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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA24-212

Filed 5 November 2024

Forsyth County, Nos. 23 J 31–33

IN THE MATTER OF: J.M.T., J.D.T., J.I.T.

Appeal by Respondent-Mother from order entered 16 November 2023 by Judge David E. Sipprell in Forsyth County District Court. Heard in the Court of Appeals 8 October 2024.

Theresa A. Boucher for Petitioner-Appellee Forsyth County Department of Social Services.

J. Thomas Diepenbrock for Respondent-Appellant Mother.

North Carolina Administrative Office of the Courts, by Brittany T. McKinney, for guardian ad litem.

GRIFFIN, Judge.

Respondent Mother appeals from the trial court’s order adjudicating one of her children, Jarel¹, to be an abused and neglected juvenile and adjudicating her other two children, James and Janessa, to be neglected juveniles. Respondent argues the trial court’s findings of fact were not supported by clear, cogent, and convincing

¹ We use pseudonyms for ease of reading and to protect the juveniles’ identities. See N.C. R. Civ. P. 42(b).

evidence. We hold the trial court's findings of fact were properly supported by the evidence and affirm the adjudication order.

I. Factual and Procedural Background

Respondent is a single mom raising three children in Forsyth County. Her children, Jarel, James, and Janessa, were seventeen, thirteen, and three years old, respectively, at the time of the proceedings. The children's fathers are not parties to this appeal.

Respondent has a history with DSS dating back to 2017. Recently, Respondent and Jarel have had a tumultuous relationship. As a result of this relationship, numerous events led to DSS filing petitions on 2 February 2023 alleging Jarel, James, and Janessa to be either abused juveniles, neglected juveniles, or both. Following a failed trial home placement, DSS filed three more petitions on 24 March 2023. An adjudication hearing was called on 2 October 2024. Evidence presented at the hearing tended to show:

On 24 January 2023, at approximately 11:16 p.m., Forsyth County DSS received a report that Respondent locked Jarel out of their house in thirty-five-degree weather. A social worker arrived at the residence with Officer Wilburn from the Winston-Salem Police Department. Respondent claimed she did not allow Jarel back into the residence because he came home after curfew and did not knock on the door. However, Respondent also would not allow Jarel back into the residence after Officer Wilburn requested that she do so. Respondent also refused to allow the social worker

to check on James and Janessa. While this was going on, a family friend arrived at the residence and took Jarel back to her house for the night.

The following night, at approximately 12:54 a.m., DSS received another report that Jarel was in the parking lot of the apartment complex and Respondent was again refusing him entry into their apartment. The same family friend picked up Jarel from the parking lot and took him home with her again.

On 6 March 2023, Judge Theodore Kazakos entered an order giving DSS temporary non-secure custody of the children and providing numerous conditions that Respondent needed to comply with to obtain custody of her children. The children returned to Respondent's residence for a brief trial home placement shortly thereafter. On 22 March 2023, Officer James Carter, Jarel's juvenile court counselor, went to Respondent's residence to discuss Jarel's juvenile proceedings. Jarel was present at the residence because of a school suspension for fighting. An altercation between Jarel and Respondent occurred in Officer Carter's presence. During this altercation, Jarel dumped trash and bleach on Respondent's head. Following the incident, Respondent made threatening statements about Jarel and her other two children to DSS social workers. Specifically, Respondent told Ms. Janet Riley-Wright, a Forsyth County Child Protective Services Investigator, that she knew "how to cut [Jarel] from ear hole to asshole." Respondent also stated she knew where to get a gun and that she would kill him if she had to. She also requested DSS take all of her kids into custody as she did not know what would happen if Jarel returned home. DSS

filed a new set of petitions alleging Jarel was emotionally abused, and all three children were neglected.

On 9 October 2023, following the adjudication hearing, the trial court entered an adjudication and disposition order adjudicating Mother's oldest to be abused and neglected as well as adjudicating her two younger children neglected. The order also continued non-secure custody of the children with DHHS. Mother timely appeals.

