATC[;]” and (2) [s]everal findings [18b and 26] improperly treat the ADATC (sic) discharge language as mandatory and are erroneous and misleading as a result.” First, while finding 26 could be read to mean there was no specified follow up care with the ADATC organization itself, the part of finding 26 stating there “was no specified follow up care for [Mother] following her discharge from ADATC” is not supported by the evidence since the discharge summary from ADATC specifically identified follow up care Mother needed to do on her own or with other organizations. As discussed above, Mother testified to these recommendations, stating the recommendations were “[t]o follow up with medication management as well as individual counseling[, a]ttend AA or NA meetings or support group, and stay away from harmful people and places that kind of activity.” Mother’s testimony is supported by the record, which includes Mother’s discharge summary from ADATC, since under a heading titled “Type of Service Recommended” boxes are checked for: individual therapy, medication management and treatment, NA/AA/DRA, Peer Support Services, Parenting Skills Resources, and “Other: MAT[.]”

Next, while Mother contends the recommendations in the discharge summary from ADATC cannot be deemed mandatory since it uses permissive language,

ADATC did not mandate her treatment; the prior court orders and Mother's case plan did require treatment. Thus, the part of finding 26 which states Mother did not have follow up care after ADATC is unsupported by the record, but findings 18b and 21, regarding the discharge instructions as being mandatory under Mother's case plan, are supported by "clear, cogent and convincing evidence." *In re S.N.*, 194 N.C. App. at 146, 669 S.E.2d at 58-59 (citation and quotation marks omitted).

e. Mother's "Return to Use in October 2022"

Mother next challenges findings 18b, 23, and 40 as unsupported since there is not anything in the record or testimony to indicate Mother resumed substance use in October 2022. It is clear Mother did resume substance use "not long" before the termination proceeding in November 2022, based upon Mother's own testimony. However, we cannot locate in the record that her return to use was in October 2022. Thus, to the extent findings 18b, 23 and 40 state Mother returned to substance use in *October 2022*, they are unsupported by the record.

f. Remaining Substance Abuse Related Findings

Mother challenges finding 27 as unsupported by the evidence since "[Mother] did not testify" that "she had not followed up with parenting skills resources" and "the record contains no evidence that parenting skills education was a part of [Mother's] case plan at any time." Contrary to Mother's assertion, Mother testified she did not follow up with parenting skills resources and the record shows this was part of her case plan, as discussed in subsections *b.* and *c.* above. Mother testified as

follows:

Q: Your recommendations from ADATC also – there’s a recommendation on there for parenting skills resources. Did you follow up with that recommendation?

A: Which one?

Q: Parenting skills resources.

A: And where was that at?

Q: On the services recommended to you through ADATC?

A: I haven’t seen that honestly.

Q: It indicates that the patient was provided with a list of Buncombe County resources.

A: Just because I was provided with resources doesn’t mean (inaudible). Its not under my recommendations.

[Counsel approached Mother with exhibit showing ADATC discharge recommendations]

Q: Can you see that recommendation now?

A: I do.

Q: And so its your testimony that you weren’t aware that was a recommendation?

A: I did not see that.

Q: Okay, so you have not followed up with parenting skills resources?

A. No.

(Emphasis added.) Thus, Mother directly testified she did not follow up with parenting skills resources, and as the ADATC discharge summary shows, this was

part of her recommendations which became part of her case plan. This challenge is overruled.

Mother challenges finding 22 as unsupported by the evidence since (1) “MAT [medication-assisted treatment] was never part of [Mother’s] case plan[;]” (2) Mother attended MAT “from October 2021 to approximately June or July 2022, a period of months, not weeks[;]” (3) Mother did not testify she stopped attending MAT “because of transportation issues[;]” and (4) Mother “never gave testimony indicating she had missed an Abilify shot or dosage.” First, MAT was specifically recommended by ADATC with a box checked that was titled “Other: MAT” in the discharge summary. As discussed above, these ADATC recommendations were part of Mother’s case plan, so this challenge to finding 22 is overruled. Next, as to Mother’s suboxone treatment, Mother testified:

Q: Where do you get your ongoing medication management through?

A: Dale Fell.

Q: And how long after September of 2021 did it take for you to begin receiving medication management through Dale Fell?

