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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA23-547

Filed 19 March 2025

Buncombe County, Nos. 19 JT 222-24

IN RE: R.X.F., G.T.F., D.R.F., Minor Juveniles.

Appeal by respondent-father from order entered 4 October 2022 by Judge Andrea F. Dray in Buncombe County District Court. Heard in the Court of Appeals 4 March 2025.

Hanna Frost for Buncombe County Department of Health and Human Services.

Michael N. Tousey for guardian ad litem.

Anné C. Wright for respondent-appellant father.

PER CURIAM.

Respondent-father (“Father”) appeals from an order terminating his parental rights to R.X.F. (“Ryan”), G.T.F. (“Grayson”), D.R.F. (“David”)¹ Based on the reasons stated herein, we affirm the order of the trial court.

I. Background

¹ On 22 November 2024, counsel for respondent-mother filed a “Motion to Abate Appellant Respondent-Mother’s Appeal Due to Her Death.” By order entered 26 November 2024, this Court dismissed respondent-mother’s appeal.

Grayson was born in 2010, David was born in 2013, and Ryan was born in 2016 (collectively, “the children”). On 9 September 2019, Buncombe County Department of Health and Human Services (“DHHS”) obtained nonsecure custody of the children and filed juvenile petitions alleging them to be neglected. The petitions alleged that on 26 August 2019, DHHS received a Child Protective Services report that the children’s half-sister, who was three weeks old, had tested positive for methamphetamines and amphetamines at birth. Respondent-mother (“Mother”) agreed she would not be around the children unsupervised, and respondents (“Parents”) agreed to submit to drug screens. On 28 August 2019, Father tested positive for amphetamines and methamphetamines, and on 3 September 2019, Parents tested positive for amphetamines, methamphetamines, and alcohol. Based on these positive drug screens, the children were placed in a temporary safety placement, and Parents were allowed to remain in the home. Subsequently, a home visit revealed that Parents were having unsupervised contact with their children, and Father had driven Grayson and David to school. Based on these safety plan violations, Parents were asked to leave the home. In addition, Parents had recently been involved with DHHS in June 2019 after an “altercation occurred that involved alcohol and physical fighting around the minor children.” There were concerns that Mother had bitten one of the children as a means of discipline. The family in-home case was closed in August 2019.

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Following a hearing on 30 September 2020, the trial court entered orders on 4 December 2020 adjudicating the children to be neglected juveniles. An interim initial dispositional order was also entered keeping the children in DHHS custody.

After a dispositional hearing held on 30 October 2020, the trial court entered an order on 7 December 2020 continuing custody of the children with DHHS. Parents' visitation with the children was suspended. Father was ordered to complete a Comprehensive Clinical Assessment ("CCA"); follow substance and mental health treatment recommendations; obtain an assessment from SPARC and follow recommendations; obtain an evaluation with SOAR Court; complete trauma informed parenting classes based on the differing ages and developmental needs of their children, such as Triple P Parenting and Parent Child Interaction Therapy; sign releases for DHHS to be able to remain in contact with service providers; complete random drug screens requested by DHHS; desist driving by the foster home and engaging or attempting to engaged in unsupervised contact with the children; and engage in case planning with DHHS.

Following a permanency planning hearing on 30 October 2020, the trial court entered orders on 7 December 2020 finding that Parents were having supervised visitation with the children for two hours, twice a week. Father had attended 125.5 hours of visitation and missed 63.5 hours of visitation due to "cancelling, not confirming or no-showing." While the visits had been "minimally successful[.]" Parents had made comments about the foster home not taking appropriate care of

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the children and statements that, if reunited with Parents, the children would never see the foster parents again. Parents' statements were "extremely upsetting" to the children. On 24 August 2020, a DHHS social worker cancelled a visit after Parents were fifteen minutes late, and Parents appeared at the children's foster home "loudly argu[ing]" with the social worker. For eighteen minutes, Parents refused to comply with the social worker's request that they leave. During this time, the children were able to hear Parents' "escalated voices" and became "very upset by the confrontation."