II. Analysis

We review a trial court's adjudication order to determine "whether the trial court's findings of fact [were] supported by clear, cogent, and convincing evidence and whether the findings of fact support the conclusions of law." *In re D.J.D.*, 171 N.C. App. 230, 238, 615 S.E.2d 26, 32 (2005) (citing *In re Huff*, 140 N.C. App. 288, 291, 536 S.E.2d 838, 840 (2000)). A trial court's findings of fact are conclusive upon appeal unless they are challenged and unsupported. *In re K.B.*, 253 N.C. App. 423, 428, 801 S.E.2d 160, 164 (2017). "When reviewing findings of fact in a juvenile order, the reviewing court 'simply disregards information contained in findings of fact that lack sufficient evidentiary support' and examines whether the remaining findings support the trial court's determination." *In re A.J.L.H.*, 384 N.C. 45, 52, 884 S.E.2d 687, 693 (2023) (quoting *In re A.C.*, 378 N.C. 377, 394, 861 S.E.2d 858, 874 (2021)). We "review a trial court's conclusion[s] of law concerning adjudication de novo[.]" meaning, in this context, we "determine whether or not, from [our] review, the findings of fact supported a conclusion of neglect [or emotional abuse]." *In re G.C.*, 384 N.C. 62, 66,

884 S.E.2d 658, 661 (2023) (citation and internal quotation marks omitted).

A. Jarel

Respondent argues certain findings of fact in the trial court’s adjudication order are either conclusions of law or unsupported by evidence. Specifically, Respondent contends Finding of Fact No. 20 and the first, second, and fourth sentences of Finding of Fact No. 21 are conclusions of law. Respondent then argues the third sentence of No. 21, that she “creates or allows to be created serious emotional damage to [Jarel] and has not provided him with proper discipl[in]e, medical/remedial care[,]” is not supported by clear, cogent, and convincing evidence. Respondent also argues the remaining findings do not support the trial court’s conclusion that Jarel was an emotionally abused juvenile. Respondent does not contest the trial court’s adjudication of Jarel as neglected.

Finding of Fact No. 20 states:

The [c]ourt finds by clear, cogent and convincing evidence that [Janessa] and [James] are neglected juveniles as pursuant to N.C.G.S. 7B-101(15) and [Jarel] is an emotional abused and neglected juvenile as pursuant to N.C.G.S. 7B-101(1) and 7B-101(15).

Finding of Fact No. 21 states:

[Jarel], age 17, is an abused and neglected juvenile pursuant to the provisions of NCGS 7B-101. [James], age 13, and [Janessa], age 3, are neglected juveniles pursuant to the provisions of NCGS 7B-101. The mother of these children, [Respondent], creates or allows to be created serious emotional damage to [Jarel] and has not provided him with proper discipline [sic], medical/remedial care and

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supervision, and allows him to live in an environment injurious to his welfare. [Respondent] has repeatedly rejected appropriate mental health treatment for [Jarel], she will not allow him to live in her home, and she refuses to make an appropriate alternative plan of care for him. Additionally, [Respondent] does not provide [James] and [Janessa] with proper care, discipline, and supervision and allows them to live in an environment injurious to their welfare.

We agree with Respondent that Finding of Fact No. 20 is a conclusion of law. We also agree with Respondent that the first and second sentences of Finding of Fact No. 21 are conclusions of law. However, we disagree that the remaining sentences in No. 21 are not supported by clear, cogent, and convincing evidence.

Section 7B-101(1) defines an emotionally abused juvenile as any juvenile whose parent: “[c]reates or allows to be created serious emotional damage to the juvenile; serious emotional damage is evidenced by a juvenile’s severe anxiety, depression, withdrawal, or aggressive behavior toward himself or others[.]” N.C. Gen. Stat. § 7B-101(1)(e) (2023). A juvenile is also abused if their parent or guardian “[u]ses or allows to be used upon the juvenile cruel or grossly inappropriate procedures . . . to modify behavior[.]” N.C. Gen. Stat. § 7B-101(1)(c).

