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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA24-293

Filed 15 October 2024

Rockingham County, Nos. 22 JT 15-17

IN RE: Y.D.W., C.V.W., JR., AND J.S.W.

Appeal by respondent-mother from order entered 22 December 2023 by Judge James A. Grogan in Rockingham County District Court. Heard in the Court of Appeals 28 August 2024.

*No brief for petitioner-appellee Rockingham County Department of Health and Human Services, Division of Social Services.*

*K&L Gates LLP, by Gabriel T. Scott and Natalia A. Nino, for appellee guardian ad litem.*

*Anne' C. Wright for appellant respondent-mother.*

THOMPSON, Judge.

Respondent-mother appeals<sup>1</sup> from an order terminating her parental rights to her minor children, Y.D.W., C.V.W., Jr., and J.S.W. (the children).<sup>2</sup> Respondent-

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<sup>1</sup> The father of Y.D.W., C.V.W., Jr., and J.S.W. did not appeal from the district court's order terminating his parental rights and is not a party to this appeal.

<sup>2</sup> Pseudonyms and initials are used to protect the identities of the juveniles in this case pursuant to N.C.R. App. P. 42.

mother contends that the district court's findings of fact are not supported by clear, cogent, and convincing evidence, and that the findings of fact do not support the court's conclusion that there were grounds to terminate her parental rights. Based on our review, the record on appeal contains clear, cogent, and convincing evidence that grounds pursuant to N.C. Gen. Stat. § 7B-1111(a)(2) existed for the termination of respondent-mother's parental rights to the children. Thus, we affirm the district court's order.

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

On 27 January 2022, the children were removed from respondent-mother's custody following a report of neglect due to domestic violence.

On 21 March 2022, respondent-mother entered into an Out of Home Family Agreement (case plan). Based on this case plan, respondent-mother was to: (1) demonstrate safe and age appropriate parenting skills during her weekly visitations with the children; (2) complete a substance abuse and a mental health assessment, and follow all recommendations made to address issues in order to provide a safe and healthy environment for the children; (3) demonstrate to the agency that she is able to obtain and maintain safe and appropriate relationships for herself and her children; (4) engage in meetings regarding her children's emotional, physical, and educational well-being; (5) enroll in an approved parenting program, attend it consistently, remain actively engaged, and obtain a certificate of completion; (6) enroll in an approved therapy or domestic violence program, engage consistently, and

provide Rockingham County Department of Health and Human Services (RCDHHS) with progress updates; (7) maintain appropriate, safe, stable housing for herself and the children, and maintain all necessary utilities; and (8) provide RCDHHS with proof of legal income, demonstrating her ability to financially support herself and the children.

On 11 April 2022, the district court adjudicated the children neglected and dependent juveniles and they were placed in licensed foster homes.

On 14 July 2022, the district court held the initial permanency planning hearing.<sup>3</sup>

On 11 July 2023, the district court held another permanency planning hearing. According to RCDHHS, the primary plan for the children was, and had been, adoption, with the secondary plan being guardianship.

On 20 July 2023, RCDHHS filed a motion to terminate both parents' parental rights to the children. Based on the agency's experience with respondent-mother since 27 January 2022, when the children were removed from her custody and placed in the custody of RCDHHS, RCDHHS alleged that grounds for termination existed pursuant to N.C. Gen. Stat. § 7B-1111(a)(1), (2), and (6).

On 27 November 2023, the district court entered an order following the permanency planning hearing that was held on 9 November 2023, setting adoption

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<sup>3</sup> This order from this permanency planning hearing does not appear in the record on appeal, but it is referenced by RCDHHS's motion to terminate parental rights.

as the permanent plan, with legal guardianship with a relative or other court-approved person as the secondary plan.

On 22 December 2023, the district court entered an order terminating the parental rights of both respondent-mother and the children's father, pursuant to N.C. Gen. Stat. § 7B-1111(a)(1), (2), and (6).

Respondent-mother filed timely written notice of appeal on 18 January 2024 and an amended written notice of appeal on 1 February 2024.

## **II. Discussion**

In the instant case, the district court found three grounds to terminate respondent-mother's parental rights to the children. However, only one ground must exist for a district court to terminate parental rights. *In re A.R.A.*, 373 N.C. 190, 194, 835 S.E.2d 417, 421 (2019). As such, we will only address respondent-mother's argument regarding N.C. Gen. Stat. § 7B-1111(a)(2).

Under North Carolina law, a district court may terminate parental rights upon a finding that "[t]he parent has willfully left the juvenile in foster care or placement outside the home for more than [twelve] 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." N.C. Gen. Stat. § 7B-1111(a)(2) (2023).

### **A. Standard of Review**

We review a district court's termination of parental rights order 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 [district] 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). “Findings of fact not challenged by respondent are deemed supported by competent evidence and are binding on appeal.” *In re M.T.*, 285 N.C. App. 305, 336, 877 S.E.2d 732, 753–54 (2022) (citation omitted). “The issue of whether a [district] court’s adjudicatory findings of fact support its conclusion of law that grounds existed to terminate parental rights pursuant to [N.C. Gen. Stat.] § 7B-1111(a) is reviewed de novo by the appellate court.” *Id.* (internal quotation marks, brackets, and citation omitted).