The trial court also found that Parents had "on numerous occasions" informed a DHHS social worker that they would not be participating in their case plans or completing any case plan activities "until they are court-ordered to do so." Parents had not attended substance abuse treatment classes since the children came into DHHS custody. On 1 October 2020, Parents were arrested for possession of a stolen vehicle. The trial court further found that Parents had refused to submit to drug screens as requested by DHHS. They were evicted from their residence on 28 September 2020 and lacked stable housing or employment. The trial court suspended Parents' visitation with the children. The primary permanency plan was set as reunification, with a secondary permanency plan of guardianship.

Following subsequent permanency planning hearings on 27 April 2021 and 20 May 2021, the trial court entered orders on 19 July 2021 finding that Father had completed a CCA on 11 January 2021. While Parents were making phone calls to the children frequently, they were not communicating with the DHHS social worker.

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Father participated in a Child and Family Team meeting on 11 March 2021, but he refused to complete an assessment with the SPARC foundation and stated he “did not agree” with the recommendation that he engage in substance abuse treatment. Father also submitted to a random hair follicle drug screening on 11 March 2021 and tested positive for amphetamines. Father had neither secured housing nor obtained employment. A DHHS social worker had called and sent Father text messages on three separate occasions in early April 2021 to get a status update, but Father had not responded. The trial court set concurrent permanency plans of adoption and reunification.

On 20 September 2021, DHHS filed petitions to terminate Father’s parental rights to the children. As grounds for termination, DHHS alleged neglect and willfully leaving the children in foster care placement outside of the home for more than twelve months without making reasonable progress to correct the conditions which led to their removal. N.C.G.S. § 7B-1111(a)(1)-(2).

The adjudicatory hearing on DHHS’s petition was held on 8 September 2022. The trial court entered an order on 4 October 2022 terminating Father’s parental rights under both grounds alleged by DHHS. The dispositional hearing on DHHS’s petition was held on 26 October 2022 and 24 February 2023, and the trial court entered an order on 9 March 2023 concluding that it was in the children’s best interests that Father’s parental rights be terminated. Father appeals.

II. Discussion

On appeal, Father challenges the trial court’s adjudication of the existence of both grounds to terminate his parental rights. “We review a trial court’s adjudication under N.C.G.S. § 7B-1111 ‘to determine whether the findings are supported by clear, cogent and convincing evidence and the findings support the conclusions of law.’” *In re E.H.P.*, 372 N.C. 388, 392 (2019) (quoting *In re Montgomery*, 311 N.C. 101, 111 (1984)). “A trial court’s finding of fact that is supported by clear, cogent, and convincing evidence is deemed conclusive even if the record contains evidence that would support a contrary finding.” *In re B.O.A.*, 372 N.C. 372, 379 (2019). “Unchallenged findings are deemed to be supported by the evidence and are binding on appeal.” *In re R.G.L.*, 379 N.C. 452, 456 (2021) (citations omitted).

“We note that the trial court need not make a finding as to every fact which arises from the evidence; rather, the court need only find those facts which are material to the resolution of the dispute.” *In re A.E.S.H.*, 380 N.C. 688, 693 (2022) (cleaned up).

While Rule 52(a) does not require a recitation of the evidentiary and subsidiary facts required to prove the ultimate facts, it does require specific findings of the ultimate facts established by the evidence, admissions and stipulations which are determinative of the questions involved in the action and essential to support the conclusions of law reached.

In re T.N.H., 372 N.C. 403, 407–08 (2019) (cleaned up). “The trial court’s conclusions of law are reviewable de novo on appeal.” *In re C.B.C.*, 373 N.C. 16, 19 (2019). “[A]n

adjudication of any single ground in N.C.G.S. § 7B-1111(a) is sufficient to support a termination of parental rights.” *In re E.H.P.*, 372 N.C. at 395.

We first address Father’s argument that the trial court erred by concluding that grounds existed to terminate his parental rights based on neglect under N.C.G.S. § 7B-1111(a)(1). A trial court may terminate parental rights under this ground if it concludes the parent has neglected the juvenile within the meaning of N.C.G.S. § 7B-101. N.C.G.S. § 7B-1111(a)(1) (2023). A neglected juvenile is defined, in pertinent part, as a juvenile “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.” N.C.G.S. § 7B-101(15) (2023).

