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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA24-851

Filed 19 February 2025

Gaston County, No. 22 JT 217

IN THE MATTER OF: R.S.M-M., Minor Child.

Appeal by Respondent-Appellant Father from order entered 14 July 2024 by Judge Angela G. Hoyle in Gaston County District Court. Heard in the Court of Appeals 4 February 2025.

*J. Edward Yeager, Jr., for Petitioner-Appellee Gaston County Department of Health and Human Services.*

*Robinson & Lawing, LLP, by Christopher M. Watford, for Respondent-Appellant Father.*

*Stephen M. Schoeberle for guardian ad litem.*

PER CURIAM.

Respondent-Father appeals from an order terminating his parental rights to

his minor child, R.S.M-M. (“Rosie”).<sup>1</sup> We affirm.

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

Shortly after Rosie’s birth on 26 May 2022, Gaston County Department of Health and Human Services (“DHHS”) became involved following a report that Rosie was born as a drug-affected infant. DHHS facilitated a temporary safety placement (“TSP”) with some of Father’s relatives. Father maintained issues with substance abuse and untreated mental health concerns, became the primary caretaker of his terminally ill mother, and engaged in altercations with the TSP on two occasions, which led DHHS to remove Rosie from the TSP and seek a non-secure custody order from the court.

On 3 April 2023, the trial court adjudicated Rosie to be a neglected and dependent juvenile. The trial court noted that Father had anger issues and was also dealing with the recent death of his mother. At this time, Father entered a case plan with DHHS, which required that he complete or comply with fourteen conditions. **(R. p. 81)**

The initial permanency planning hearing was held on 7 March 2023. In its first permanency planning order filed 15 May 2023, the trial court noted that Father had not completed a course of parenting classes, engaged in treatment for domestic violence, participated in a substance abuse and mental health assessment, produced

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<sup>1</sup> Pseudonyms have been used throughout the opinion to protect the identity of the juveniles and for ease of reading. See N.C. R. App. P. 42(b)(1).

a negative drug screen, or attended more than seven out of twenty-three scheduled visits with Rosie. After the hearing, Father initiated participation in several of the case plan conditions but also became the primary caretaker of his disabled adult brother.

After the next permanency planning hearing, the court found, in its order filed 19 July 2023, that Father was not making adequate progress toward reunification despite his previous progress, but also noted Father's change in circumstances as caretaker of his brother.

Upon another review two months later, the court noted no change or improvement in Father's situation.

On 18 December 2023, DHHS filed a petition to terminate Father's parental rights, alleging Father had: (1) neglected Rosie, (2) willfully left Rosie in foster care without making reasonable progress, and (3) abandoned Rosie as a basis for termination of his rights. DHHS also asserted that termination would promote Rosie's best interests.

Following each of two more permanency planning hearings occurring in December 2023 and March 2024, the court entered orders finding: (1) Father had not completed his case plan, (2) did not attend a permanency planning review meeting, and (3) had not exercised visitation since the last court date.

On 6 May 2024, the district court conducted a hearing on the petition to terminate Father's parental rights. At the hearing, three witnesses who were

familiar with Father testified for DHHS: a social worker, a drug testing technician, and the program director of Sunpath (the designated drug and alcohol rehabilitation center where Father completed a substance abuse and mental health assessment). The social worker testified about the circumstances surrounding Rosie's birth, how DHHS initially became involved, the designation of the TSP, and the nature of Father's aggressive interactions with the TSP. Also, Father had agreed to: (1) obtain and maintain housing, (2) obtain and maintain employment, (3) complete parenting classes and participate in visits, (4) refrain from criminal activity, (5) maintain communication with DHHS, (6) complete requested drug screens, (7) complete a mental health assessment & follow recommendations for treatment, and (8) complete a substance abuse assessment and follow the recommendations for treatment. However, Father was discharged from Sunpath's intensive outpatient treatment program as "unsuccessful"; he made no progress in completing a parenting education course or any type of domestic violence treatment; and he had not taken an active role to maintain contact with Rosie or DHHS. Granted, the social worker also admitted that she lacked knowledge about the events that occurred during the six months prior to the filing of the petition, that Father's mother had passed away and he was left to care for his disabled brother, and that Father's incarceration for three periods in 2024 inhibited him from completing aspects of the case plan.

The drug-testing technician testified that Father produced a negative drug test on 12 July 2022 and a positive drug test on 15 August 2022.

The program director at Sunpath testified that Father completed a mental health and substance abuse assessment and drug screening and was recommended to attend the intensive outpatient program, but Father failed to complete the program and did not attempt to reengage with treatment after his discharge from the program.

As a result, the trial court announced that it found clear, cogent, and convincing evidence supporting all three grounds for termination as alleged in the petition and directed the matter to proceed to the disposition phase. On 14 June 2024, the trial court entered its written order concluding that grounds existed to terminate Father's parental rights and that Rosie's best interest would be promoted by terminating Father's parental rights.

## **II. Analysis**

Counsel for Father has filed a no-merit brief pursuant to Rule 3.1(e) of the North Carolina Rules of Appellate Procedure, asserting that "a thorough and conscientious review of the transcript and the underlying record of proceedings in this matter" has revealed "no issue of merit on which to base an argument for relief." Counsel requests that this Court conduct an independent examination of the case. Counsel further shows he advised Father of his right to file a *pro se* brief in support of his appeal and provided him with the necessary materials to do so. Father has not submitted any *pro se* arguments to this Court, and a reasonable time for him to do so has passed.

IN RE R.S.M-M.

*Opinion of the Court*

Rule 3.1(e) requires this Court conduct an independent review of any issues contained in a no-merit brief. *In re L.E.M.*, 372 N.C. 396, 402, 831 S.E.2d 341, 345 (2019). In his brief, Father's counsel identified several issues that could arguably support an appeal but stated why he believed these issues lacked merit. Based upon our careful review of the record concerning these issues, we are satisfied that the trial court's termination order was supported by competent evidence and based on proper legal grounds. The termination order includes sufficient findings of fact supported by clear, cogent, and convincing evidence to support at least one statutory ground for termination. *See In re P.L.P.*, 173 N.C. App. 1, 8, 616 S.E.2d 241, 246 (2005) (citation and quotations omitted). Specifically, the evidence and findings demonstrate that the child was previously adjudicated neglected, and Father failed to successfully complete services specified in his case plan or maintain visitation with his child. *See* N.C. Gen. Stat. § 7B-1111(a)(1) (2023); *In re M.J.S.M.*, 257 N.C. App. 633, 637, 810 S.E.2d 370, 373 (2018) (citation omitted). The trial court also made appropriate findings in determining that the termination of Father's parental rights was in Rosie's best interests. *See* N.C. Gen. Stat. § 7B-1110(a) (2023). Accordingly, we affirm the trial court's order terminating Father's parental rights.

AFFIRMED.

Panel consisting of Judges COLLINS, GRIFFIN, and MURRY.

Report per Rule 30(e).