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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA24-464

Filed 19 November 2024

Union County, Nos. 16 JT 169-170

IN THE MATTER OF: A.C. & V.S.

Appeal by Respondent from final order entered 9 February 2024 by Judge Erin Hucks in Union County District Court. Heard in the Court of Appeals 5 November 2024.

Attorney Jason R. Page for the respondent-appellant mother.

Plyler, Long, & Corigliano, LLP, by Attorney Ashley J. McBride for the petitioner-appellee Union County DSS.

Attorney Matthew D. Wunsche for the petitioner-appellee Guardian ad Litem.

STADING, Judge.

Respondent-Appellant Kristin Starnes (“Mother”) appeals from final order after the trial court terminated her parental rights. After careful review, we discern no error and affirm the order of the trial court.

I. Background

Mother is the biological parent of two minor children—A.C. and V.S. (collectively, the “children”).¹ On 26 May 2016, Petitioner Union County Department of Social Services (“DSS”) received a report indicating “concerns of sexual abuse” with respect to the children. The report stated that Mother’s boyfriend engaged in sexually inappropriate behaviors with the children. Consequently, a social worker from DSS met with Mother to determine the veracity of the allegations. During this meeting, the social worker determined that there were no signs of sexual abuse. However, the social worker observed that Mother was “under the influence of drugs or alcohol.”

On 17 August 2016, DSS filed a juvenile petition alleging that A.C. and V.S. were neglected juveniles. The trial court thereafter adjudicated both children as neglected on 21 September 2016:

7. The [DSS] has proven by clear and convincing evidence that the juveniles, [A.C.] and [V.S.], are neglected as defined in N.C. Gen. Stat. § 7B-101(15) in that:

- a) The juveniles do not receive care and supervision from the juveniles’ parents or caretakers; and
- b) The juveniles live in an environment injurious to the juveniles’ welfare, in that,
 - i. [Mother] failed to submit to drug screens on May 26, 2016, June 1, 2016, June 2, 2016, June 17, 2016, and July 6, 2016.
 - ii. [Mother] removed her children from a stable living environment with [the grandparents] on or about May 2, 2016. The children began missing days of school and were

¹ Pseudonyms are used to protect the identity of the minor children. See N.C. R. App. P. 42(b)(1).

living in different locations. [Mother] was homeless at the time the petition was filed.

iii. [Mother's] failure to provide proper care and supervision causes a substantial risk of injury to the juveniles in that [she] has failed to provide her children with a safe and stable living environment.

iv. [Mother's] failure to address her substance abuse issues causes a substantial risk of injury to the juveniles.

Following the adjudication, the trial court ordered Mother to: (1) cooperate with DSS; (2) meet with her social worker at least two times per month; (3) develop an in-home services agreement with her social worker; (4) complete a substance abuse assessment; (5) submit to random drug screens; and (6) complete parenting classes. The trial court continued custody with DSS and continued placement of the children with the paternal grandparents. On 23 November 2016, at a review hearing, the trial court awarded guardianship to the grandparents because Mother lacked stable housing, refused to submit to multiple drug screens, and failed to complete the substance abuse assessment or parenting classes.

On 7 May 2021, Mother filed a motion to review, requesting that the trial court remove the children from the grandparent's guardianship and place them with the children's aunt. On 9 June 2021, the trial court dissolved the grandparents' guardianship as they were no longer willing and able to continue guardianship of the children and placed the children in DSS custody. On 29 June 2021, the trial court entered a subsequent review order, requiring Mother to: (1) complete the online Triple P parenting program; (2) complete substance abuse treatment at Mariposa

Recovery; (3) obtain safe housing; (4) participate in family therapy; and (5) attend supervised visits with the children. On 25 August 2021, the trial court then conducted a permanency planning hearing and ordered reunification as the permanent plan and guardianship as the “secondary concurrent permanent plan.” Although Mother initially demonstrated progress toward her case plan, the Mariposa Recovery facility discharged her from treatment on 5 January 2022 after she sold GHB to another resident.

