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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA24-908

Filed 21 May 2025

Cumberland County, No. 21 JA 000039-250

IN THE MATTER OF:
N.P., a minor child.

Appeal by Respondent from judgments entered 24 April 2024 and 5 June 2024 by Judge Frances M. Britt in Cumberland County District Court. Heard in the Court of Appeals 23 April 2025.

Vitrano Law & Mediation, by Attorney Sean P. Vitrano, for Respondent–Appellant Father.

Attorney Dawn M. Oxendine for Petitioner–Appellee Cumberland County Department of Social Services.

N.C. Administrative Office of the Courts, by Attorney Matthew D. Wunsche, for Appellee–Guardian ad litem.

MURRY, Judge.

I. Background

On 4 February 2021, CCDSS filed a verified juvenile petition (petition) alleging Neil to be dependent and neglected as defined in N.C.G.S. §§ 7B-101. N.C.G.S. § 7B-101(9), (15) (respective statutory definitions). At that time, the petition included two of Neil’s siblings, but they have since reached the age of majority. The petition

alleged that Father and Neil's mother (Mother) had ongoing domestic violence incidents in the home.

In 2016 and 2018, CCDSS found Mother and Father in need of domestic-violence assistance. Mother and Father physically fought in front of Neil on 7 December 2020, after which Father pressed charges against Mother. On 9 December 2020, CCDSS received a child protective services order (referral) concerning Neil's safety due to domestic violence in Neil's home. On 10 December 2020, a CCDSS social worker went to Mother and Neil's home to investigate the referral's allegations, during which Mother became aggressive towards the social worker. Around this time, Father also inhibited CCDSS's investigation by providing social workers with several fictitious or incorrect addresses. From 10 December 2020 to 3 February 2021, none of the social workers could locate Neil.

On 3 February 2021, social workers went to Mother's home to visit Neil, during which Mother became violent and attempted to run one of the social worker's cars off the road. The social worker pressed charges against Mother and police arrested her on 4 February 2021. Soon after Mother's arrest, Neil's maternal grandmother prevented a social worker from privately speaking to Neil as part of her investigation. The trial court placed Neil in the non-secure custody of CCDSS that same day, finding him "exposed to a substantial risk of injury . . . because the parent . . . has created conditions likely to cause injury or abuse or has failed to provide, or is unable to provide, adequate supervision or protection." Neil has been in the continual care of

CCDSS since 5 February 2021, under the non-secure custody order filed in conjunction with the petition alleging neglect and dependency.

The trial court heard CCDSS's petition on 5 October 2021 and entered an order on 19 January 2022 finding Neil neglected and dependent. On 18 April 2023, though, this Court vacated and remanded that order without reaching its merits.¹ On 5 July 2023, the trial court entered an order that kept Neil in CCDSS custody and set aside the prior adjudication and disposition. On 16 January 2024, a social worker attempted to conduct a home study at Father's residence, but he was not present despite previously confirming his availability. On 27 February 2024, the trial court ordered that CCDSS conduct an Interstate Compact on the Placement of Children (ICPC) home study on Neil's maternal grandmother in New York for Neil's potential placement. On 4 April 2024, the trial court noted that CCDSS was waiting on additional documents from both Neil's paternal and maternal grandmothers to complete the ICPC process. The trial court also found that, despite CCDSS's "diligent efforts to locate relatives" for Neil's placement, "[n]o suitable kinship placement has been identified" as of 24 April 2024.

Because the 19 January 2022 order was vacated and remanded on appeal, the trial court held another hearing to adjudicate Neil's neglect and dependency on 8

¹ This Court reversed and remanded the order due to improper withdrawal of Mother's guardian *ad litem*. See *In re N.P.*, 288 N.C. App. 488 (2023) (unpublished table decision).

April 2024. At this hearing, CCDSS presented evidence through documentary exhibits and testimony from Social Worker Brendan Ray. Ray testified that she helped prepare CCDSS's petition and that CCDSS first became involved in 2016 with a referral due to a domestic-violence incident involving Mother and Father on 7 December 2020. She also testified to her inability to either find Neil or conduct a safety assessment at any of Father's inaccurately provided addresses. Neil also failed to regularly attend school despite his formal enrollment. On 24 April 2024, the trial court entered an order adjudicating Neil as a neglected and dependent juvenile. The trial court found in relevant part that:

10. [CCDSS] has made diligent efforts to locate [Neil's] relatives and inform them that [he] is in non-secure custody. . . . No suitable kinship placement has been identified at this time.
. . . .
24. On [7 December 2020], . . . Mother and . . . Father engaged in a physical altercation. [Neil] . . . w[as] in the home at the time. Police were called and . . . Mother was arrested.
. . . .
26. . . . Father provided . . . Social Worker different addresses of his residence. . . . Social Worker did visit th[ese] address[es]; . . . [Father] was not located there and someone else resided at that address. . . . The last address [Father] gave was 113 Waddell Street, Fayetteville, North Carolina, . . . [Mother's] home address.
27. It took [CCDSS] three . . . months to locate . . . [Neil]. [CCDSS] w[as] not able to locate [Neil] until [4 February 2021], at the [Mother's] residence, when . . . [she] was arrested
. . . .
30. [Mother and Father] have a history of CPS and domestic violence.
. . . .
50. [Neil] is neglected in that the history of CPS with the family, the ongoing domestic violence and aggressive behavior continuously

displayed in front of the juvenile. . . . [Neil] was not located until three . . . months after the petition was filed due to the uncooperative acts of . . . Parents and . . . Neil not being in school on a regular basis. . . . [Neil] was found at the residence the next day after the assault with Social Worker and that there was a good probability to say that [Neil] witnessed it. [Father] stated [Neil] was residing with the [Mother] at the time of the assault and the [Mother] was erratic and has mental problems shows that [Neil] lives in an environment injurious to the [Neil's] welfare.

51. [Neil] is dependent in that [Father] never provided a location to where the juvenile could be located, and the [Mother and Father] are unable to provide for the care or supervision as the juvenile's home is not safe for their wellbeing and lacks an appropriate alternative childcare arrangement as no other arrangements had been made for the safe keeping of the juvenile prior to [CCDSS's] involvement.

[Hereinafter FOF #.] On 1 May 2024, the trial court held a dispositional hearing on 1 May 2024 and entered an order 5 June 2024 placing Neil in custody of CCDSS. The order states that Neil is currently “placed in Falcon’s Children Home[,] . . . doing well[,] and should maintain that placement.” On 5 July 2024, Father timely appealed.

II. Jurisdiction

This Court has jurisdiction under N.C.G.S. §§ 7A-27(b)(2) and 7B-1001(a)(3) (2023) because the trial court’s order is an initial order of disposition and adjudication finding Neil neglected and dependent.

On appeal, Father asserts no argument in his brief as to the 5 June 2024 disposition order. Thus, we deem any issue regarding this order to be abandoned and only address the earlier 24 April 2024 adjudication order. *See* N.C. R. App. P. 28(b)(6)

(“Issues not presented in a party’s brief, or in support of which no reason or argument is stated, will be taken as abandoned.”).

III. Analysis

On appeal, Father argues that the trial court erred in adjudicating Neil to be neglected and dependent because (1) clear and convincing evidence does not support several of the trial court’s findings and (2) the remaining, undisputed findings of fact do not support the conclusion that Neil is a neglected or dependent juvenile. For the following reasons, we disagree and affirm the trial court.

A petition alleging a juvenile’s abuse, neglect, or dependency “shall be proved by clear and convincing evidence.” N.C.G.S. § 7B-805 (2023). This Court reviews the trial court’s order to determine (1) whether its findings of fact are supported by clear and convincing evidence, and (2) whether its conclusions of law are supported by the findings of fact. *In re W.C.T.*, 280 N.C. App. 17, 26–27 (2021). The clear-and-convincing-evidence standard “is more exacting than the preponderance of the evidence standard generally applied in civil cases, but less than the beyond a reasonable doubt standard applied in criminal matters.” *In re J.C.-B.*, 276 N.C. App. 180, 184 (2021). If a finding lacks sufficient supporting evidence, we “must disregard that finding and examine whether the remaining findings support the trial court’s determination.” *In re A.J.*, 386 N.C. 409, 412 (2024).

Here, Father challenges FOFs #10, #22, #24, #26, #27, #30, #38, #43–#48, #50,

and #51.² FOFs #50 and #51 contain the trial court’s “ultimate” findings of fact, which are “the final resulting effect reached by the processes of logical reasoning from the evidentiary facts.” *In re Anderson*, 151 N.C. App. 94, 97 (2002). Ultimate facts are “conclusive on appeal if the evidentiary facts reasonably support” them. *In re G.C.*, 384 N.C. 62, 65 (2023). Therefore, we assess (1) whether clear and convincing evidence supports the trial court’s evidentiary findings of fact and (2) whether the evidentiary findings “reasonably support” the trial court’s ultimate findings of fact. *Id.*

Here, for the trial court to make the necessary conclusions of law that Neil was neglected and dependent, it must find as ultimate facts that Mother and Father (1) failed to provide proper care or provided an environment that was injurious to Neil’s welfare and (2) are unable to provide for the care or supervision of Neil and lack an appropriate alternative childcare arrangement.

