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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA24-655

Filed 5 February 2025

Cabarrus County, No. 22JT171

IN THE MATTER OF: I.G.J.

Appeal by respondent-father from order entered 4 April 2024, by Judge Christy E. Wilhelm of Cabarrus County District Court. Heard in the Court of Appeals 15 January 2025.

BJK Legal, by Benjamin J. Kull, for respondent-appellant-father.

Hartsell & Williams, PA, by E. Garrison White, for Cabarrus County Department of Human Services.

Brittany T. McKinney, for guardian ad litem.

FLOOD, Judge.

Respondent-Father appeals from the trial court's order terminating his parental rights to his minor child, I.G.J. ("Ingrid").¹ On appeal, Respondent-Father argues the trial court's adjudication of grounds to terminate his parental rights,

¹ A pseudonym has been agreed upon by the parties and is used to protect the identity of the juvenile in accordance with N.C.R. App. P. 42.

pursuant to N.C.G.S. § 7B-1111(a)(1), (2), (6), and (7), was unsupported by the relevant findings of fact, and as such, this Court should reverse the trial court's order, and remand this matter for denial of Cabarrus County Department of Human Service's ("DHS") termination motion. Upon review, we conclude the trial court's adjudication of neglect per N.C.G.S. § 7B-1111(a)(1) is supported by its binding findings of fact. We therefore need not address Respondent-Father's remaining challenges to the trial court's findings of grounds to terminate his parental rights, and we affirm the trial court's order.

I. Factual and Procedural Background

Ingrid was born to Respondent-Father and her Mother² (collectively, the "Parents") in 2020, and at that time, the Parents lived together in Rowan County, North Carolina. At the commencement of these proceedings,³ in July 2022, Ingrid resided with her Mother in Cabarrus County, North Carolina, while Respondent-Father had moved back to his home state of Alabama, where he still resides.

On 15 July 2022, DHS received a report of neglect and improper supervision, alleging Pennsylvania State Police had custody of Ingrid after the Mother allowed Ingrid to accompany a maternal aunt on vacation. DHS conducted an investigation into this matter, and on 5 October 2022, filed the underlying juvenile petition,

² Ingrid's mother is not a party to this appeal.

³ The proceedings here also involved Ingrid's half-sister, whose father is unknown. This appeal concerns only Respondent-Father's parental rights in Ingrid.

alleging Ingrid to be a neglected and dependent juvenile. In the petition, DHS alleged: a history of domestic violence between Respondent-Father and the Mother; substance abuse by the Mother; Respondent-Father had not taken any protective action to keep Ingrid with him or protect her; Respondent-Father has permanent residence in Alabama; and Respondent-Father has a criminal record, including convictions for battery of an unborn child and assault on a female in North Carolina, and a pending charge of assault by strangulation in Alabama.

On 10 October 2022, the parties participated in a nonsecure custody hearing. The trial court thereafter entered its first continued nonsecure custody order, where the trial court, in relevant part, granted DHS nonsecure custody of Ingrid, found “DHS has concerns for [Respondent-Father] based on criminal charges against [the] Mother during her pregnancy of [Ingrid] and request[s] that he complete a domestic violence assessment and follow through with all recommendations[,]” and ordered DHS to make accommodations for supervised visitation between Ingrid and Respondent-Father for a minimum of one hour per week.

On 17 October 2022, the parties participated in a second nonsecure custody hearing. The trial court thereafter entered its second continued nonsecure custody order, where it found that Respondent-Father expressed to DHS that he would like his home to be assessed for Ingrid and that he planned to “get full custody of [Ingrid],” and found that a virtual visit between Respondent-Father and Ingrid had been arranged for 14 October 2022, but Respondent-Father had “not confirmed with

[DHS].”

On 17 November 2022, this matter came on for an initial adjudication hearing before the trial court, where the Mother, DHS, and the guardian ad litem (“GAL”) submitted hearing stipulations, which included:

21. . . . [The] Mother is currently transient, and she does not have a stable safe place to live and care for [Ingrid.]