On 27 July 2022, the trial court entered a subsequent permanency planning order, which determined that Mother “made progress on her case plan” including “complet[ing] substance abuse treatment and parenting education classes.” The trial court ordered Mother to “submit to random drug screens” and “complete an updated substance abuse assessment” at this time. The next permanency planning hearing occurred on 21 September 2022, but Mother did not attend “because she [was] incarcerated in Franklin County, Georgia, . . . facing multiple drug-related charges.” After this hearing, the trial court changed the permanent plan from reunification to guardianship and relieved DSS of making further reunification efforts. Specifically, the trial court noted, “[e]fforts to reunite the juveniles with either parent clearly would be futile or inconsistent with the juveniles’ safety and need for a safe, permanent home within a reasonable period of time.” In its Findings Nos. 26 and 27, the trial court found:

- (A) The parents are not making adequate progress within a reasonable period of time under the plan.
- (B) The parents are not actively participating in or cooperating with the plan, DSS, and the guardian ad litem for the juveniles.
- (C) The parents are not remaining available to the court[,] DSS[,] and the guardian ad litem for the juveniles.
- (D) The parents are acting in a manner inconsistent with the health or safety of the juveniles.

. . . .

- (A) The juveniles' return to [their] own home would be contrary to the juveniles' best interest.
- (B) Reasonable efforts have been made to eliminate the need for placement of the juveniles. . . .
- (C) Reasonable efforts have been made to reunify the juveniles with family and to achieve the court approved plan for the juveniles. . . .
- (D) Reasonable efforts have been made since the last court hearing to achieve the court approved plan for the juveniles. . . .
- (E) Reasonable efforts have been made to achieve the court approved plan for the juveniles within the last twelve months. . . .
- (F) DSS has made reasonable efforts to finalize a permanent plan for the juveniles. . . .

Ultimately, the trial court changed the primary permanent plan to guardianship and the secondary plan to adoption.

On 9 February 2023, DSS petitioned to terminate Mother's parental rights of A.C. and V.S. based on the grounds of neglect, leaving the children outside the home for more than twelve months without making reasonable progress to correct the conditions which led to their removal, and dependency. At the time of the petition's

filing, A.C. was twelve years old and V.S. was thirteen years old. The adjudication phase was conducted on 13 September 2023 and 21 November 2023. At the adjudication hearing, the trial court heard testimony from a DSS social worker, Mother, and two employees from New Beginnings Ministry. The social worker testified that Mother was arrested for drug-related charges three times: (1) trafficking methamphetamines in September 2020; (2) trafficking illegal substances in February 2022; and (3) possession of illegal substances in August 2022. The evidence also showed that at the time of the third arrest, Mother had her “two-month-old-infant” child in the car. As a result, her newborn child was “placed into the custody of DSS in Franklin County, Georgia.”

A caseworker from New Beginnings Ministry testified that Mother entered a new substance abuse facility on 28 July 2023 following her release from incarceration. The program required Mother to attend a battery of different classes including “parenting, relapse prevention, [f]amily one, anger management, trauma, [c]elebrate [r]ecovery, discipleship, and [b]ible study.” The caseworker explained that since Mother began attending the program, she submitted four negative drug screens over four months. In addition, the director of New Beginnings Ministry provided further testimony as to the nature of the program and the overall success rate of its residents.

Following the adjudication hearing, the trial court determined that DSS “prove[d] by clear, cogent[,] and convincing evidence that grounds exist[ed] for the termination of parental rights of [Mother]” Specifically, the trial court’s

adjudication order noted that DSS proved the grounds under N.C. Gen. Stat. § 7B-1111(a)(1), (2), and (6) (2023). On 25 January 2024, the trial court conducted the disposition hearing. Following that hearing, the trial court ordered that it was in the best interests of the children to terminate Mother's parental rights. The trial court entered its termination of parental rights order on 9 February 2024. Mother filed a timely notice of appeal on 6 March 2024.

II. Jurisdiction

This Court has jurisdiction to consider Mother's appeal under N.C. Gen. Stat. §§ 7A-27(b)(2) and 7B-1001(a)(7) (2023).

III. Analysis

Mother submits three issues for our consideration: Whether the trial court erred by (1) finding and concluding that grounds existed to terminate Mother's parental rights on the basis of neglect; (2) finding and concluding that grounds existed to terminate Mother's parental rights because she left the minor children outside the home for more than twelve months without making reasonable progress to correct the conditions which led to their removal; and (3) finding and concluding that grounds existed to terminate Mother's parental rights on the basis of dependency. *Id.* § 7B-1111(a)(1), (2), and (6). Mother solely challenges the grounds upon which her parental rights were terminated, not the trial court's best interest of the child determination. *See id.* § 7B-1110 (2023).