“[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.” *In re D.L.W.*, 368 N.C. 835, 843 (2016) (citation omitted). “When determining whether future neglect is likely, the trial court must consider evidence of changed circumstances occurring between the period of past neglect and the time of the termination hearing.” *In re Z.A.M.*, 374 N.C. 88, 95 (2020) (citing *In re Ballard*, 311 N.C. 708, 715 (1984)). The “determinative factors” in assessing the likelihood of a repetition of neglect are “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 Z.G.J.*, 378 N.C. 500, 509 (2021) (quoting *In re Ballard*, 311 N.C. at 715). “A parent’s failure to make

progress in completing a case plan is indicative of a likelihood of future neglect.” *In re M.J.S.M.*, 257 N.C. App. 633, 637 (2018) (citation omitted).

In contesting the trial court’s adjudication, Father challenges multiple findings of fact as not being supported by the evidence or lacking sufficient specificity. Father does not challenge the children’s prior adjudication of neglect but argues that the trial court’s findings of fact are insufficient to support its conclusion that “[t]here is a high likelihood of repetition of neglect if the minor children were returned to the care and control of . . . [Father] due to [his] failure to engage in services designed to remedy the conditions that led to the involvement of [DHHS].” He contends that there was inadequate evidence presented regarding his fitness to parent his children at the time of the termination hearing and that the trial court erred in adjudicating grounds pursuant to N.C.G.S. § 7B-1111(a)(1). We are not convinced.

In the instant case, the trial court entered multiple findings of fact to support its conclusion that grounds existed under N.C.G.S. § 7B-1111(a)(1) to terminate Father’s parental rights. The trial court found that the children had been in DHHS custody for nearly three years as of the date of the termination hearing. The children were adjudicated neglected on 30 September 2020 due to “parental substance abuse, to include methamphetamines, domestic discord, violation of safety plans and child protective services history.” Father was ordered to complete services to remedy the conditions that led to DHHS involvement, and this included completing a CCA, following substance and mental health recommendations, obtaining an assessment

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from SPARC and following recommendations, obtaining an evaluation with SOAR court, completing trauma informed parenting classes, signing releases of information, completing random drug screens requested by DHHS, desisting from driving by the foster home or attempting to engage in unsupervised contact with the children, and engaging in case planning with DHHS. It further found that:

23. [Father] tested positive for controlled substances, to include methamphetamines, during the time the minor children have been in foster care.

24. . . . [Father] ha[s] missed drug screens that were requested by [DHHS].

. . . .

27. [Father] completed a CCA, but failed to follow the recommendations.

28. [Father] has failed to complete substance abuse treatment.

. . . .

30. [Father] failed to complete a parenting course.

31. [Father] failed to complete services with SPARC to address issues related to domestic violence.

32. [Parents] have failed to complete the services ordered by the Court and set out within their case plans even though [DHHS] made numerous referrals for both [Parents].

33. [Parents] have experienced housing instability throughout the time the child has been in foster care.

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34. [Parents] have failed to maintain consistent contact with [DHHS] or attend all scheduled CFT's. As such the . . . [Father] ha[s] missed opportunities to engage in case planning.

Father argues that in finding of fact 23, the trial court did not make findings as to when he tested positive for controlled substances during the three years the children were in foster care. He acknowledges that there was evidence presented that he tested positive for controlled substances in August 2019, September 2019, and March 2021 but notes that his last positive drug test was more than a year before the date of the termination hearing.

At the termination hearing, DHHS social worker Theresa Cole testified that Father tested positive for amphetamines and methamphetamines in August 2019; tested positive for amphetamines, methamphetamines, and alcohol in September 2019; and tested positive for methamphetamines in March 2021. While the trial court did not make any specific findings as to the dates Father tested positive, we do not believe the trial court was required to make a finding on every piece of evidence presented at the termination hearing. The trial court made the finding that was material to resolve whether Father had corrected his substance abuse issues by the time of the termination hearing. *See In re A.E.S.H.*, 380 N.C. at 693. Moreover, although evidence of the most recent positive drug screen occurred more than a year before the termination hearing, it was not error for the trial court to take this into consideration. *See id.* at 694 ("Although standing alone the prior drug use[, which

occurred twenty-three months before the termination hearing,] may be fairly remote in time, it is part of the context the court properly took into account.”).

