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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA23-1024

Filed 18 June 2024

Mecklenburg County, No. 20 JT 60

IN THE MATTER OF: Z.M.C.B., minor child.

Appeal by Respondent from order entered 3 August 2023 by Judge Aretha V. Blake in Mecklenburg County District Court. Heard in the Court of Appeals 28 May 2024.

*Senior Associate County Attorney Marc S. Gentile for Petitioner-Appellee Mecklenburg County Department of Social Services, Division of Youth and Family Services.*

*J. Thomas Diepenbrock for Respondent-Appellant Mother.*

*N.C. Administrative Office of the Courts, by Guardian Ad Litem Staff Attorney Brittany T. McKinney, for guardian ad litem.*

GRIFFIN, Judge.

Respondent-Mother appeals from the trial court's order terminating her

parental rights to her minor child, Zelda.<sup>1</sup> Mother contends the trial court erred in terminating her parental rights on four separate grounds because its findings of fact for each ground were not supported by sufficient clear, cogent, and convincing evidence during the hearing. We affirm.

### **I. Factual and Procedural Background**

On 7 February 2020, Mecklenburg County Department of Social Services, Youth and Family Services (“YFS”), filed a petition alleging that Zelda was an abused and neglected juvenile and obtained non-secure custody of Zelda, then amended the petition on February 28. The petitions alleged that, though Zelda was only ten months old at the time, she had been to the emergency room three times, each time presenting with head injuries.

The most recent occasion occurred on 3 February 2020, when Zelda presented with leg pain and swelling on her head. The medical examination revealed that Zelda had fractured bones in her leg and skull, a swollen eye, and bruising on her face and lower back. At first, Mother denied any knowledge as to how Zelda’s injuries could have occurred, but later admitted that Zelda’s sibling had removed Zelda from her playpen while Mother was in the shower. Mother and Zelda’s father offered the hospital additional explanations for how Zelda was injured, but “[n]othing [] shared

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<sup>1</sup> We use a pseudonym for ease of reading and to protect the identity of the juvenile. See N.C. R. App. P. 42(b).

in the hospital's discussions . . . about [Zelda's] injuries would adequately explain [her] injuries." The hospital diagnosed Zelda with "non-accidental trauma."

On 12 April 2021, the trial court adjudicated Zelda to be an abused and neglected juvenile and adopted a primary plan of reunification, with a concurrent plan of guardianship. The court ordered Mother to complete a parenting capacity evaluation, to comply with an Out of Home Services Agreement, and to otherwise cooperate with YFS efforts to reunify her with Zelda. The trial court held three permanency planning hearings between April 2021 and October 2022. At each hearing, the evidence showed that Mother was receiving services, had gainful employment, and was making varying degrees of progress on her case plans. By the third permanency planning hearing, the trial court found Mother's progress had become inadequate and she was no longer fully cooperating with YFS. The evidence also repeatedly showed that Mother refused to communicate honestly or make efforts to explore, understand, and correct the circumstances which led to Zelda's injury and removal. On 25 October 2022, the trial court entered a written permanency planning order changing the primary permanent plan to adoption and the secondary plan to reunification, concluding that termination of parental rights was now in Zelda's best interests.

On 15 December 2022, YFS filed a petition to terminate Mother’s parental rights to Zelda.<sup>2</sup> The trial court held a hearing on YFS’s petition in June 2023. During the hearing, YFS presented testimony from the psychologist that conducted Mother’s parenting capacity evaluation and the social worker assigned to Zelda’s case. The evidence tended to show that Mother had complied with the trial court’s orders and often cooperated with YFS, but that Mother consistently attempted to absolve herself of responsibility for Zelda’s injuries and lacked any understanding of how those injuries could have occurred. Despite the severity of Zelda’s injuries and Zelda having been in YFS custody for over three years, the social worker testified that YFS still did not have “clarity on how [Zelda] got injured.”

On 3 August 2023, the trial court entered a written order terminating Mother’s parental rights to Zelda (the “Termination Order”) pursuant to four separate grounds under N.C. Gen. Stat. § 7B-1111(a). Mother timely appeals.

## **II. Analysis**

Mother appeals the trial court’s Termination Order, arguing the court erred in terminating her parental rights under each of N.C. Gen. Stat. §§ 7B-1111(a)(1), (a)(2), (a)(3), and (a)(6) at the adjudication stage. “We review a trial court’s adjudication under [N.C. Gen. Stat.] § 7B-1111 to determine whether the findings are supported

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<sup>2</sup> YFS’s petition also sought to terminate Zelda’s father’s parental rights. The father voluntarily relinquished his parental rights prior to the hearing on YFS’s petition, and the father is not a party to this appeal.

by clear, cogent, and convincing evidence and the findings support the conclusions of law.” *Matter of K.N.*, 381 N.C. 823, 827, 874 S.E.2d 594, 598 (2022) (citation and internal marks omitted). The court’s “conclusions of law are reviewed de novo.” *Matter of S.R.*, 384 N.C. 516, 520, 886 S.E.2d 166, 171 (2023) (citation omitted).