A: There was a problem with Mountain Mobility transportation getting there so it was rocky at first starting with them. And it started with (inaudible) and then from there I started going to Dale Fell.

....

Q: So how long after you were discharged from ADATC did it take for you to engage with MAT treatment and

medication management?

A: I had my (inaudible) immediately after. The next day I was (inaudible).

Q: So the transportation issues that you just testified to, did that impact your ability to consistently receive services?

A: Yeah, because it was a then (inaudible) every single day and I was having to manage getting there every morning because they stop – they shut off like 10:00 in the morning, and I had to manage getting there, getting the bus and getting there on time every morning. So I had to (inaudible) transportation. (Inaudible).

Q: Okay. When would you say that you finally got all of those kinks worked out and that you were able to start going consistently?

A: About a month or so.

Q: So probably closer to October 2021?

A: Something like that, yes.

....

Q: [H]ave you been consistently receiving medication assisted treatment since approximately October of 2021?

A: Yes.

Q: And do you have any –

A: I mean yeah, I'm still getting Abilify through Dale Fell. I'm not (inaudible) anymore.

Q: Okay, and when did you stop with the Suboxone?

A: When I started going to (inaudible). So its been about five months maybe.

Mother then testified, in response to questioning from the court,

Q: I understood that you said you stopped the Suboxone when you engaged with Dale Fell. What I wasn't clear on is the why, if it was how the Abilify was related, so can you just re-state that?

A: It kind of helps with my mental health on the Abilify?

Q: So it wasn't that there was an interaction between the two its just the Abilify seemed to help?

A: Yes.

While the transcript is missing key details that would aid our interpretation of Mother's testimony, we are able to determine Mother initially had transportation issues with Mountain Mobility. However, the record is unclear as to when Mother started and stopped receiving *suboxone* specifically since the terms "medication assisted treatment," "suboxone," and "Abilify" are used interchangeably at times. Mother testified directly she stopped using suboxone about five months prior to the termination hearing on 30 November 2022. However, Mother did not directly testify as to when she started suboxone, she merely testified she consistently engaged with "medication assisted treatment" since October of 2021 and she stopped suboxone because she did not need it anymore. Thus, we are able to tell from the record that Mother was required to utilize MAT services, that she initially started MAT services around October 2021, and that she stopped using suboxone approximately five months before the termination hearing. However, we are unable to determine which services, suboxone or Abilify, Mother started receiving in October 2021. As such, the

trial court's finding that Mother used suboxone for three weeks following her discharge from ADATC and that she stopped suboxone due to transportation are unsupported by the record.

As to Mother's remaining challenge to finding 22, that she "never gave testimony indicating she had missed an Abilify shot or dosage[.]" the trial court states Mother "receives an Abilify shot through Dale Fell every three months and her last shot was approximately three and a half months before her testimony." Mother testified she was "receiving [Abilify] through a shot every three months" and that she had received one shot and then switched to the oral medication but planned to switch back to the shot with an appointment "next week." However, the testimony does not state Mother has not received a shot in "approximately three and a half months before her testimony." Mother's testimony merely states she is now receiving Abilify through oral medication but plans to go back to the shot after the termination hearing. Thus, the part of finding 22 that states Mother was receiving Abilify through Dale Fell every three months is supported, but the part that states she has not received a shot in three and a half months is unsupported.

As to finding 24, Mother states the finding is "misleading" since "Mother was charged with possession of Suboxone in January of 2022" but was "receiving suboxone through the MAT program." Mother states "a charge alone does not prove the crime occurred. Even if it did, the record does not contain sufficient evidence about the circumstances of this charge to support a finding [Mother] was using controlled

substances illegally.” While the trial court merely found Mother had a pending charge for drugs at the time of the hearing, which, as Mother’s brief concedes, is correct, Mother testified she “had never got a prescription for the Suboxone.” This testimony would indicate Mother was illegally in possession of suboxone at the time of this charge. The trial court did not find Mother illegally possessed the drugs or that the charge was a conviction, it merely correctly stated Mother had a pending criminal charge; further, Mother’s own testimony indicates this possession was illegal. This challenge is overruled.

g. Catch-all

Finally, as to findings 20 and 25, Mother’s overall argument states findings “20-27” are erroneous. However, Mother’s brief does not actually challenge findings 20 or 25 in any substantive way. Thus, Mother’s challenge to findings 20 and 25 is abandoned. *See* N.C. R. App. P. 28(a) (“Issues not presented and discussed in a party’s brief are deemed abandoned.”).

