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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA23-1080

Filed 18 June 2024

Onslow County, Nos. 23 JA 21-23

IN THE MATTERS OF:

C.L., C.L., H.L.,

Minor Children.

Appeal by respondent-father from order entered 5 September 2023 by Judge James W. Bateman in Onslow County District Court. Heard in the Court of Appeals 29 May 2024.

Vitrano Law Offices, PLLC, by Sean P. Vitrano, for respondent-appellant father.

Richard Penley for petitioner-appellee Onslow County Department of Social Services.

Administrative Office of the Courts, by Matthew D. Wunsche and Brittany T. McKinney, for appellee-guardian ad litem on behalf of minor child Ch.L.

Poyner Spruill LLP, by Stephanie L. Gumm, for appellee-guardian ad litem on behalf of the minor children Cl.L. and H.L.

PER CURIAM.

Respondent-appellant (“Father”) is the father of three minor children: his son Ch.L. (“Cameron”) and his twin daughters Cl.L. (“Cara”) and H.L. (“Helen”). The trial

court adjudicated the three children to be neglected juveniles. Father challenges Cameron's and Helen's adjudications as neglected juveniles and the trial court's decision to cease reunification efforts.¹ We affirm.

I. Background

In 2022, Onslow County DSS became involved with the family. Cara reported that Cameron repeatedly sexually assaulted her. DSS required Father to provide supervision at all times that Cameron was in the home with his sisters. Because Father was unable to provide that supervision, Cameron was sent to live with a family friend in another county. However, on multiple occasions during home visits, DSS found Cameron in the family home unsupervised with his sisters. DSS petitioned for the juveniles to be adjudicated as neglected.

Following a hearing on the matter, the trial court adjudicated all three children to be neglected juveniles pursuant to N.C. Gen. Stat. §§ 7B-101(15)(a) and 7B-101(15)(e) because the parents "failed to provide proper care or supervision for the juveniles and have caused or allowed to be created a living environment that is injurious to the juveniles' welfare." Further, the trial court granted DSS full custody of the juveniles and concluded that aggravated circumstances pursuant to N.C. Gen. Stat. § 7B-901(c) warranted ceasing reunification efforts.

¹ Mother was a party to the trial court's proceedings, but she does not join Father in this appeal.

II. Neglect Adjudication

Father argues the trial court erred in adjudicating Cameron and Helen to be neglected juveniles. We disagree.

On appeal, our Court “reviews a trial court’s adjudication to determine whether the findings are supported by clear, cogent, and convincing evidence and the findings support the conclusions of law.” *In re K.S.*, 380 N.C. 60, 64, 868 S.E.2d 1, 4 (2022) (cleaned up).

As part of his argument, Father challenges several findings of fact. We have reviewed the challenged findings and conclude that they are supported by evidence contained in the record, the hearing transcripts, and other findings of fact which were not challenged. *See Koufman v. Koufman*, 330 N.C. 93, 97, 408 S.E.2d 729, 731 (1991) (“Where no exception is taken to a finding of fact by the trial court, the finding is presumed to be supported by competent evidence and is binding on appeal.”). *See also In re Montgomery*, 311 N.C. 101, 110–11, 316 S.E.2d 246, 252–53 (1984) (“[O]ur appellate courts are bound by the trial courts’ findings of fact where there is some evidence to support those findings, even though the evidence might sustain findings to the contrary.”).

We now consider the trial court’s determination that Cameron and Helen are neglected juveniles.

“In order to adjudicate a juvenile neglected, our courts have additionally

required that there be some physical, mental, or emotional impairment of the juvenile or a substantial risk of such impairment as a consequence of the failure to provide proper care, supervision, or discipline.” *In re J.A.M.*, 372 N.C. 1, 9, 822 S.E.2d 693, 698 (2019) (cleaned up).

Regarding Cameron, there is evidence of his physical, mental, or emotional impairment due to Father’s failure to properly address his inappropriate behavior with his younger sisters. Further, at the hearing, social workers testified that Father declined intensive in-home services, despite the social workers’ recommendations. And regarding Helen, there is evidence of her physical, mental, or emotional impairment due to Father’s failure to control her exposure to Cameron.

Accordingly, we affirm the adjudication order.

III. Elimination of Reunification Efforts

Father also contends the evidence did not show aggravated circumstances and, thus, the trial court erred in eliminating reunification efforts.

We review the trial court’s decision to cease reunification efforts for abuse of discretion. *In re J.M.*, 384 N.C. 584, 591, 887 S.E.2d 823, 828 (2023).

N.C. Gen. Stat. § 7B-901 states the following regarding the elimination of reunification efforts with a child’s parents:

(c) If the disposition order places a juvenile in the custody of a custody department of social services, the court shall direct that reasonable efforts for reunification as defined in G.S. 7B-101 shall not be required if the court makes *written findings of fact* pertaining to any of the following, unless

the court concludes that there is compelling evidence warranting continued reunification effort:

(1) A court of competent jurisdiction determines or has determined that *aggravated circumstances exist because the parent has committed or encouraged the commission of, or allowed the continuation of, any of the following upon the juvenile:*

(f) *Any other act, practice, or conduct the increased the enormity or added to the injurious consequences of the abuse or neglect.*

N.C. Gen. Stat. § 7B-901(c)(1)(f) (2023) (emphases added). Our Supreme Court has held that this statute “require[s] that the evidence in aggravation involve something in addition to the facts that rise to the initial adjudication of abuse and/or neglect.” *In re L.N.H.*, 382 N.C. 536, 547–48, 879 S.E.2d 138, 146 (2022).

Here, the trial court made several findings of fact (which we conclude are supported by the record and hearing transcripts, as discussed *supra*), including:

12. The juveniles have expressed multiple concerns regarding [Father’s] home. [Cara] has reported that [Father] has issues with his anger, which often results in physically abusive behavior. She has reported that [Father] killed her dog in front of her. She has also reported that [Father] engages in substance use.

...

14. Based on the evidence, it is increasingly clear that [Helen] has been subjected to the same experiences as [Cara].

15. ... Furthermore, the Court finds that [Helen] disclosed during her comprehensive clinical assessment that she was subject to the same sex abuse by [Cameron] that [Cara] was. During his CCA, [Cameron] disclosed that he was

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subject to sex abuse by [Father]. Based on the foregoing, aggravated circumstances exist that warrant ceasing reunification efforts.

We conclude that these findings are sufficient to sustain the trial court's determination to cease reunification efforts.

Accordingly, we affirm the disposition order.

AFFIRMED.

Panel consisting of Chief Judge DILLON and Judges ARROWOOD and HAMPSON.

Report per Rule 30(e).