After careful review, we hold that the trial court did not err because the clear, cogent, and convincing record evidence adequately supports the findings that Mother neglected the children and that there is a probability of future neglect if the children were returned to her care. *See id.* § 7B-1111(a)(1). And “[b]ecause a finding of only one ground is necessary to support a termination of parental rights,” we decline review of Mother’s alternative arguments. *In re A.R.A.*, 373 N.C. 190, 194, 835 S.E.2d 417, 421 (2019); *see also, e.g., In re Moore*, 306 N.C. 394, 404, 293 S.E.2d 127, 133 (1982) (“If either of the three grounds aforesaid is supported by findings of fact based on clear, cogent and convincing evidence, the order appealed from should be affirmed.”); *see also, e.g., In re B.O.A.*, 372 N.C. 372, 380, 831 S.E.2d 305, 311 (2019) (“As the Court of Appeals has consistently held, a finding by the trial court that any one of the grounds for termination enumerated in N.C. [Gen. Stat.] § 7B-1111(a) exists is sufficient to support a termination order.”).

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 (2020). At the adjudicatory stage, “[t]he petitioner bears the burden . . . of proving by clear, cogent, and convincing evidence that one or more grounds for termination exist under section 7B-1111(a) of the North Carolina General Statutes.” *Id.* at 94, 839 S.E.2d at 797.

“We review a trial court’s adjudication under N.C. [Gen. Stat.] § 7B-1109 to determine whether the findings are supported by clear, cogent and convincing evidence and the findings support the conclusions of law.” *In re C.B.C.*, 373 N.C. 16, 19, 832 S.E.2d 692, 695 (2019) (cleaned up). “The trial court’s conclusions of law are reviewable de novo on appeal.” *In re Z.A.M.*, 374 N.C. at 94, 839 S.E.2d at 797 (cleaned up). “Under a *de novo* standard of review, this Court considers the matter anew and freely substitutes its own judgment for that of the trial court.” *Roberson v. TruPoint Bank*, 281 N.C. App. 45, 47, 868 S.E.2d 345, 348 (2021) (cleaned up).

“De novo review of an adjudication of neglect . . . does not allow a reweighing of the evidence. Nor does it require deference to the trial court.” *In re K.S.*, 380 N.C. 60, 65, 868 S.E.2d 1, 4-5 (2022). “The assignment of weight and evaluation of the credibility of the evidence resides solely within the purview of the trial court, and the trial court’s factual determinations which are supported by clear, cogent, and convincing evidence . . . are binding on appeal notwithstanding evidence to the contrary.” *In re J.I.G.*, 380 N.C. 747, 754, 869 S.E.2d 710, 715 (2022) (cleaned up).

B. Neglect

Mother contends that “the trial court erred by finding and concluding that grounds existed to terminate her parental rights on the basis of neglect because she is not likely to neglect [the children] in the future.” Specifically, Mother contends that: (1) Findings of fact Nos. 17(A)(1), 17(A)(13), and 17(A)(14) are not supported by clear, cogent, and convincing evidence; (2) the trial court failed to consider her change

in circumstances; and (3) she made “substantial progress towards her case plan.” After careful consideration, we disagree.

One of the grounds upon which a “court may court may terminate the parental rights” is when there is a finding that “[t]he parent has abused or neglected the juvenile. . . . within the meaning of [Section] 7B-101.” N.C. Gen. Stat. § 7B-1111(a)(1). Section 7B-101 provides, in relevant part, that a neglected juvenile is: “Any juvenile less than 18 years of age . . . whose parent, guardian, custodian, or caretaker . . . [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.” *Id.* § 7B-101(15)(a), (e) (2023). “[I]n deciding whether a child is neglected for purposes of terminating parental rights, the dispositive question is the fitness of the parent to care for the child at the time of the termination proceeding.” *In re M.A.*, 374 N.C. 865, 869, 844 S.E.2d 916, 920 (2020) (cleaned up).