So findings 21, 24, 27, 30, and 40 are supported by the evidence; findings 20 and 25 are not actually challenged in any substantive way and are binding. *In re S.N.*, 194 N.C. App. at 146, 669 S.E.2d at 58-59.

h. Summary

The only findings which we will not consider are the portions of finding 26 which states Mother did not have follow-up care after her discharge from ADATC, the parts of findings 18b, 23, and 40 regarding Mother’s “return to use in *October*

2022[.]” (emphasis added), and the parts of finding 22 which state she was receiving suboxone for three weeks but stopped due to transportation issues, because they are not supported by the evidence, though the remaining parts of 18b, 22, 26, and 40 are supported.

2. Findings 18c, 19, 34, and 35

Mother next contends findings 18c, 19, 34, and 35 are “erroneous[.]” Findings 18c, 19, 34, and 35 state:

18. At the time of disposition, the Respondents were ordered to:

. . . .

c. [Mother] was ordered to obtain and maintain safe and stable housing sufficient for herself and the immediate needs of [Cathy]; [DHHS] had prior concerns about the Respondent Father being in the home of [Mother] but that appears to not be the case at the current time, and [Mother’s] testimony was that her current home is “very safe”, however, [Mother] has not been in contact with [DHHS] for [DHHS] to be able to verify the safeness of the home.

19. There was a reunification specialist with [DHHS] who was assigned to this case to work with [Mother] to get to reunification and provide additional supports. [Mother] did not fully engage with the reunification specialist, and as such, that service was not successful.

. . . .

34. In June 2021, [Mother] was Ordered to provide her own transportation to the visits with [Cathy] in Concord, North Carolina. The entry of this Order was based, in part, on concerns [DHHS] had for the safety of their staff transporting [Mother]. Following the entry of that Order,

there were no successful in-person visitations. The Court did receive testimony about one attempt for [Mother] to make a visit, wherein [Mother] made it by bus to Charlotte, North Carolina. However, the placement provider was not willing to come from Concord to Charlotte to have the visit occur and [Mother's] testimony was she did not have the means to get from Charlotte to Concord. As a result, the visit did not occur.

35. The Court finds the relevant time period for the consideration of willful abandonment is the six months next preceding the filing of the Petition to Terminate Parental Rights; in this instance, the relevant time period is between October 2021 and April 2022. [Mother] had no visitation or contact with [Cathy] during this time period. While the Court heard some evidence of [Mother's] difficulty in obtaining transportation to Charlotte, [Mother] was provided a means of attending the visits. Additionally, [Mother] had the opportunity to attend visitation, and had failed to successfully complete visits for a substantial period of time after *she* was required to provide her own transportation. The Court finds that the one attempt to visit does not overcome the threshold for the determination that the lack of visitation was willful on the part of [Mother].

(Emphasis in original.)

a. Lack of Communication

As to finding 18c, Mother argues “[t]he evidence cannot support the finding that DHHS did not inspect [Mother's] home *because of* [Mother's] lack of communication.” (Emphasis in original.) However, social worker Stacy Bowen testified that she became responsible for this case starting in July 2022, and she had “no additional contact or no contact from [Mother] . . . since [she] became social worker[.]” Due to Mother's failure to contact DHHS, a home visit could not be

conducted.

Finding 18c, contrary to Mother's assertion, does not state the *sole* reason DHHS was unable to conduct a home visit was Mother's failure to maintain contact with DHHS; finding 18c merely states "Mother has not been in contact with [DHHS] for [DHHS] to be able to verify the safeness of the home." Thus, there is "clear, cogent and convincing evidence" to show that DHHS attempted to contact Mother via phone and mail to set up a home visit in July 2022, months before the hearing date on 30 November 2022 to terminate parental rights but could not do so due to a lack of communication from Mother. *Id.*