Here, the trial court received evidence that, in 2022, Jarel was diagnosed with ADHD, unspecified trauma and stressor disorder, cannabis use disorder, and parent-child relationship problems. However, Respondent stated, in reference to Jarel, “he’s not emotionally damaged[.]” and she did “not believe he has any such issues[.]” and “refused services from DSS, [Department of Juvenile Justice], in-home, and

counseling.” Despite Jarel’s medical diagnosis of mental health issues evidencing serious emotional damage, Respondent refused to pursue remedial treatment for her child. Moreover, the trial court received evidence that Respondent has prevented Jarel from sleeping in her house on more than one occasion, thereby forcing him to sleep on the streets. Additionally, DSS social workers testified about Respondent repeatedly shirking her parental duties by stating that DSS needed to do something about Jarel and take him out of her home. This testimony is clear, cogent, and convincing evidence in support of the remainder of Finding No. 21 and Respondent’s argument is without merit.

Having concluded that Finding of Fact No. 20, and parts of No. 21, are conclusions of law, we now determine whether the remaining findings of fact support the trial court’s conclusions of law. See *In re A.J.*, __ N.C. __, __, 904 S.E.2d 707, 710 (2024) (“[W]hen an appellate court determines that a finding of fact is not supported by sufficient evidence, the court must disregard that finding and examine whether the remaining findings support the trial court’s conclusions of law.” (citing *In re A.J.L.H.*, 384 N.C. at 52–53, 884 S.E.2d at 692)).

Here, the trial court also found in support of its adjudication that Jarel is an emotionally abused juvenile, *inter alia*, that:

25. On January 24, 2023, at 11:16 p.m., the Forsyth County DSS received a Child Protective Services report regarding this family. Winston-Salem Police Department (WSPD) was called to the family home due to [Respondent] refusing to allow [Jarel] in the home. The responding officers

reported [Respondent] as being uncooperative and [Jarel] reported he has been kicked out of the home several times, and most recently two days before and he spent those two days on the streets. After receiving this report, FCDSS social worker supervisor Alicia Weaver immediately responded to the residence, along with Officer Justin Wilburn from the Winston-Salem Police Department. Ms. Weaver found [Jarel] to be outside in 35-degree weather. [Respondent] was continuing to refuse to allow him in the home and refusing to make another plan of care for [Jarel]. At that time, [James] and [Janessa] were inside the home and [Respondent] refused to allow anyone to see or speak to them or check on the welfare of the children, stating they were asleep. [Respondent] stated that she would not allow [Jarel] into the home and acknowledged that she knew he was outside and unsupervised on numerous occasions. Eventually, a family friend responded to the home and agreed to take [Jarel] to her home for the evening.

26. On January 25, 2023, DSS Petitioner Janet Riley-Wright contacted [Respondent] who stated that she feels the system has failed her and that DSS or someone needs to find somewhere for [Jarel] to go. [Respondent] stated she does not have time to deal with [Jarel] because he does not obey her, and he should be placed out of her home. DSS Petitioner Janet Riley-Wright attempted to discuss past referrals that have been offered to the family by FCDSS, including Department of Juvenile Justice and mental health services; however, [Respondent] stated she did not have time to complete these processes and her children do not have mental health issues.

27. On January 26, 2023, at 12:45 a.m., FCDSS received another Child Protective Services report regarding this family. On this occasion, [Respondent] contacted the Winston-Salem Police Department to report hearing an argument in the parking lot of her apartment complex. Officer Wilburn responded again and found no one arguing in the parking lot; however, he did find [Jarel] outside with a blanket. [Jarel] reported again that he was attempting to go in his home but his mother would not answer the door

or allow him inside. Officer Wilburn knocked on the door and [Respondent] responded stating to him that when her door is closed, she is not getting out of her bed; however, even after being out of her bed and awoken [sic] by law enforcement, she continued to not allow [Jarel] into the home. The same family friend responded and took [Jarel] to her home again for the night. Officer Wilburn then responded to the magistrate's office, who issued a criminal summons for [Respondent] for Contributing to the Delinquency and Neglect of a Juvenile.

28. Later in the day on January 26, 2023, DSS Petitioner Janet Riley-Wright made contact with [Respondent] to again discuss a plan for [Jarel] and referrals for services due to his reported behaviors. [Respondent] again refused to engage in safety planning and stated [Jarel] was not allowed in her home. She further stated that she did not know why the family friend is involving herself in the matter and allowing [Jarel] to stay with her.

