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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA 24-396

Filed 3 December 2024

Randolph County, Nos. 23 JT 55-56

IN THE MATTER OF: K.B.L., J.D.L., Minor Juveniles.

Appeal by Respondent from order entered 26 January 2024 by Judge Scott C. Etheridge in Randolph County Juvenile Court. Heard in the Court of Appeals 5 November 2024.

No brief filed for Petitioner-Appellee Mother.

Garron T. Michael for Respondent-Appellant Father.

DILLON, Chief Judge.

Respondent Father appeals from the trial court's order terminating his parental rights to his two minor children, Kyle and Jenny.¹ Father contends Mother failed to present clear, cogent, and convincing evidence to support the trial court's adjudication that grounds existed to terminate his parental rights for willful abandonment and neglect under N.C.G.S. §§ 7B-1111(a)(1) and (a)(7). We hold the evidence was sufficient to support the court's adjudication of neglect and affirm the

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

trial court's order.

I. Factual and Procedural Background

Minor juveniles Kyle and Jenny were born to Father and Petitioner Mother in 2011 and 2006, respectively. In January 2013, the Randolph County District Court entered an Order for Custody and Child Support (the "2013 Custody Order"), granting legal and physical custody of both Kyle and Jenny to Mother and visitation rights to Father. The 2013 Custody Order also ordered Father to pay \$339.18 per month in child support.

Later in 2013, Father moved out of North Carolina and subsequently became incarcerated. Father spent varying amounts of time in incarceration between 2013 and 2024, at least partially because of felony charges. As of January 2024, Father was incarcerated in Texas. Father occasionally spoke to Kyle and Jenny on the phone but has had no in-person visitation with the juveniles since 2013. Father has not provided financial support for the juveniles since 2013.

Mother initiated this case on 23 May 2023 by filing petitions for the termination of Father's parental rights to Kyle and Jenny. Father was incarcerated in Texas at the time. Father responded to each petition *pro se* and was later appointed counsel to represent him in North Carolina.

The trial court held a pre-trial hearing in October 2023. The court thereafter granted Father two continuances before scheduling a termination hearing in January 2024.

On 22 January 2024, the trial court held an evidentiary hearing on termination. Father's counsel moved to continue once again, but the trial court denied the motion. During the adjudicatory phase, the trial court heard testimony from Mother and admitted the 2013 Custody Order as evidence. Father's counsel presented no evidence. The trial court concluded that grounds existed to terminate Father's parental rights based on neglect and willful abandonment, and then proceeded to the disposition phase. During the disposition phase, the trial court heard additional testimony from Mother as well as evidence from the children's GAL. The court orally concluded it was in the children's best interest for Father's parental rights to be terminated.

The trial court then entered a written order terminating Father's parental rights pursuant to N.C.G.S. §§ 7B-1111(a)(1) and (a)(7) on 26 January 2024. Father timely appealed.

II. Analysis

Father argues the trial court erred by terminating his parental rights on grounds of abuse or neglect under N.C.G.S. § 7B-1111(a)(1) and willful abandonment under N.C.G.S. § 7B-1111(a)(7). Termination of a respondent's parental rights involves two stages, adjudication and disposition, and this Court reviews the trial court's decision at each stage according to its own standard of review. *See In re Q.P.W.*, 376 N.C. 738, 741 (2021). Father challenges only the trial court's determinations at the adjudication stage.

At the adjudication 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 (2019) (citations and internal marks omitted). Relevant here, these grounds include:

(1) The parent has abused or neglected the juvenile. The juvenile shall be deemed to be abused or neglected if the court finds the juvenile to be an abused juvenile within the meaning of G.S. 7B-101 or a neglected juvenile within the meaning of G.S. 7B-101.

. . . .

(7) The parent has willfully abandoned the juvenile for at least six consecutive months immediately preceding the filing of the petition or motion[.]

N.C.G.S. §§ 7B-1111(a)(1), (7) (2023). A finding of only one ground is necessary to terminate a respondent’s parental rights. *See In re B.E.*, 381 N.C. 726, 739 (2022).

“If [a] trial court’s finding of fact . . . is supported by clear, cogent, and convincing evidence[, it will be] deemed conclusive even if the record contains evidence that would support a contrary finding.’” *In re S.R.*, 384 N.C. 516, 520 (2023) (citation omitted). “Moreover, we review only those findings necessary to support the trial court’s determination that grounds existed to terminate [a] respondent’s parental rights.” *In re B.E.*, 381 N.C. at 734–35 (citation omitted). “All findings of fact which are not challenged by a respondent are binding on appeal.” *In re G.B.*, 377 N.C. 106, 111 (2021). “We review whether the findings of fact support the conclusions

of law, and conclusions of law are reviewed de novo.” *In re S.R.*, 384 N.C. at 520 (citation omitted).

With respect to the trial court’s determination under Section 7B-1111(a)(1), Father does not specifically challenge any of the trial court’s findings of fact. Rather, he argues broadly that “the trial court’s findings, and conclusion that Father neglected his children through abandonment are likewise unsupported by clear, cogent, and convincing evidence because there was no evidence of neglect through abandonment at the time of the termination hearing.” He further contends that Mother “simply did not offer sufficient evidence to show that Father had the ability to provide support for his children or be actively involved in their lives given her obviating actions over the prior three years.” We disagree.