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

On appeal, respondent-mother argues that she “has addressed her needs relating to substance abuse and domestic violence such that there was not a likelihood of repetition of neglect if the children were returned to their mother’s care.” We disagree.

**1. Substance Abuse**

Pursuant to the case plan that respondent-mother entered into on 21 March 2022, respondent-mother was required to complete substance abuse and mental health assessments, and follow all recommendations to address all issues in order to

provide a safe and healthy environment for her children. Respondent-mother did complete substance abuse and mental health assessments on 21 March 2022. [R p 33] As a result of both the substance abuse assessment and the mental health assessment, it was recommended that respondent-mother engage in counseling and medication management. The record indicates the following regarding respondent-mother's substance abuse issue.

During the twenty-two-month period that RCDHHS had custody of the children, respondent-mother submitted to a plethora of drug screens, both urine and hair follicle. On 3 February 2022, respondent-mother's urine drug screen was negative for all substances, but her hair follicle drug screen was positive for methamphetamine and marijuana. The urine drug screens that respondent-mother submitted to on 18 February 2022, 22 February 2022, 28 February 2022, and 3 March 2022 were negative for all substances. On 22 April 2022, respondent-mother's urine drug screen was positive for methamphetamine and amphetamines. Respondent-mother did not comply with drug screen requests on 10 May 2022, 5 August 2022, and 18 August 2022. On 12 September 2022 and 7 November 2022, respondent-mother's urine drug screen was positive for methamphetamine and amphetamine. Respondent-mother did not comply with drug screen requests on 9 November 2022 and 23 November 2022. On 9 December 2022, respondent-mother's hair follicle drug screen was positive for methamphetamine. On 22 December 2022, respondent-mother's urine drug screen was negative for all substances. Respondent-mother

refused a drug screen request on 8 February 2023. On 14 April 2023, respondent-mother's urine drug screen was negative for all substances, but her hair follicle drug screen was positive for methamphetamine. On 8 May 2023 and 14 June 2023, respondent-mother's urine and hair follicle drug screens were negative for all substances. On 18 July 2023, 31 August 2023, 3 October 2023, and 1 November 2023, respondent-mother's urine and hair follicle drug screens were negative for all substances.

While the record indicates that respondent-mother made progress toward correcting her substance abuse issue, the record also indicates that she has a pattern of being clean for a period of time and then relapsing. The record further indicates that respondent-mother continued to fail drug screens even though respondent-mother completed substance abuse courses and obtained certificates of completion in September of 2022. Additionally, it was recommended that respondent-mother engage in substance abuse counseling on 21 March 2022, yet respondent-mother did not begin substance abuse counseling until 8 August 2023—approximately one year and four months after receiving the recommendation. Thus, we are not satisfied that respondent-mother has made reasonable progress toward correcting the issue of substance abuse.

## ***2. Family Relationships***

Evidence that a juvenile has been exposed to numerous domestic violence incidents has often been sufficient to support an adjudication of neglect, and “[i]t is

well[ ]established that the trial court need not wait for actual harm to occur to the child if there is a substantial risk of harm to the child in the home.” *In re T.S., III & S.M.*, 178 N.C. App. 110, 113, 631 S.E.2d 19, 22 (2006). Moreover, when the record includes evidence of children being exposed to “acts of domestic violence, abuse of illegal substances, and threatening or abusive behavior[.]” then the conclusion that a child is neglected is supported. *In re D.B.J.*, 197 N.C. App. 752, 755, 678 S.E.2d 778, 781 (2009).

As it relates to the family relationships portion of respondent-mother’s case plan, the record indicates that RCDHHS’s involvement with respondent-mother and the children began in February 2020 due to incidents involving domestic violence. In February 2020, RCDHHS’s services were needed due to a report that respondent-mother had gotten into an altercation with another female, and the children witnessed this altercation. While an assessment was being conducted for this incident, RCDHHS received another report based on “improper discipline and injurious environment” because respondent-mother’s boyfriend, Prince George, disciplined J.W. with a stick, which caused bruising. In June of 2020, the family was found in need of RCDHHS services because the children witnessed respondent-mother getting into a physical altercation with her sister. In April of 2021, RCDHHS services were needed again due to a report of respondent-mother leaving the children in the care of her boyfriend, Prince George, while she smoked and shot up methamphetamine, and because respondent-mother pulled a knife on her own



mother in the presence of the children. To resolve RCDHHS's concerns, respondent-mother consented to the children living with their father in August of 2021. The children were not allowed to return to their mother's care based on the ongoing concerns of domestic violence and substance abuse, but eventually the children's father allowed them to visit with respondent-mother. At that time, respondent-mother refused to give the children back to their father, and unfortunately the children were exposed to another domestic violence incident. RCDHHS initiated the neglect proceeding against respondent-mother following a reported domestic violence incident—caught on video—between respondent-mother and Prince George, and there was also footage of Prince George forcefully putting one of the minor children into a car.