b. Reunification Specialist

Next, as to finding 19, Mother asserts "[t]he record contains no evidence [Mother] failed to engage with a reunification specialist." Mother concedes a reunification specialist was assigned at some point, which is supported by social worker Ms. Mencher's testimony, but contends the rest of finding 19 is not supported. Other than stating there was a specialist involved in Mother's case, Ms. Mencher did not testify as to the outcome with the reunification specialist. We are unable to locate in the record that Mother was unsuccessful with a reunification specialist, and the part of finding 19 that states "[Mother] did not fully engage with the reunification specialist, and as such, that service was not successful" is not supported by "clear, cogent and convincing evidence." *Id.*

c. Transportation

As to findings 34 and 35, Mother does not actually challenge finding 34, but states finding 34 shows that finding 35 is inaccurate since finding 34 states “Mother was Ordered to provide her own transportation to the visits with [Cathy]” but finding 35 states “Mother was provided a means of attending visits.” We do not agree with Mother’s interpretation of finding 35 because the finding states Mother was provided transportation during October 2021 and April 2022. In finding 35, the trial court initially stated the determinative period for willful abandonment is October 2021 and April 2022, then states Mother had no contact with the child during this time. Then, the court noted “Mother was provided a means of attending visits[,]” which is supported by the record. The trial court then specifically noted that Mother “failed to successfully complete visits for a substantial period of time after *she* was required to provide her own transportation[,]” indicating the trial court considered DHHS’ efforts to help Mother with transportation followed by Mother’s requirement to provide transportation on her own. This argument is overruled.

d. Summary

Therefore, Mother’s challenges to findings 18c, 34, and 35 are overruled; however, finding 19 is not supported by “clear, cogent and convincing evidence.” *Id.*

C. Willful Failure to Make Reasonable Progress

We now turn to the trial court’s conclusion of law at issue. Mother asserts the trial court erred by terminating her parental rights under North Carolina General Statute Section 7B-1111(a)(2). The trial court’s conclusion of law 3 states “[t]hat

pursuant to N.C.G.S. § 7B-1111(a)(2), [Mother] has willfully left [Cathy] in placement outside of home for more than twelve months without making reasonable progress under the circumstances to alleviate the conditions which led to the removal of [Cathy] from the home.”

North Carolina General Statute Section 7B-1111(a)(2) states:

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

. . . .

(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.

N.C. Gen. Stat. § 7B-1111(a)(2) (2021).

To terminate a parent’s rights under North Carolina General Statute Section 7B-1111(a)(2),

A trial court should not determine 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. However, 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).

In re L.E.W., 375 N.C. 124, 135-36, 846 S.E.2d 460, 469 (2020) (emphasis added) (citations, quotation marks, and ellipses omitted).

Here, it is undisputed that Cathy has been placed in foster care or placement for over 12 months since she was put in the custody of DHHS shortly after her birth. Thus, we must only consider whether Mother “ma[d]e reasonable progress in correcting those conditions which led to the removal of the juvenile[.]” *Id.* Mother argues that only substance abuse played a role in Cathy’s removal and “individual counseling . . . did not play a role in the conditions that led to Cathy’s removal, nor did parenting skills. Consequently, [Mother’s] compliance in these areas is irrelevant to the section 7B-1111(a)(2) analysis. Further, the record contains no evidence [Mother] failed to comply with the housing component.”

First, we agree with Mother that the primary reason for Cathy’s removal was her substance abuse, as Cathy tested positive for illegal drugs at birth. But Mother’s argument assumes that her parenting difficulties were entirely unrelated to her long-term issues with substance abuse; this assumption is not supported by the record. And if even we assumed Mother is correct that only substance abuse could be considered, it is clear Mother’s failure to make reasonable progress in addressing her substance abuse is a sufficient ground to support termination under North Carolina General Statute Section 7B-1111(a)(2). Mother essentially acknowledges her substance abuse issues throughout this case but states this is not a sufficient reason to terminate her parental rights for failure to make reasonable progress since she

was making “slow and uneven” but “sufficient” progress in “overcoming her substance abuse issues[.]” We disagree.

Mother states in this argument that she “completed SAIOP before [social worker] Mencher got the case.” However, as the trial court found and we have determined was supported by “clear, cogent and convincing evidence[.]” Mother failed to complete SAIOP and was discharged for “noncompliance.” *In re S.N.*, 194 N.C. App. at 146, 669 S.E.2d at 58-59. Prior permanency planning orders show not only Mother’s failure to gain control of her substance abuse issues, as shown by many positive drug screens by Mother from August 2020 through April 2021, but also address drug screens requested by DHHS and not completed and at least two instances where Mother provided a sample that was “considered positive as she provided cold urine.”