. . . .

24. [Respondent-Father . . . [has] not taken any protective action to keep . . . [Ingrid] with him or to protect [her] from these conditions. [Respondent-F]ather has willfully or intentional[ly] abdicated all his parental duties as to [Ingrid]; refused to perform the natural and legal obligations of parental care and support, has withheld his presence, love and the opportunity to display familial affection and has not visited with [Ingrid].

On 29 December 2022, the trial court entered its initial adjudication order, where it adjudicated Ingrid a neglected and dependent juvenile. In the order, the trial court found that, while Respondent-Father “did not stipulate to these facts stipulated to by [the] Mother, . . . GAL, and [DHS], the [c]ourt finds them to be fact. [Respondent-]Father’s evidence did not convince the [c]ourt that any of these stipulations were not in fact accurate.” Moreover, the trial court found that the State of Alabama denied Respondent-Father’s home assessment request due to his pending criminal charge of assault by strangulation. Finally, the trial court ordered Respondent-Father to complete a case plan to “remediate or remedy the issues which led to [Ingrid’s] placement and to show a sustained behavior change,” which included:

(1) obtaining a psychological evaluation “to gather information regarding his ability to parent and keep [Ingrid] safe”; (2) completing a domestic violence offender’s assessment and completing any recommended treatment; (3) attending a parenting class and “learn[ing] how neglect can affect his child”; (4) “demonstrat[ing] an understanding of developmental milestones, age-appropriate expectations, and demonstrat[ing] the ability to care for his child and make decisions in order to protect [her]”; (5) obtaining and maintaining suitable housing for placement of Ingrid; and (6) maintaining stable employment and income.

On 9 February 2023, the trial court held the first permanency planning hearing, and on 15 March 2023, entered its first permanency planning order, whereby the trial court maintained DHS’s legal custody of Ingrid and established a primary plan of reunification with a secondary plan of adoption. In the order, the trial court found, *inter alia*, Respondent-Father had made “little progress on the services previously ordered[.]” and ordered Respondent-Father to continue to work on his case plan.

On 13 July 2023, the trial court held the second permanency planning hearing, and on 21 August 2023, entered its second permanency planning order, whereby the trial court maintained DHS’s legal custody of Ingrid, changed the primary plan to adoption with a secondary plan of reunification, and ordered DHS to continue to make reasonable efforts in furthering these plans. In the order, the trial court found, *inter alia*, Respondent-Father: had made some progress with his case plan, but not enough

to assure the court that Ingrid could safely return to his care; had completed a domestic violence assessment in December 2022; and despite the recommendation that he attend twenty-eight weekly domestic violence classes, had attended only two such classes, the most recent attendance having been on 22 February 2023.

On 7 December 2023, the trial court held the final permanency planning hearing, and on 8 January 2024, entered its final permanency planning order. In the order, the trial court found, *inter alia*, Respondent-Father: had not completed additional domestic violence classes since 22 February 2023; lived with his girlfriend in a house in Alabama, for which his name was not on the lease; and had not provided any proof of employment.

Prior to the final permanency planning hearing, on 15 November 2023, DHS filed a motion to terminate the Parents' parental rights in Ingrid, alleging grounds of neglect, willful failure to make reasonable progress, willful failure to pay cost of care, dependency, and willful abandonment. The trial court held the termination of parental rights ("TPR") hearing on 7 March 2024, during which the trial court took judicial notice of the case's underlying files, including all prior orders.

At the TPR hearing, the trial court heard testimony from the DHS social worker, the GAL supervisor, and Respondent-Father. The social worker testified as to the history of the case, explaining that Ingrid was not placed with Respondent-Father due to safety concerns—specifically, because Respondent-Father: "at the time of the petition was residing in Chelsey, Alabama, as he still does currently"; had been

“convicted for battery of an unborn child [and] assault on a female”; and “has pending charges . . . for strangulation [of] his current girlfriend[,]” with whom he resides in Alabama.

