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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA23-1146

Filed 18 June 2024

Guilford County, No. 20 JT 661

IN THE MATTER OF: E.H.J.

Appeal by Respondent-Mother from order entered 25 September 2023 by Judge Brian Tomlin in Guilford County District Court. Heard in the Court of Appeals 28 May 2024.

Mercedes O. Chut for Petitioner-Appellee Guilford County Department of Health and Human Services.

Poyner Spruill LLP, by Rohun S. Shah, for Appellee Guardian ad Litem.

Robert W. Ewing for Respondent-Appellant Mother.

COLLINS, Judge.

Respondent-Mother appeals from an order terminating her parental rights to her child, Eric.¹ Mother argues that the trial court's findings of fact were inadequate to support its conclusion that several grounds existed to terminate Mother's parental

¹ A pseudonym is used to protect the identity of the juvenile involved in this case. See N.C. R. App. P. 42.

rights to Eric. We affirm the trial court's order.

I. Background

Eric was born in April 2020 in Guilford County, North Carolina. Shortly after his birth, Eric tested positive for marijuana. Eric's umbilical cord also tested positive for benzodiazepines and cocaine. The Guilford County Department of Health and Human Services ("DHHS") met with Mother, who admitted to using marijuana in March 2020 but initially denied using cocaine. Mother later admitted to cocaine use after a positive drug screen and agreed to refrain from drug use while caring for Eric, to obtain a substance abuse assessment, and to submit to random drug screens.

In May 2020, Mother indicated that Eric's maternal great-grandmother was assisting with Eric's care. However, Mother was arrested for violating probation in July 2020 and faced 45-90 days in jail for the violation, and the maternal great-grandmother informed DHHS that she was unable to care for Eric. DHHS was unable to identify an alternative placement for Eric and ultimately filed a juvenile petition on 28 July 2020, alleging that Eric was neglected and dependent. After hearing the matter on 21 October 2020, the trial court concluded that Eric was neglected and dependent and ordered that DHHS "institute any services available for the mother, so that she can be in a position to hopefully reunify with [Eric] at a later date[.]" Meanwhile, DHHS retained legal and physical custody of Eric, and Mother was granted supervised visitation.

Mother entered into a case plan with DHHS on 15 October 2020, which

provided the following:

Housing/Environment/Basic Physical Needs: [Mother] will obtain and maintain housing and provide verification to [DHHS]. . . .

Parenting Skills: [Mother] will complete a parenting/psychological evaluation and follow all recommendations and participate in Parenting Assessment Training Education (hereinafter “PATE”) classes. . . .

Employment/Income Management: [Mother] will obtain and maintain employment and provide documentation to [DHHS]. . . .

Substance Abuse: [Mother] will participate in a substance abuse assessment and follow all recommendations and submit to random drug screens. . . .

Mental Health: [Mother] will complete a mental health evaluation and follow all recommendations.

The matter came on for a permanency planning review hearing on 19 November 2021. At the hearing, DHHS reported that (1) Mother had been unable to maintain stable housing and that DHHS had been unable to verify Mother’s most recent reported address; (2) Mother had attended only one of ten PATE classes and had not completed a parenting psychological evaluation; (3) Mother had been unable to maintain employment; (4) Mother had completed substance abuse and clinical assessments but had failed to engage in the recommended treatment; and (5) Mother had failed to submit to several drug screens. DHHS also reported that Mother had missed 62 of her 88 scheduled visits with Eric.

On 30 December 2021, the trial court entered a Permanency Planning Review

Order, finding that Mother's lack of compliance with her case plan and her failure to address the issues that brought Eric into DHHS custody were barriers to achieving reunification. The trial court ordered that Eric's primary plan be changed to adoption and that Mother's visitation with Eric be suspended.

DHHS filed a petition to terminate Mother's parental rights to Eric on 9 February 2022. The termination petition was heard on 13 June 2023, at which time Mother was incarcerated following convictions of cocaine possession and larceny. At the hearing, DHHS reported that, between the November 2021 permanency planning review hearing and her incarceration, (1) Mother had been unable to secure stable housing; (2) Mother had completed a parenting psychological evaluation and phase one of PATE but could not complete phase two because her visitation with Eric had been suspended; (3) Mother had been unable to maintain employment; (4) Mother had attended one group therapy session; and (5) Mother had submitted to only one of 17 drug screen requests, which was positive for marijuana. DHHS also reported that Mother had tested positive for suboxone while she was incarcerated.

Mother testified at the termination of parental rights hearing that she was seeing a therapist and psychiatrist once a month in prison, had been prescribed medication for mood stabilization, and was on the waiting list for the prison's substance abuse program. The trial court entered an Order Terminating Parental Rights on 25 September 2023 concluding that several grounds existed to terminate Mother's parental rights to Eric, and that termination was in Eric's best interests.

Mother timely appealed.

II. Discussion

Mother argues that the trial court’s findings of fact were inadequate to support its conclusion that grounds existed to terminate Mother’s parental rights to Eric.

A. Standard of Review

“Our Juvenile Code provides for a two-step process for termination of parental rights proceedings consisting of an adjudicatory stage and a dispositional stage.” *In re Z.A.M.*, 374 N.C. 88, 94, 839 S.E.2d 792, 796-97 (2020) (citation omitted). “At the adjudicatory stage, the petitioner bears the burden of proving by ‘clear, cogent, and convincing evidence’ the existence of one or more grounds for termination under section 7B-1111(a) of the General Statutes.” *In re A.U.D.*, 373 N.C. 3, 5-6, 832 S.E.2d 698, 700 (2019) (citing N.C. Gen. Stat. § 7B-1109(f)). If the trial court concludes that there are grounds to terminate parental rights, “the court proceeds to the dispositional stage, at which the court must consider whether it is in the best interests of the juvenile to terminate parental rights.” *In re D.L.W.*, 368 N.C. 835, 842, 788 S.E.2d 162, 167 (2016) (citations omitted).