Under Section 7B-1111(a)(1), a neglected juvenile is one who meets the definition found in N.C.G.S. § 7B-101. Section 7B-101 defines a neglected juvenile as any juvenile whose parent, among other things, “[d]oes not provide proper care, supervision, or discipline,” or “[h]as abandoned the juvenile.” N.C.G.S. § 7B-101(15)(a)–(b) (2023). “Termination of parental rights based upon this statutory ground requires a showing of neglect at the time of the termination hearing[.]” *In re D.L.W.*, 368 N.C. 835, 843 (2016) (citation omitted). “[I]f 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.” *Id.* “When determining whether future neglect is likely, the trial court must consider evidence of relevant circumstances or

events that existed or occurred either before or after the prior adjudication of neglect.” *In re K.N.*, 373 N.C. 274, 282 (2020) (citation omitted). “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 (2019) (citation omitted). “The determinative factors must be the best interests of the child and the fitness of the parent to care for the child at the time of the termination proceeding.” *In re Ballard*, 311 N.C. 708, 715 (1984).

Here, the trial court made the following findings of fact relevant to its neglect adjudication:

12. [Father] was aware of the custody and child support order entered in 2013. Since 2013, [Father] has not provided any financial support of any kind whatsoever for the benefit of the minor children. Additionally, [Father] has provided nothing financially for the minor children since 2013.

13. [Father] left the State of North Carolina in 2013, and left his minor children. He has not had any physical contact with the minor children since 2013.

14. [Father] on sporadic occasions did call [Mother] after 2013. During these calls, [Father] was incarcerated, and would seek to communicate with [Mother] for his emotional support during times he was incarcerated.

15. On sporadic occasions, [Father] did communicate with the children between 2013 until approximately 2020, and would make promises to them that would not be fulfilled. Subsequent to 2020, the children no longer desired to communicate with [Father] because of his failure to fulfill

any of his promises that he would communicate to the children.

16. [Father] is a convicted felon, and has been convicted of multiple felonies by his own admission.

17. The [c]ourt finds that while [Father] has had some contact with the minor children, it has been minimal at best. The court finds there is no evidence to suggest [Father] has acted in any way or displayed any behavior that would indicate[] he has intended to be a parent or meet his duties and obligations as a parent to the minor children in this action.

18. No evidence was presented of any returned written communication and/or letters [Father] even attempted to send to the children and/or [Mother].

19. [Father] has not requested to visit with the minor children since he left the State of North Carolina in 2013.

The evidence presented during the hearing showed that, when Mother initiated the proceedings in May 2023, Jenny and Kyle had not been in Father's custody or care for roughly ten years because Father voluntarily left North Carolina in 2013 and had not since returned. Mother presented evidence that Father had been incarcerated more than once between 2013 and 2024 and was incarcerated at the time of the hearing. Though the evidence did not show exactly what periods of time Father was incarcerated during this ten-year period, the evidence nonetheless showed that Father failed to have meaningful contacts with his children during times of incarceration and the times in-between. Mother's evidence showed that the full extent of Father's interactions with his children were minimal, sporadic telephone conversations with Jenny and Kyle from 2013 to 2020. Father never sent his children

any gifts or other financial assistance and made no attempts to visit his children. Despite Father's separation from his children at the time of the hearing, the evidence showed a consistent pattern of prior neglect by Father and a significant likelihood that the pattern of neglect would continue in the future.

Father argues he was unable to communicate with Jenny and Kyle from 2020 to 2023 because Mother changed their contact information and did not provide the new information to Father. However, Mother's evidence showed Father's failure to visit, care for, and communicate with Jenny and Kyle. Father had the opportunity to provide evidence that he attempted to obtain his children's contact information or to otherwise reach out to them during this time, but he did not present any evidence during the hearing. *See In re M.S.A.*, 377 N.C. 343, 348 (2021) (affirming termination of parental rights where the father, despite incarceration, failed to exercise "whatever means available" to obtain contact information for his child or otherwise materially involve himself in her welfare). Furthermore, the evidence showed that the children did not wish to communicate with Father due to his prior absence and lack of reliability.

To the extent that Father's broad contentions suffice to challenge the trial court's findings of fact, we hold Mother presented clear, cogent, and convincing evidence which support findings of fact 12 through 19. These findings in turn are sufficient to support the trial court's conclusion of law that Father neglected Jenny and Kyle pursuant to Sections 7B-101(15) and 7B-1111(a)(1). Because we find that

the trial court's termination under N.C.G.S. § 7B-111(a)(1) was supported by the evidence and the trial court's findings of fact, we decline to address Father's arguments challenging adjudication under N.C.G.S. § 7B-111(a)(7). *See In re B.E.*, 381 N.C. at 739.

III. Conclusion

For the foregoing reasons, the trial court did not err by terminating Father's parental rights.

AFFIRMED.

Judges WOOD and STADING concur.

Report per Rule 30(e).