Section 7B-1111 of the North Carolina General Statutes states “[t]he court may terminate [a parent’s] parental rights upon a finding of one or more of” eleven enumerated grounds. N.C. Gen. Stat. § 7B-1111(a) (2023). Relevant here, those grounds include where:

- (1) The parent has abused or neglected the juvenile. . . .
- (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. . . .
- (3) The juvenile has been placed in the custody of a county department of social services . . . and the parent has for a continuous period of six months immediately preceding the filing of the petition . . . willfully failed to pay a reasonable portion of the cost of care for the juvenile although physically and financially able to do so.
- . . .
- (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. Gen. Stat. §] 7B-101, and that there is a reasonable probability that the incapability will continue for the foreseeable future.

N.C. Gen. Stat. § 7B-1111(a). “[A]n adjudication of any single ground in [N.C. Gen. Stat.] § 7B-1111(a) is sufficient to support a termination of parental rights.” *Matter of E.H.P.*, 372 N.C. 388, 395, 831 S.E.2d 49, 53 (2019).

With respect to section 7B-1111(a)(3), the Termination Order states the following findings of fact:

24. During the six months immediately before the filing of the TPR pleading in this matter, YFS incurred \$514 per month as the cost of care for [Zelda]. [Mother] was employed during this timeframe and had the ability to provide a sum greater than zero which is the amount she provided to [YFS] in an effort to defray the cost of care. Her failure to pay was willful in that she had the capacity to provide some amount greater than zero, but chose not to do so.

25. [Mother’s] actions/behaviors in this matter were not based on poverty.

The Termination Order then includes the following conclusions of law:

10. Per [N.C. Gen. Stat.] § 7B-1111(a)(3) and the Findings of Fact as stated above, [Zelda] has been in YFS custody and [Mother] has for a continuous period of 6 months immediately preceding the filing of the TPR pleading willfully failed to pay a reasonable portion of the cost of care for [Zelda] although physically and financially able to do so.

Mother challenges Finding of Fact 24, contending “[t]he trial court erred when it concluded the ground pursuant to [section] 7B-1111(a)(3) existed to support the termination of [her] parental rights” because “[t]he trial court’s findings that [Mother] had the ability to pay a sum greater than zero and willfully failed to do so are not

supported by clear and convincing evidence.” Mother bases her contention on the court’s receipt of conflicting evidence during the hearing and an assertion that “YFS furnished no evidence of [Mother’s] actual ability to pay something toward the cost of care, such as her income and expenses, imminent bills and creditors, during the relevant time period.”

Our case law does not support this assertion. Rather, our Supreme Court has held that additional evidence of a parent’s living expenses is irrelevant under section 7B-1111(a)(3) where the evidence presented shows the parent “made no payments whatsoever to cover the costs of [his child’s] care, [and] the trial court found that [the parent] was employed with some income”:

However, while there must be a finding that the parent has the ability to pay support, in the circumstances of this case, the trial court did not need to make findings regarding respondent's own living expenses. It is enough here, when respondent made no payments whatsoever to cover the costs of [his child’s] care, that the trial court found that respondent was employed with some income. Respondent's living expenses might be relevant evidence to be taken into account if he had made some child support payments during the applicable time period and the issue was whether the amount he contributed to the cost of [his child’s] care was reasonable, but here the trial court found that he had income and made no contributions at all.

*Matter of J.A.E.W.*, 375 N.C. 112, 117–18, 846 S.E.2d 268, 272 (2020) (internal citations omitted). In *J.A.E.W.*, the evidence showed the father “was working in the six months prior to the filing of the petition, earned some income, and testified that he had the financial means to support [his child].” *Id.* at 118, 846 S.E.2d at 272. Our

Supreme Court held “the trial court properly terminated [the father’s] rights based on an adjudication under [section] 7B-1111(a)(3)” because “[h]e was able to pay some amount greater than zero, and it is undisputed that he failed to do so.” *Id.*

We reach the same result here. YFS presented evidence that Mother had gainful employment throughout the relevant period—first at Panera Bread, then at Piada—and did not contribute any money to YFS to defray the monthly \$514 costs incurred for Zelda. Mother does not dispute this evidence. The trial court found this evidence credible, and we will not reweigh the evidence, notwithstanding the existence of contradictory evidence presented during the hearing. *See Matter of G.G.M.*, 377 N.C. 29, 35, 855 S.E.2d 478, 483 (2021) (“Because the trial court is uniquely situated to make this credibility determination . . . appellate courts may not reweigh the underlying evidence presented at trial.” (citation and internal marks omitted)). YFS presented undisputed clear, cogent, and convincing evidence to support Finding of Fact 24, and Findings of Fact 24 and 25 are sufficient to support the trial court’s conclusion that grounds existed to terminate Mother’s parental rights under section 7B-1111(a)(3).

Because we find the trial court did not err in terminating Mother’s parental rights under section 7B-1111(a)(3), we need not address her contentions that the trial court erred in determining grounds also existed to terminate under sections 7B-1111(a)(1), (a)(2), and (a)(6). *See E.H.P.*, 372 N.C. at 395, 831 S.E.2d at 53–54 (“[W]here the trial court finds multiple grounds on which to base a termination of



parental rights, and ‘an appellate court determines there is at least one ground to support a conclusion that parental rights should be terminated, it is unnecessary to address the remaining grounds.’” (internal marks and citations omitted)).

### **III. Conclusion**

For the foregoing reasons, we hold the trial court did not err in terminating Mother’s parental rights to Zelda.

AFFIRMED.

Judges FLOOD and THOMPSON concur.

Report per Rule 30(e).