29. On January 31, 2023, DSS Petitioner Janet Riley-Wright contacted [Respondent] to discuss a Pre-Petition Child and Family Team (CFT) meeting. [Respondent] stated she was not interested in a CFT meeting because she has completed one before and it did not help. She stated that she is not doing anything else and everyone else needs to do their job. Further attempts to engage [Respondent] in making a plan for [Jarel], and engage in safety planning for [James] and [Janessa], and engaging in services have been unsuccessful. The FCDSS cannot complete a CFT meeting due to [Respondent]'s unwillingness to participate to make an appropriate plan for [Jarel].

30. [Respondent] has prior Child Protective Services history involving reports alleging the children to be neglected, including improper discipline, improper supervision, improper care, and [Janessa] was born a substance-affected infant due to [Respondent]'s marijuana use. Several reports involved improper discipline of [Jarel] and [James], including use of objects such as cords and

belts, leaving marks on their skin. There were also concerns in the past of [Respondent] keeping [Jarel] home from school to provide supervision to [James] and [Janessa] while [Respondent] worked. [Respondent] has repeatedly been provided resources and referrals for counseling for herself and her children, parenting skills training, substance abuse treatment for her self-reported marijuana use, and referrals to services such as Department of Juvenile Justice, Family Services, and Teen Challenge. [Respondent] has failed to complete or properly comply with the requirements or recommendations of the referrals and resources.

31. The family has also been involved with FCDSS In-Home Services in 2017, and most recently in January-June 2022. The 2022 In-Home Services case was closed after [Respondent] did not comply with the treatment recommendations for [Jarel] including Intensive In-Home Mental Health Services and Parenting Path services for [Respondent]. At that time, a Comprehensive Clinical Assessment was completed on [Jarel] and he was diagnosed with ADHD (Inattentive Type), Unspecified Trauma and Stressor Disorder, Cannabis Use Disorder, and Parent Child Relationship Problems. In November 2022, another CPS report was received due to [Respondent] refusing to allow [Jarel] in the home. At that time, [Jarel] was staying with a friend's family. Eventually, that family declined being able to provide further placement for [Jarel] and [Respondent] made other plans for his care with family friends.

32. [Respondent] repeatedly states [Jarel] displays aggressive behaviors towards her in the home; however, the level of behavior she describes is not witnessed by others and he does not display these behaviors as frequently in the other homes in which he has stayed. [Respondent] continues to state that [Jarel] poses a danger to her and the other children in the home, but has repeatedly failed to comply with treatment recommendations to address these behaviors and refuses to acknowledge her behaviors which contribute to these

incidents.

...

35. On March 6, 2023, after a contested Non Secure Custody hearing, Judge Theodore Kazakos ordered that the children remain in the non-secure custody of FCDSS but returned the children to the home of [Respondent] provided she maintain certain conditions including, Intensive Family Preservation Services be put in place in the home, [Respondent] to not use marijuana, [Respondent] not lock [Jarel] out of the home, [Respondent] follow the recommendations of her mental health/substance abuse assessment, submit to random drug screens as requested by FCDSS, and sign releases to allow FCDSS to obtain progress information. Judge Kazakos stated that any violation of these conditions would be reason to remove all three children from the home. FCDSS made a referral to the Crossnore Home Builders Program who agreed to work with the family and the children returned to [Respondent]'s home on March 10, 2023.

36. On March 23, 2023, DSS Petitioner Janet Riley-Wright received a new Child Protective Services report alleging emotional abuse of [Jarel], and neglect in the form of improper care, improper medical/remedial care, injurious environment, and dependency of [Jarel], [James], and [Janessa]. The report alleged that [Jarel] and [Respondent] got into an argument and altercation while [Jarel]'s Department of Juvenile Justice court counselor, James Carter, was at the home. Mr. Carter was attempting to discuss with [Jarel] the terms of his deferred prosecution when [Respondent] kept interjecting despite Mr. Carter asking her to stop. Mr. Carter attempted to de-escalate both [Jarel] and [Respondent]; however, neither complied with his directives to leave the home. It was reported that [Jarel] dumped the trash can and bleach on [Respondent]. [Jarel] left the home at some point during the argument. [Respondent] was on the phone with Amanda Swift, GAL Program Supervisor and was

expressing frustration about not being able to discipline [Jarel] such as stating she would cut [Jarel] from ‘ear to asshole’ because no one was helping her. She also said she knew where she could get a gun and that if no one was going to help her she would kill [Jarel]. She then said, “Mrs. Amanda you call DSS and tell them to come get all of these children. All of them. Because if [Jarel] comes back I don’t know what is going to happen. They aren’t safe here.”