If it cannot be demonstrated “that the parent is neglecting his or her child at the time of the termination hearing because ‘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 Z.A.M.*, 374 N.C. at 95, 839 S.E.2d at 797 (quoting *In re D.L.W.*, 368 N.C. 835, 843, 788 S.E.2d 162, 167 (2016)); *see also In re Ballard*, 311 N.C. 708, 713–15, 319 S.E.2d 227, 231–32 (1984). “When determining whether such future neglect is likely, the district court must consider evidence of changed circumstances occurring between the period of past neglect and

the time of the termination hearing.” *In re Z.V.A.*, 373 N.C. 207, 212, 835 S.E.2d 425, 430 (2019). “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. at 870, 844 S.E.2d at 921 (cleaned up). That said, “a parent’s compliance with his or her case plan does not preclude a finding of neglect.” *In re J.J.H.*, 376 N.C. 161, 185, 851 S.E.2d 336, 352 (2020).

Mother first contends that Findings Nos. 17(A)(1), 17(A)(13), and 17(A)(14) are not supported by clear, cogent, and convincing evidence. Because Mother does not challenge any of the remaining findings, they are binding on this appeal. *See In re J.M.*, 275 N.C. App. 517, 521, 854 S.E.2d 158, 161 (2020) (cleaned up) (“Unchallenged findings are binding on appeal.”). Here, the trial court’s findings pertaining to its adjudication of neglect are as follows:

17. Pursuant to N.C.G.S. § 7B-1111, the [DSS] has proven by clear, cogent, and convincing evidence that grounds exist for the termination of parental rights of Mother based on but not limited to the following:

- (A) [Mother] has neglected the juveniles [A.C.] and [V.S.], to wit:
 - (1) [Mother] has failed to adequately address her identified needs of substance abuse, relationships, housing, parenting skills, and child characteristics.
 - (2) [Mother] entered Mariposa Recovery Services in 2021. She was there for about [six-seven] months. She left the program due to a relapse after using [GHB]. She admitted to the director at Mariposa that she had been selling GHB to other residents at Mariposa.

- (3) After leaving Mariposa, [Mother] entered treatment with Second Chance Recovery Residences. After about [six] months she relapsed again.
- (4) In or around September 2020, [Mother] was charged with Trafficking methamphetamines in Cobb County, Georgia. Those charges may have been dismissed.
- (5) [Mother] was arrested in August of 2022 in Franklin County, Georgia, during a traffic stop. . . .
- (6) These charges are still pending. [Mother] was in the vehicle along with her boyfriend and two-month-old infant. Said infant is currently in the custody of DSS in Franklin County, Georgia. [Mother's] rights to that child have been terminated.
- (7) [Mother] was incarcerated in the state of Georgia from August 23, 2022, until July 28, 2023.
- (8) The termination of Parental Rights pending in this matter was filed on February 9, 2023.
- (9) [Mother] had a bond modification in Franklin County, Georgia, on February 28, 2023. She was released to New Beginnings Ministry. Transportation to New Beginnings ministry was provided by jail personnel.
- (10) Pursuant to the conditions of the bond modification she has to finish at least twelve months in the program. She is on pre-trial release. [Mother] does not know the outcome of her pending charges. [Mother] had been in the New Beginnings program for four months of the twelve-month program.
- (11) It appears to the court that New Beginnings is an excellent program. . . . [Mother] has completed at least two other programs and relapsed within six months.
- (12) The juveniles, named herein, have been out of [Mother's] custody for about seven years (since 2016).
- (13) Based on the historical facts of the case, there is a substantial risk of continued neglect and future neglect if the juveniles are returned to [Mother].
- (14) [Mother] has failed to address substantial issues which were the cause of the juveniles coming into DSS custody and has failed to make substantial progress in completing her case plan, which is indicative of a likelihood of future neglect.

In summary, the trial court's findings determined that an adjudication of neglect was appropriate in light of the prior 2016 adjudication coupled with the "likelihood of future neglect by [Mother]." *In re Z.A.M.*, 374 N.C. at 95, 839 S.E.2d at 797 (cleaned up).