We review a trial court’s adjudication of grounds 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, 831 S.E.2d 49, 52 (2019) (citation omitted). “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 B.O.A.*, 372 N.C. 372, 379, 831 S.E.2d 305, 310 (2019) (citation omitted). Unchallenged findings of fact are “deemed supported by competent evidence and are binding on appeal.” *In re T.N.H.*, 372 N.C. 403, 407, 831 S.E.2d 54, 58 (2019) (citation omitted). “The trial court’s conclusions of law are reviewable de novo on appeal.” *In re C.B.C.*, 373 N.C. 16, 19, 832 S.E.2d 692, 695 (2019) (citation omitted).

Furthermore, “an adjudication of any single ground for terminating a parent’s rights under N.C.G.S. § 7B-1111(a) will suffice to support a termination order.” *In re J.S.*, 374 N.C. 811, 815, 845 S.E.2d 66, 71 (2020) (citations omitted). Thus, “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.” *Id.* (citation omitted). A trial court’s best interests determination “is reviewed solely for abuse of discretion.” *In re A.U.D.*, 373 N.C. at 6, 832 S.E.2d at 700 (citations omitted).

B. Grounds for Termination

A trial court may terminate a parent’s rights to their child upon concluding that one or more of seven statutory grounds exists, including that the parent has “neglected the juvenile” within the meaning of N.C. Gen. Stat. § 7B-101. N.C. Gen. Stat. § 7B-1111(a) (2023). Section 7B-101 defines a neglected juvenile, in relevant part, as one whose parent “[d]oes not provide proper care, supervision, or discipline” or “[c]reates or allows to be created a living environment that is injurious to the juvenile’s welfare.” N.C. Gen. Stat. § 7B-101(15) (2023).

Termination of parental rights based upon neglect “requires a showing of neglect at the time of the termination hearing or, if the child has been separated from the parent for a long period of time, there must be a showing of past neglect and a likelihood of future neglect by the parent.” *In re D.L.W.*, 368 N.C. at 843, 788 S.E.2d at 167 (citation omitted). In this situation, “evidence of neglect by a parent prior to losing custody of a child—including an adjudication of such neglect—is admissible in subsequent proceedings to terminate parental rights.” *In re Ballard*, 311 N.C. 708, 715, 319 S.E.2d 227, 232 (1984). “The trial court must also consider any evidence of changed conditions in light of the evidence of prior neglect and the probability of a repetition of neglect.” *Id.* (citation omitted). “A parent’s failure to make progress in completing a case plan is indicative of a likelihood of future neglect.” *In re M.A.*, 374 N.C. 865, 870, 844 S.E.2d 916, 921 (2020) (citation omitted).

Here, the trial court found that Mother had neglected Eric in the past, and that that neglect had been proven at the adjudication hearing in October 2021. The trial court also found that, “[g]iven that many of the conditions which led to the removal still exist, there is a great likelihood of the repetition of neglect of the juvenile by the parents, as they have failed to this point to correct the issues causing the neglect of the juvenile.”

These findings are supported by uncontroverted evidence presented at the termination hearing that Mother had neglected Eric in the past, and that Mother had made minimal progress on any component of her case plan during the nearly three

years since Eric was first adjudicated neglected, including, but not limited to (1) Mother's consistent difficulty obtaining and maintaining housing and employment; (2) Mother's failure to engage in recommended treatment outside of the structured environment in prison; and (3) Mother's noncompliance with drug screen requests. Thus, the findings are supported by clear, cogent, and convincing evidence. Furthermore, these findings support the trial court's conclusion that grounds existed to terminate Mother's parental rights to Eric pursuant to N.C. Gen. Stat. § 7B-1111(a)(1). *See In re M.A.*, 374 N.C. at 870, 844 S.E.2d at 921 ("A parent's failure to make progress in completing a case plan is indicative of a likelihood of future neglect." (citation omitted)).

Mother argues that the trial court failed to consider Mother's changed circumstances and instead focused on Mother's previous behavior. Specifically, Mother notes that she was receiving therapy, taking medication for mood stabilization, and was on the waiting list to enroll in a substance abuse program at the time of the termination hearing. However, the trial court acknowledged these circumstances in its termination order:

[Mother] indicates she is provided at Women's Prison with one therapeutic session per month and one meeting with a psychiatrist per month. She is prescribed Depakote, which she understands to be for mood stabilization Respondent Mother indicated she was on a waiting list for substance abuse services and anticipates having a certificate of completion by the time she is released, however, Respondent Mother had the opportunity to enroll in and complete these services through [DHHS] as part of

her case plan and never did it.

Thus, the trial court properly considered evidence of Mother's changed circumstances in light of the evidence of prior neglect and determined that there was still a high probability of a repetition of neglect. *See In re Ballard*, 311 N.C. at 715, 319 S.E.2d at 232.

III. Conclusion

Because the trial court properly concluded that at least one ground existed to terminate Mother's parental rights to Eric, the trial court's order is affirmed.

AFFIRMED.

Judges ZACHARY and STADING concur.

Report per Rule 30(e).