37. Ms. Swift then alerted Winston-Salem Police Department and DSS supervisor Tracey Bullock-Davis. [Respondent] called Ms. Bullock-Davis stating that Ms. Bullock-Davis needed to come get [Jarel] and that if we had to take her children that was fine because [Jarel] could not come back home. Ms. Bullock-Davis could not speak with her at the moment and asked [Respondent] to call back. [Respondent] later called back stating [Jarel] returned home but she would not allow him inside. She asked Ms. Bullock-Davis what to do and Ms. Bullock-Davis advised [Respondent] to have [Jarel] go to the park and she would get him from there.

38. DSS Petitioner Riley-Wright went to the home later in the afternoon to initiate the report and assess the safety of the children at that time. When presented with the allegations, [Respondent] denied making threats directly to [Jarel]. [Respondent] allowed DSS Petitioner Riley-Wright to listen and view camera recordings of the interaction earlier in the day. On the recording, [Respondent] can be heard saying her mother could get a gun and shoot [Jarel] and not face any consequences due to her mental health condition. [Respondent] continued to state that no one was helping her, and [Jarel] could not continue to act that way and disrespect people. [Janessa] was the only child in the home during this visit as [Jarel]’s whereabouts were unknown and [James] was home briefly but then left. [Respondent] was on the phone with different individuals throughout the visit. Later, numerous visitors started coming in the home talking loudly and using profanity talking about FCDSS and DSS Petitioner Riley-

Wright. Due to confirmation of threats being made and concerns for the safety of the children as well as DSS Petitioner Riley-Wright's safety in the home, Ms. Riley-Wright contacted WSPD to report [James] and [Jarel] missing; however, [Respondent] called Ms. Bullock-Davis to report that [James] and [Jarel] had returned home. DSS Petitioner Riley-Wright returned to the home and removed [James] and [Jarel] as well.

...

40. Return of [Janessa], [James], and [Jarel] to the home of their parents would be contrary to the welfare of the juveniles.

The trial court concluded, based upon these findings, that "[Jarel] is an emotionally abused and neglected juvenile as pursuant to N.C. [Gen. Stat.] 7B-101(1) and 7B-101(15)." As Respondent does not challenge the underlying findings of fact, they are binding on appeal. *See In re J.M.*, 384 N.C. 584, 591, 887 S.E.2d 823, 828 (2023) (citation omitted) ("Uncontested findings of fact are likewise binding on appeal.").

The unchallenged findings support the trial court's conclusion that Jarel is an abused juvenile as Respondent caused and allowed Jarel to suffer serious emotional damage and used grossly inappropriate procedures to modify his behavior. Evidence presented at the 2 October 2023 hearing showed that Jarel was diagnosed with multiple mental health issues in 2022. Despite these diagnoses, Respondent continuously stated at the hearing and to social workers that her children did not have mental health issues. Thus, by failing to acknowledge a medical diagnosis and

take remedial measures, Respondent allowed the emotional damage to continue. Additionally, the incident between Jarel and Respondent in the presence of Mr. Carter and Jarel's suspensions for fighting at school evidence the serious emotional damage to Jarel.

In addition to Jarel's serious emotional damage, the trial court's conclusions of law are supported by its findings of fact regarding Respondent locking Jarel out of her house. Specifically, the court received testimony that Respondent continuously locked Jarel out of the house when he returned home after the curfew she set. These actions forced Jarel to unilaterally make other sleeping arrangements, including sleeping on the street. Respondent also threatened to inflict serious physical harm on Jarel. Respondent's actions of locking Jarel out and making physical threats against him evidence her use of grossly inappropriate procedures to modify Jarel's behavior. In fact, Respondent admitted, albeit with qualification, that not letting Jarel back into their home was "the only thing that I did wrong in the situation."

Accordingly, the trial court did not err as its adjudication of Jarel as an abused juvenile was properly supported by its findings of fact, which were in turn supported by clear, cogent, and convincing evidence.