While Mother may be commended on her in-patient treatment at ADATC, the record shows this treatment was not enough to alleviate the concerns arising from her substance abuse. Mother testified at the termination hearing she had previously been in treatment at ADATC three times. While Mother testified she only did the detox the previous times, and not the treatment part, ADATC did not alleviate Mother’s substance use issues in her three previous stays. Mother also testified that, while she did not return to “active use” of drugs since Cathy’s birth, she did have three relapses. She specifically testified her most recent “relapse” was “not long ago.”

Further, the trial court found

[DHHS] requested hair follicle drug screens on 01/04/2022, 01/18/2022, and 02/01/2022 via email, text and phone call without success. [Mother] indicated on 02/01/2022 that her phone does not work off WiFi, however she successfully texted [social worker] this date, answered her phone and then hung up on [social worker]. [Social worker] notes that all same day drug screen requests have been made by 9:30 AM at the latest, providing [Mother] the full day to complete the request.

Thus, Mother tested positive for illegal drugs throughout the life of her case, testified she relapsed “not long” before the termination proceeding, failed to submit to required drug tests, and failed to complete SAIOP as ordered.

Additionally, Mother basically contends since she completed ADATC treatment, she made reasonable progress. However, Mother was required to follow the ADATC outpatient treatment recommendations as well. Mother testified she attended “both AA and NA meetings online” and that she followed up with medication management. However, Mother did not engage with individual therapy, did not go back to RHA, and did not follow up with parenting skills resources. Importantly, when social worker Bowen took over the case in July 2022 she did not have any contact with Mother until the November 2022 termination proceeding. Ms. Bowen specifically testified Mother did not provide “any documentation of her engagement with services.”

Mother relies on our Supreme Court’s ruling in *In re A.N.H.* to support her assertion that she did not fail to make reasonable progress. Mother states “[n]otably, the father’s repeated but isolated positive drug screens in *A.N.H.* and his failure to

complete SAIOP did not support this ground because, on the balance, he made adequate progress in correcting removal conditions.” However, Mother’s case differs from *A.N.H.* since in *A.N.H.* the father completed “most of the other requirements of [his] case plan, including having employment and suitable housing; paying child support; attending almost all visitations; and *completing* substance abuse, domestic violence, and parenting programs.” *In re A.N.H.*, 381 N.C. 30, 47, 871 S.E.2d 792, 806 (2022) (emphasis added).

Here, although Mother was not required to fulfill all the same requirements as the father in *A.N.H.*, she did not complete her substance abuse treatment. Not only did Mother get discharged for noncompliance from SAIOP, she had many positive drug tests and did not appear for others. More importantly, Mother failed to follow the substance abuse treatment upon her discharge from ADATC, despite knowing the requirements and having the discharge documents. Mother admitted to relapsing on multiple occasions, including after discharge from ADATC, and the record indicates Mother failed to submit to three drug screens after she was discharged from ADATC. Finally, Mother did not engage with DHHS at all from July 2022 until the hearing in November 2022, despite DHHS efforts to contact her. Mother essentially admitted she intentionally stopped contact with DHHS, stating, “I have grown a resentment towards Buncombe County DSS and I don’t trust them.”

Therefore, the trial court did not err in concluding Mother’s parental rights are subject to termination under North Carolina General Statute Section 7B-1111(a)(2).

As we conclude the trial court did not err in terminating Mother's parental rights for failure to make reasonable progress, we need not address neglect or abandonment. *See In re J.S.*, 374 N.C. 811, 815, 845 S.E.2d 66, 71 (2020) (“[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.” (citation omitted)).

III. Conclusion

For the reasons stated above, the trial court made sufficient findings of fact supported by “clear, cogent and convincing evidence” to support the conclusion that Mother's parental rights were subject to termination under North Carolina General Statute Section 7B-1111(a)(2). *See In re S.N.*, 194 N.C. App. at 145-46, 669 S.E.2d at 58 (citation omitted). Thus, the trial court's order is affirmed.

AFFIRMED.

Chief Judge DILLON and Judge STADING concur.

Report per Rule 30(e).