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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA23-862

Filed 19 March 2024

Rowan County, Nos. 22 JA 209-10

IN THE MATTER OF: S.M.B. & G.B.

Appeal by Respondent-Mother from order entered 16 June 2023 by Judge Beth Dixon in Rowan County District Court. Heard in the Court of Appeals 6 March 2024.

*Jane R. Thompson for Petitioner-Appellee Rowan County Department of Social Services.*

*Matthew C. Phillips for Appellee-Guardian ad Litem.*

*Richard Croutharmel for Respondent-Appellant Mother.*

COLLINS, Judge.

Respondent-Mother appeals from the trial court's order adjudicating her minor children neglected. Mother's appellate counsel has filed a no-merit brief on her behalf pursuant to Rule 3.1(e) of the North Carolina Rules of Appellate Procedure. After careful review of the issues identified in the no-merit brief and our consideration of the entire record, we affirm the adjudication order.

## **I. Background**

Mother and Father are the parents of Gail and Stan.<sup>1</sup> In October 2019, the Rowan County Department of Social Services (“DSS”) received a report that Gail “was coming to school dirty and not dressed in weather-appropriate clothing.” The school further reported that it was unable “to communicate with the parents on a consistent basis regarding the needs for [Gail] such as speech therapy,” and that her “[a]ttendance was also an issue[.]” Mother was charged with school attendance law violations in March 2020 and April 2022.

DSS received another report on 27 July 2022 that Stan tested positive for cocaine at birth and was experiencing withdrawal symptoms. Mother tested positive for cocaine, benzodiazepines, and opiates at the hospital. DSS placed Gail and Stan with a temporary safety provider the next day due to substance abuse concerns with both parents. Gail reported to DSS that “she ha[d] seen her parents fight and specifically [had] seen her mother hit her father.”

Father tested positive for cocaine on 30 August 2022. DSS requested that Father complete a substance abuse assessment, but he did not do so. Mother again tested positive for cocaine and opiates on 15 September 2022. Mother completed a mental health and substance abuse assessment and was diagnosed with severe cocaine use disorder, unspecified opioid-related disorder, unspecified anxiety

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<sup>1</sup> We use pseudonyms to protect the identities of the minor children. *See* N.C. R. App. P. 42.

disorder, and unspecified depressive disorder. Mother was scheduled to start orientation for substance abuse treatment on 21 September 2022 but did not attend. Mother attended four treatment sessions between 26 September 2022 and 17 October 2022 but failed to show for three sessions in October. Mother completed a comprehensive clinical assessment at the Center for Emotional Health on 7 October 2022 and attended a treatment session on 24 October 2022 but failed to show for three sessions between October and November.

On 8 December 2022, DSS received a report that Mother and Stan were “involved in a serious motor vehicle accident involving serious bodily injuries[.]” and that Stan’s car seat was not properly secured at the time of the accident. Stan sustained multiple skull fractures, a right humerus fracture, multiple brain bleeds, abrasions, and swelling in his head. Upon admission to the hospital, Mother tested positive for cocaine and opiates. Mother reported that the accident occurred because she had a seizure while driving, but a neurological exam revealed no evidence to support her claim.

DSS filed a juvenile petition on 12 December 2022, alleging that Gail and Stan were neglected and dependent juveniles. An order for nonsecure custody was entered that same day. The parties entered into a memorandum of consent on 18 May 2023, stipulating that Gail and Stan are neglected juveniles “[a]s alleged in the juvenile petition.” The trial court entered an order on 16 June 2023 adjudicating Gail and Stan neglected. Mother appealed.

## **II. Discussion**

Mother's appellate counsel has filed a no-merit brief on her behalf pursuant to Rule 3.1(e) of the North Carolina Rules of Appellate Procedure. Counsel has also advised Mother of her right to file written arguments on her own behalf with the Court and provided her with the necessary documents to do so. Mother has not submitted any written arguments.

This Court conducts an independent review of the issues identified in a no-merit brief filed pursuant to Rule 3.1(e). *In re L.E.M.*, 372 N.C. 396, 402, 831 S.E.2d 341, 345 (2019). Mother's counsel has identified two potential issues in his brief: (1) whether the trial court erred by failing to ensure that the parties had properly consented to an adjudication of neglect under N.C. Gen. Stat. § 7B-801(b1), and (2) whether the trial court abused its discretion by ordering Mother to obtain and/or maintain appropriate housing and financial stability where there was no finding that such a requirement was reasonably related to the reasons the children were removed from the home. Counsel concedes that he cannot make a meritorious argument regarding these issues. After careful review, we agree that there is no merit in either potential issue.

## **III. Conclusion**

Based upon our independent review of the issues identified in the no-merit brief and our consideration of the entire record, we are satisfied that the trial court properly obtained both parents' consent to an adjudication of neglect, and that the

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trial court did not abuse its discretion by ordering Mother to obtain and/or maintain appropriate housing and financial stability. Accordingly, we affirm the trial court's order adjudicating Gail and Stan neglected.

AFFIRMED.

Judges TYSON and ARROWOOD concur.

Report per Rule 30(e).