The social worker also testified as to Respondent-Father’s case plan compliance, explaining that: Respondent-Father completed parenting classes in Alabama in December 2022, but DHS did not receive a syllabus or information about the content of the classes, and received no documentation of these classes “aside from the certificate”; in December 2022, Respondent-Father completed a domestic violence assessment through an Alabama organization called Freedom from Violence, and after a “long period of time” and “inconsistent” attendance, completed the recommended twenty-eight domestic violence classes; and DHS received a certificate of Respondent-Father’s completion of the domestic violence classes, but received no other requested documentation—such as a syllabus—and received no response from Freedom from Violence about scheduling a meeting to discuss the classes’ content.

Finally, the social worker testified that Respondent-Father: just before the most recent court hearing, had provided DHS a copy of a lease with his name on it; watched his girlfriend’s child for his employment, the income from which was insufficient to support himself and Ingrid; and had not alleviated the safety concerns that existed when Ingrid entered custody of DHS.

Following the TPR hearing, on 4 April 2024, the trial court entered its TPR order, terminating Respondent-Father’s parental rights in Ingrid. In the TPR order,

the trial court made adjudicatory findings fact, which included, in relevant part:

17. . . . There is a history of [domestic violence] between [the] Mother and [Respondent-Father].

. . . .

25. The safety concerns for . . . [Ingrid] include but are not limited to improper supervision, injurious environment, lack of mental health treatment, substance abuse, lack of suitable housing, lack of parental skills[,] and dependency.

26. On or about November 17, 2022, after a hearing was conducted and testimony provided, the [c]ourt found by clear, cogent, and convincing evidence that [Ingrid] was neglected and dependent. . . .

27. . . . There is a high probability of repetition of neglect and dependency of [Ingrid] if . . . [she] were returned to . . . [Respondent-F]ather's custody based on the lack of commitment towards working on the case plan. The concerns at the time of removal are still a concern, and there have not been any sustained behavior changes shown by [Respondent-Father.]

. . . .

41. [Respondent-Father] located a Domestic Violence class in Alabama called Freedom from Violence. [Respondent-Father] completed his [domestic violence] assessment [in] December 2022. [Respondent-Father] was recommended to attend [twenty-eight] domestic violence classes due to the charges of Assault on a Female, Simple Assault, and Battery of an Unborn child while in a relationship with [the Mother]. [Respondent-Father] has been inconsistent with taking his domestic violence classes. [Respondent-Father] has completed his [domestic violence] classes, however, he has not provided [DHS] with any documentation and it took him longer than expected to complete those [twenty-eight] classes.

. . . .

43. . . . [Respondent-Father] was charged with Assault by Strangulation against his current girlfriend in Alabama. These charges are still pending in Alabama.

Based on its findings of fact, the trial court: concluded that, pursuant to N.C.G.S. § 7B-1111(a)(1), (2), (6), and (7), grounds existed to terminate Respondent-Father's parental rights for neglect, willful failure to make reasonable progress, dependency, and willful abandonment, respectively; and found it to be in Ingrid's best interests to terminate Respondent-Father's parental rights. Respondent-Father timely appealed.

II. Jurisdiction

This Court has jurisdiction to review the termination of Respondent-Father's parental rights, pursuant to N.C.G.S. §§ 7A-27(b)(2) and 7B-1001(a)(7) (2023).

III. Standard of Review

“On appeal, the standard of review from a trial court's decision in a parental termination case is whether there existed clear, cogent, and convincing evidence of the existence of grounds to terminate [the] respondent's parental rights.” *In re Oghenekevebe*, 123 N.C. App. 434, 439 (1996) (citation omitted). “The trial court's findings in this regard are binding on appeal even though there may be evidence to the contrary.” *In re P.L.P.*, 173 N.C. App. 1, 8 (2005) (citation and internal quotation marks omitted). “Further, where 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.” *Id.* at 8 (citation and internal quotation marks omitted); *see also In re M.C.*, 381 N.C. 832, 838 (2022) (“Because a finding of a single statutory ground is sufficient to support termination of [the] respondent-father’s parental rights, we decline to address his arguments challenging the trial court’s adjudication of other grounds[.]” (citation omitted)).