Next, Father argues that in finding of fact 24, not only did the trial court fail to make any findings as to when DHHS made drug screen requests, but there is no evidence upon which to make any such finding. We disagree. DHHS social worker Cole testified that there were times when Father was asked to submit to drug screens, and he failed to submit. Similar to our reasoning above, the trial court was not required to make findings as to the particular dates Father failed to submit to requested drug screens. Finding of fact 24 resolves the critical question of whether Father completed the component of his case plan requiring him to complete random drug screens if requested by DHHS.

Regarding findings of fact 27 and 28, Father asserts that the trial court did not specify what recommendations, if any, were made as a result of his CCA or whether substance abuse treatment was recommended. DHHS social worker Cole testified that Father completed his CCA in January 2021 and that recommendations were made that he complete substance abuse and mental health treatment. She further testified that Father did not comply with these recommendations. Cole also testified that she informed Father “[t]hat it would be necessary to engage in substance abuse treatment because of the positive [drug screen].” During Father’s testimony, he acknowledged that his CCA recommended group therapy, individual therapy, and psychiatric medication management, among other things. He also testified that he

did not complete substance abuse treatment. Although the trial court did not make any specific findings regarding what was recommended as a result of his CCA or that substance abuse treatment was recommended, it is not required to make a finding as to every fact that arises from the evidence. *See In re A.E.S.H.*, 380 N.C. at 693. It is sufficient that the trial court made the relevant and material finding that Father failed to follow the recommendations of his CCA and failed to complete substance abuse treatment, which is supported by clear, cogent, and convincing evidence.

Furthermore, Father argues that the trial court failed to make findings on how his failure to follow the recommendations of his CCA, to undergo substance abuse treatment, or to complete a parenting class impacted his ability to care for his children or how they were necessary for the return of the children to his care. Father does not cite to any authority that affirmatively states the trial court is required to make such findings. *See* N.C.R. App. P. 28(b)(6) (2023). To the extent Father is arguing that these requirements have no relevancy on his ability to care for the children, the North Carolina Supreme Court has held that “the trial judge in an abuse, neglect, or dependency proceeding has the authority to order a parent to take any step reasonably required to alleviate any condition that directly or indirectly contributed to causing the juvenile's removal from the parental home.” *In re B.O.A.*, 372 N.C. at 381. Here, the record demonstrates that the children were taken into DHHS custody based on “parental substance abuse, to include methamphetamines, domestic discord, violation of safety plans and child protective services history.” The

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initial adjudication order, of which the trial court took judicial notice at the termination hearing, found that Parents had been recently involved with DHHS in June 2019 after Parents were involved in an altercation involving alcohol and physical fighting while in Ryan's presence. Based on the foregoing, the trial court was well within its authority to order Father to follow the recommendations of his CCA, to complete substance abuse treatment, and to complete parenting classes. Resolution of these issues are directly related to the conditions that led to the children's removal from Parents' care.

The trial court's findings establish that during the three years the children were in DHHS custody, Father failed to fully comply with the vast majority of his case plan requirements. Father completed a CCA, but did not follow its recommendations. He failed to complete substance abuse treatment, parenting classes, and services with SPARC. Father tested positive for controlled substances and missed drug screens requested by DHHS. He continued to experience housing instability and did not maintain consistent contact with DHHS, missing out on opportunities to be involved in case planning. The main issues that led to the children's removal remained unresolved by the time of the termination hearing.

We conclude that the trial court made adequate findings to support its conclusion that there was a probability of a repetition of neglect if the children were returned to Father's care. As such, we affirm the trial court's determination that Father's parental rights in the children were subject to termination under N.C.G.S.

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§ 7B-1111(a)(1). Because only one ground is necessary to support a termination of parental rights, *see In re E.H.P.*, 372 N.C. at 395, we do not address Father's challenge to the remaining ground for termination adjudicated by the trial court. Because Father does not challenge the trial court's best interests determination at the dispositional stage, we affirm the order terminating his parental rights in the children.

III. Conclusion

The trial court's 4 October 2022 order terminating Father's parental rights in the children is affirmed.

AFFIRMED.

Panel consisting of Chief Judge DILLON and Judges ZACHARY and FLOOD.

Report per Rule 30(e).