B. James and Janessa

Respondent argues the trial court erred by adjudicating James and Janessa as neglected juveniles. Specifically, Respondent contends the same findings of fact, Nos. 20 and 21, are conclusions of law or not supported by clear and convincing evidence.

Respondent then argues the remaining unchallenged findings do not support the trial court's conclusions of law. We disagree.

For the reasons set forth above, we agree with Respondent that Finding of Fact No. 20 is a conclusion of law. We also agree that the first two sentences of Finding of Fact No. 21 are conclusions of law. However, as also explained above, the remainder of No. 21 are findings of fact supported by clear, cogent, and convincing evidence. Thus, we again address whether the remaining unchallenged findings of fact support the trial court's conclusions of law. *See In re A.J.*, __N.C. at __, 904 S.E.2d at 710 (“[W]hen an appellate court determines that a finding of fact is not supported by sufficient evidence, the court must disregard that finding and examine whether the remaining findings support the trial court's conclusions of law.” (citing *In re A.J.L.H.*, 384 N.C. at 52–53, 884 S.E.2d at 692)).

Section 7B-101 defines a neglected juvenile, *inter alia*, as any juvenile whose parent:

a. Does not provide proper care, supervision, or discipline.

...

e. Creates or allows to be created a living environment that is injurious to the juvenile's welfare.

N.C. Gen. Stat. § 7B-101(15)(ii)(a), (e) (2023). “A juvenile may be adjudicated neglected even if not currently residing in the parent's home. When the juvenile does not currently reside with the parent, the trial court must assess whether there is

substantial risk of future neglect based on the historical facts of the case.” *In re A.J.*, __ N.C. at __, 904 S.E.2d at 714 (citations and internal marks omitted).

Here, the trial court’s unchallenged findings show that Respondent, at one point, did not know her child James’s whereabouts for long enough that Social Worker Riley-Wright felt she needed to call law enforcement to report the missing juvenile. This finding properly supports the conclusion of law that James is a neglected juvenile as Respondent failed to provide proper supervision under section 7B-101(15)(ii)(a). Moreover, Respondent has created or allowed to be created a living environment that is injurious to James and Janessa’s welfare as Social Worker Swift had concerns for their safety because of the threats of bodily harm Respondent made to one of her children. Thus, the trial court’s conclusion of law that James and Janessa were neglected juveniles is properly supported under section 7B-101(15)(ii)(e).

Finally, the record is replete with evidence that Respondent has consistently failed to follow court orders and DSS recommendations. Specifically, Judge Kazakos filed an order on 24 March 2023 providing for a trial home placement at Respondent’s residence if, among other things: (1) intensive family preservation services were in place for the family; (2) Respondent refrained from using marijuana; (3) Respondent refrained from locking Jarel out of the house; (4) Respondent followed the recommendations from her health/substance abuse assessment; and (5) Respondent submitted to random drug screens as requested by DSS. In the order, Judge Kazakos

provided that “[a]ny violation of the above conditions[] shall constitute the removal of all three children from the home of [Respondent].” Respondent viewed these conditions as “recommendations” and violated the court’s order by using marijuana, locking Jarel out of the house on 23 March 2023, and failing to complete in-home therapy services.

To this point, the trial court’s findings show Respondent repeatedly refused to comply with the treatment recommendations made by DSS employees. Exemplifying this point is Respondent’s refusal to acknowledge her behaviors which contribute to the turmoil between herself and Jarel because she “don’t do any behaviors.” Moreover, Respondent could not follow Family Team recommendations as she “was not interested in a child and family team meeting.” Thus, the trial court’s findings of fact evidence a substantial risk of future neglect as Respondent refuses to engage in social services despite numerous recommendations and a court order for her to do so.

Accordingly, the trial court’s findings of fact were properly supported by clear, cogent, and convincing evidence. These findings, in turn, properly supported the trial court’s conclusion that James and Janessa are neglected juveniles.

III. Conclusion

For the foregoing reasons, we hold the trial court’s findings of fact were properly supported by the evidence and that these findings properly supported the trial court’s conclusions of law.

AFFIRMED.

IN RE: J.M.T., J.D.T., J.I.T.

Opinion of the Court

Judges MURPHY and THOMPSON concur.

Report per Rule 30(e).