IV. Analysis

On appeal, Respondent-Father challenges the trial court’s adjudication of grounds to terminate his parental rights, pursuant to N.C.G.S. § 7B-1111(a)(1), (2), (6), and (7) (2023), as unsupported by the relevant findings of fact, and argues this Court should reverse the trial court’s order, and remand this matter for denial of DHS’s termination motion. We disagree. We address the trial court’s adjudication of neglect per N.C.G.S. § 7B-1111(a)(1), and as explained in further detail below, need not address Respondent-Father’s remaining challenges.

Pursuant to N.C.G.S. § 7B-1111(a)(1), “the trial court may terminate the parental rights to a child upon a finding that the parent has neglected the child.” *In re M.J.S.M.*, 257 N.C. App. 633, 636 (2018) (citation and internal quotation marks omitted) (cleaned up). A “neglected juvenile” under N.C.G.S. § 7B-1111(a)(1) is defined, in relevant part, as a juvenile whose parent: “[d]oes not provide proper care, supervision, or discipline”; “[h]as abandoned the juvenile”; or “[c]reates or allows to be created a living environment that is injurious to the juvenile’s welfare.” N.C.G.S. § 7B-101(15) (2023). “A finding of neglect sufficient to terminate parental rights must

be based on evidence showing neglect at the time of the termination proceeding.” *In re Young*, 346 N.C. 244, 248 (1997) (citation omitted). If, however,

there is no evidence of neglect at the time of the termination proceeding[,] parental rights may nonetheless be terminated if there is a showing of a past adjudication of neglect and the trial court finds by clear and convincing evidence a probability of repetition of neglect if the juvenile were returned to her parents.

In re M.J.S.M., 257 N.C. App. at 637 (citation omitted) (cleaned up).

In assessing a prior adjudication of neglect,

there is no requirement that the parent whose rights are subject to termination on the grounds of neglect be responsible for the prior adjudication of neglect. As we have previously explained, in determining whether a child is neglected, the determinative factors are the circumstances and conditions surrounding the child, not the fault or culpability of the parent.

In re S.D., 374 N.C. 67, 75 (2020) (citation and internal quotation marks omitted) (cleaned up); *see also In re M.A.W.*, 370 N.C. 149, 153–54 (2017) (holding that a prior adjudication of neglect based upon the mother’s substance abuse and mental health problems was “appropriately considered” by the trial court as “relevant evidence” in determining whether the parental rights of the respondent-father, who had been incarcerated at the time of the initial adjudication, should be terminated).

To determine a probability of future neglect, “the trial court must consider all evidence of relevant circumstances or events which existed or occurred either *before* or *after* the prior adjudication of neglect.” *In re J.O.D.*, 374 N.C. 797, 802 (2020)

(citation and internal quotation marks omitted). “A parent’s failure to make progress in completing a case plan is indicative of a likelihood of future neglect[,]” and progress in a case plan may be insufficient where evidence demonstrates it “was only sporadic and inadequate.” *In re M.J.S.M.*, 257 N.C. App. at 637. Further, our Supreme Court has provided that, even where a respondent-parent had engaged in classes and assessment required by a case plan, a probability of future neglect may be shown where the respondent-parent has “failed to demonstrate that sustained behavioral change of the type necessary to ensure [the juvenile’s] safety and welfare.” *In re R.L.R.*, 381 N.C. 863, 875 (2022).