Pursuant to the case plan that respondent-mother entered into on 21 March 2022, she was required to (1) demonstrate to RCDHHS that she could obtain and maintain appropriate relationships for herself and the children; (2) enroll in a parenting program, remain actively engaged, and obtain a certificate of completion; and (3) enroll in an approved therapy or domestic violence program, consistently engage in the program, and provide RCDHHS with progress updates. However, respondent-mother failed to make reasonable progress in any of these areas.

Following the 21 March 2022 mental health assessment, it was recommended that respondent-mother engage in counseling and medication management services. However, respondent-mother did not engage in counseling or medication

management until March of 2023, and while she continued to receive medication management services, she only attended five counseling sessions before quitting in August 2023.

Respondent-mother completed a parenting-capacity psychological assessment on 14 November 2022. According to respondent-mother's completed self-evaluation of her parenting strengths and challenges, respondent-mother reported that

she was 'excellent' in all areas of parenting including the quality of her relationship with her children, her understanding and application of effective behavioral authority, consistency in behavioral expectations and consequences, ability to maintain adult boundaries in discussions with her children, ability to maintain an appropriate parenting relationship with the child[ren]'s other parent and ability to manage her child[ren]'s basic and special needs.

However, the doctor indicated that respondent-mother raised several parenting concerns during this assessment. First, respondent-mother admitted that she endorsed whipping the children as the primary form of discipline despite having completed some parenting classes prior to the assessment. Second, respondent-mother raised parenting concerns because she had previously been diagnosed with bipolar disorder and schizophrenia, stated that she actively experienced audible and visual hallucinations but was not taking her medication because she "ran out[.]" and was inconsistently accessing mental health services. Finally, the doctor stated that there were parenting concerns because respondent-mother "display[ed] intellectual disabilities, basic academic skills, and memory processes all in the impaired range[.]"

and “[h]er performance indicate[d] that she me[t] the criteria for an intellectual disability.” As a result, it was recommended that respondent-mother (1) complete individualized parenting counseling focused on direct instruction, practice and feedback; (2) re-engage in psychiatry services; and (3) obtain a guardian ad litem. On 11 October 2022, respondent-mother contacted Help, Inc., a facility that offers services related to family relationships to set up an initial intake, but she did not show up to her scheduled intake appointment and there is no indication that she has attempted to enroll in any other parenting counseling or programs.

Additionally, as it relates to her parenting skills, respondent-mother’s case plan also included that she was to demonstrate safe and age-appropriate parenting skills during her weekly visitations. The record indicates that while respondent-mother had attended most of the scheduled visitations with the children, she missed several visitations. Similarly, respondent-mother had several telephone calls with her children but she also missed some, and eventually on 4 August 2022, the RCDHHS social worker ceased telephone calls between respondent-mother and the children because there were concerns that respondent-mother was under the influence of an impairing substance while on the phone with the children. Also, the visitations between respondent-mother and the children were terminated 3 January 2023 because the children’s therapist indicated that respondent-mother’s inconsistency with the visitations was negatively impacting the children, causing behavioral regression, and subjecting the children to an emotional roller coaster.

Thus, we are not satisfied that respondent-mother has made reasonable progress toward alleviating parenting concerns or demonstrating that she has appropriate parenting skills.

Moreover, despite her history of relationships involving domestic violence, respondent-mother did not engage in domestic violence counseling until 27 October 2023, some twenty-one months after the children entered RCDHHS's care. Even then, respondent-mother only attended two sessions, and it was reported that she was not actively engaged (e.g., the second session had to be rescheduled because respondent-mother was preoccupied with checking her tire pressure and pumping up her tires as opposed to engaging in the therapy session). Furthermore, testimony established that respondent-mother stayed in constant contact with Prince George—with whom she had an unhealthy and abusive relationship for three to four years— while he was incarcerated from March 2023 through October 2023. Based on this evidence, respondent-mother has demonstrated that she cannot obtain or maintain safe and appropriate relationships for herself or her children and, therefore, failed to satisfy her burden of making reasonable progress toward curing the issues that led to the children's removal.

Consequently, we conclude that while respondent-mother has made some progress in the problem area of substance abuse, respondent-mother has made very little effort to address the problem area of domestic violence and family relationships as identified in her case plan. While we commend respondent-mother for the progress

she has made, the children have been in the custody of RCDHHS since 27 January 2022; thus, at the time of the termination hearing, approximately twenty-two months had passed without reasonable progress being made toward correcting the issues that led to the children being removed from respondent-mother's custody. Therefore, the evidence of record demonstrates that grounds existed pursuant to N.C. Gen. Stat. § 7B-1111(a)(2) to terminate respondent-mother's parental rights.

### **III. Conclusion**

For the foregoing reasons, we hold that the district court's findings of fact were supported by clear, cogent, and convincing evidence and, therefore, those findings of fact supported the district court's conclusion that grounds existed to terminate respondent-mother's parental rights as to the children pursuant to N.C. Gen. Stat. § 7B-1111(a)(2). Consequently, we affirm the district court's order terminating respondent-mother's parental rights.

AFFIRMED.

Chief Judge DILLON and Judge FLOOD concur.

Report per Rule 30(e).