Mother maintains that she made "substantial progress toward" addressing the issues that the trial court determined she failed to remedy in Finding No. 17(A)(1). Although we agree that Mother made positive progress since her admission to New Beginnings Ministry—which the trial court took under consideration—the clear, cogent, and convincing record evidence demonstrates that she made minimal progress in her case plan over the course of about seven years. *See In re M.A.*, 374 N.C. at 870, 844 S.E.2d at 921 (cleaned up) ("A parent's failure to make progress in completing a case plan is indicative of a likelihood of future neglect."). The unchallenged findings on record and testimony of the DSS social worker demonstrate that in September 2016, the trial court adjudicated A.C. and V.S. neglected due to Mother's unstable living environment and chronic substance abuse issues. Since then, Mother attended three different rehabilitation facilities and relapsed twice, demonstrating a failure to remedy her substance abuse. Moreover, since the initial adjudication of neglect, Mother has been arrested on multiple occasions for drug-related offenses and has not obtained stable housing. One of these arrests occurred in the presence of Mother's two-month-old infant, leading to the termination of her parental rights in the state of Georgia. Thus, contrary to Mother's urging, the clear,

cogent, and convincing record evidence supports the finding that Mother “failed to adequately address her identified needs of substance abuse, relationships, housing, parenting skills, and child characteristics.” *See In re J.I.G.*, 380 N.C. at 754, 869 S.E.2d at 715 (cleaned up) (“[T]he trial court’s factual determinations which are supported by clear, cogent, and convincing evidence . . . are binding on appeal notwithstanding evidence to the contrary.”).

Mother next contends that Findings Nos. 17(A)(13) and (14) are not supported by clear, cogent, and convincing evidence because the trial court failed to consider her change in circumstances and substantial progress since attending New Beginnings. Yet, the trial court’s findings explicitly state that it considered “the historical facts of the case[.]” *See In re Z.V.A.*, 373 N.C. at 212, 835 S.E.2d at 430 (“When determining whether such future neglect is likely, the district court must consider evidence of changed circumstances occurring between the period of past neglect and the time of the termination hearing.”). The transcript reflects this because, at the adjudication hearing, the DSS social worker testified to varying events between the initial adjudication of neglect in 2016 and the time of the hearing in 2023. Moreover, unchallenged Findings Nos. 17(A)(10)–(11) considered the progress Mother made since attending New Beginnings, noting that the program is “excellent” and “appears to be helping her.” Even though Mother made recent progress in her case plan, the trial court determined that the likelihood of future neglect was greater than not due to Mother’s historical lack of success after completing rehabilitation programs and

her “pervasive longstanding issues with substance abuse.” *In re J.D.O.*, 381 N.C. 799, 821, 874 S.E.2d 507, 523 (2022). Indeed, our courts have determined that a parent’s failure to break a pattern of substance abuse indicates a likelihood of future neglect. *See In re A.S.T.*, 375 N.C. 547, 555, 850 S.E.2d 276, 282 (2020) (“Respondent has failed to appreciably address his substance abuse issues.”); *see also In re M.Y.P.*, 378 N.C. 667, 677–78, 862 S.E.2d 773, 781 (2021) (“[S]ubstance abuse was also identified as an area of need for services, and the trial court could properly conclude that failure to address this issue could lead to a repetition of neglect.”); *see also In re D.L.A.D.*, 375 N.C. 565, 572, 849 S.E.2d 811, 817 (2020) (“[A] substance abuse problem that likely went untreated could inhibit a parent’s capability or willingness to consistently provide adequate care to a child.”); *see also In re M.S.L.*, 380 N.C. 778, 787, 869 S.E.2d 662, 667 (2022) (holding that “the trial court properly terminated respondent’s parental rights based upon neglect” due to “the severity of [respondent’s] continuous drug abuse . . .”).

We, therefore, hold that the trial court did not err in finding and concluding that grounds existed to terminate Mother’s parental rights on the basis of neglect. The clear, cogent, and convincing record evidence supports the finding that the children were previously adjudicated as neglected in September 2016. In addition, the clear, cogent, and convincing record evidence supports the findings that Mother failed to make adequate progress in her case plan over seven years and, as such, will likely neglect the minor children in the future if they are returned to her care. *See*

In re Z.A.M., 374 N.C. at 98, 839 S.E.2d at 799 (“[I]t appears the trial court appropriately weighed all the evidence to conclude that there was a probability of repetition of neglect.”). These findings, in turn, support the trial court’s conclusion to adjudicate the minor children based on the ground of neglect. *See In re C.B.C.*, 373 N.C. at 19, 832 S.E.2d at 695 (cleaned up).

IV. Conclusion

After careful review, we hold that the trial court did not err by finding and concluding that the clear, cogent, and convincing evidence supported the termination of Mother’s parental rights.

AFFIRM.

Judges WOOD and GRIFFIN CONCUR.

Report per Rule 30(e).