Here, the TPR order’s Findings of Fact 17, 25, 26, 27, 41, and 43 each relate to an adjudication of neglect. In his appellate brief, Respondent-Father challenges Finding of Fact 27 as a conclusion of law. While we agree that the trial court’s finding of “a high probability of repetition of neglect and dependency of [Ingrid] if . . . [she] were returned to . . . [Respondent-F]ather’s custody” should be treated as a conclusion of law, the remainder of Finding of Fact 27 is a proper finding of fact. *See In re M.J.S.M.*, 257 N.C. App. at 637. Further, while Respondent-Father challenges the part of Finding of Fact 43 concerning his lease, he does not challenge the portion of this Finding of Fact set forth in the factual and procedural background section of this opinion. As such, save the trial court’s finding of a high probability of repetition of neglect, these findings of fact, delineated above, are binding on appeal. *See In re S.C.L.R.*, 378 N.C. 484, 487 (2021) (“Unchallenged findings are deemed to be

supported by the evidence and are binding on appeal.” (citation omitted)).

While the Record contains no evidence indicating neglect of Ingrid at the time of the termination hearing, Respondent-Father’s parental rights may still be properly terminated upon a showing of a past adjudication of neglect, and of a likelihood of future neglect. *See In re M.J.S.M.*, 257 N.C. App. at 637.

First, as to a showing of a past adjudication of neglect, Respondent-Father contends that termination of his parental rights is “impossible[,]” as there is nothing in the Record to demonstrate that he was responsible for Ingrid’s prior adjudication of neglect. The Record on appeal, however, reveals that Ingrid was adjudicated a neglected juvenile on 29 December 2022, and while the prior adjudication of neglect was not due to the conduct of Respondent-Father, and was instead due to that of the Mother, “there is no requirement that the parent whose rights are subject to termination on the grounds of neglect be responsible for the prior adjudication of neglect[,]” and instead, “the circumstances and conditions surrounding the child” are determinative. *In re S.D.*, 374 N.C. at 75. Accordingly, Ingrid’s prior adjudication of neglect was appropriately considered by the trial court in its adjudication of neglect. *See In re M.A.W.*, 370 N.C. at 153–54.

Second, as to a likelihood of future neglect, per the trial court’s binding findings of fact: Respondent-Father has a history of domestic violence with the Mother and with his current girlfriend; Respondent-Father completed his domestic violence classes through the Freedom from Violence Organization, but neither he nor the

organization provided DHS with documentation of the classes' content; Respondent-Father was inconsistent in attending his domestic violence classes, and completion took longer than expected; and the facts of this case are such that the safety concerns for Ingrid, which gave rise to her removal, have not been allayed. Per relevant North Carolina law, set forth above, these factors all support a finding of a likelihood of future neglect. *See In re J.O.D.*, 374 N.C. at 802; *see also In re M.J.S.M.*, 257 N.C. App. at 637; *In re R.L.R.*, 381 N.C. at 875.

Upon our review, as Ingrid was priorly adjudicated a neglected juvenile, and the trial court's binding findings of fact support a likelihood of future neglect, we conclude the trial court properly found grounds to terminate Respondent-Father's parental rights for neglect, pursuant to N.C.G.S. § 7B-1111(a)(1). *See In re M.J.S.M.*, 257 N.C. App. at 636; *see also In re Oghenekevebe*, 123 N.C. App. at 439; *In re P.L.P.*, 173 N.C. App. at 8; *In re S.C.L.R.*, 378 N.C. at 487. As the trial court properly determined one ground to terminate Respondent-Father's parental rights, we need not address Respondent-Father's challenges to the remaining grounds, and the trial court's TPR order is affirmed. *See In re P.L.P.*, 173 N.C. App. at 8; *see also In re M.C.*, 381 N.C. at 838.

V. Conclusion

Upon review of the Record, we conclude the trial court's binding findings of fact supported its adjudication of grounds to terminate Respondent-Father's parental

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rights for neglect. We therefore need not address Respondent-Father's remaining challenges, and the trial court's TPR order is affirmed.

AFFIRMED.

Judge ZACHARY concurs.

Judge TYSON concurs in result only.

Report per Rule 30(e).