A. Neglect

A neglected juvenile is “one whose parent, guardian, custodian, or caretaker ‘does not provide proper care, supervision, or discipline’ or who ‘creates or allows to be created a living environment that is injurious to the juvenile’s welfare.’” *A.J.*, 386 N.C. at 416 (quoting N.C.G.S. § 7B-101(15) (2023)). Additionally, “there must be some

² We do not address FOF #22 because the trial court took judicial notice of the DNA test results confirming Father is Neil’s biological father. We also decline to address FOFs #22, #38, and #43–#48 because they “are unnecessary to support [the] trial court’s determination.” *In re J.N.J.*, 286 N.C. App. 599, 605 (2022).

physical, mental, or emotional impairment of the juvenile or substantial risk of such impairment as a consequence of the failure to provide proper care, supervision, or discipline.” *G.C.*, 384 N.C. at 69. While we do not require a specific written finding of a substantial risk of harm, “the trial court must make written findings of fact sufficient to support its conclusion of law of neglect.” *Id.* Sufficient findings may include a parent’s action of placing the child at substantial risk of harm, see *In re K.B.*, 253 N.C. App. 423 (2017), or inaction to remedy known substantial risks to the child, see *W.C.T.*, 280 N.C. App. 17 (2021). Among others, this Court has held that a parent (1) “causing . . . or potentially causing injury to the juvenile,” *In re Stumbo*, 357 N.C. 279, 283 (2003), (2) “exposing the child to acts of domestic violence,” or (3) “threatening . . . social workers and police officers in the presence of children,” *In re D.B.J.*, 197 N.C. App. 752, 755 (2009), poses a substantial risk of harm to the minor child.

In the case *sub judice*, the trial court adjudicated Neil neglected because Mother and Father did “not provide proper care and created or allowed to be created an environment that was injurious to” Neil’s welfare. N.C.G.S. § 7B-101(15). The trial court based its determination on evidence showing Mother and Father’s history of domestic violence and failure to cooperate with CCDSS. The trial court also made several evidentiary findings to support its ultimate findings. At the hearing, CCDSS offered evidence through numerous exhibits and Ray’s testimony. This evidence tended to show that Mother and Father’s domestic-violence issues have persisted for

over six years despite CCDSS's involvement. Ray testified that CCDSS became involved first in 2016 due to domestic-violence reports and again in 2018, with the most recent domestic violence occurring on 7 December 2020. In support of Ray's testimony, CCDSS introduced a magistrate order showing that Mother and Father engaged in domestic violence in Neil's presence on 7 December 2020, after which Father pressed charges against Mother for assault and battery. Because the evidence of Mother and Father's ongoing domestic-violence issues is such that a "reasonable factfinder could have found" FOFs #24 and #30, this Court holds that clear and convincing evidence supports these evidentiary findings. *J.C.-B.*, 276 N.C. App. at 184. Accordingly, because FOFs #24 and #30 show Mother and Father's history of "longstanding" and "enduring" domestic violence, the findings of fact "reasonably support" the trial court's ultimate finding of Neil's neglect in FOF #50. *See In re J.C.*, 235 N.C. App. at 72 (2014), *rev'd in part on other grounds*, 368 N.C. 89 (2015).³

The trial court also found evidentiary support for FOFs #26 and #27. CCDSS offered evidence that Father willfully provided social workers with several fictitious or inaccurate addresses, thereby inhibiting their investigation for nearly three

³ On appeal, Father argues that FOF #24 is based on hearsay testimony from Ray because she has no personal knowledge of the incident and could not have testified about it without having laid a foundation for the business records exception under FRE 803(6). Father, however, waived appellate review of this issue by failing to object at trial. "In order to preserve an issue for appellate review, a party must have presented to the trial court a timely request, objection, or motion, stating the specific grounds for the ruling the party desired the court to make if the specific grounds were not apparent from the context." N.C.R. App. P. 10(a)(1). Thus, Father's failure to argue to the trial court that evidence was inadmissible hearsay waives appellate review of that issue. *In re A.B.*, 272 N.C. App. 13, 16 (2020).

months. Ray testified to showing up at these addresses, only to find that they were made-up or someone else's residence, which delayed the investigation by several months. Because the evidence is such that a "reasonable factfinder could have found" FOFs #26 and #27 credible, we hold that these evidentiary findings are supported by clear and convincing evidence. *J.C.-B.*, 276 N.C. App. at 184. Accordingly, because FOFs #26 and #27 show Father's "refusal to cooperate with CCDSS's attempts to offer services," the findings of fact "reasonably support" the trial court's ultimate finding of neglect in FOF #50. *Id.*; see *J.C.*, 235 N.C. App. at 72.

The trial court's evidentiary findings in FOFs #24, #26, #27, and #30 support its ultimate finding in FOF #50 as a product of "natural reasoning." *G.C.*, 384 N.C. at 67. Therefore, the trial court did not err by adjudicating Neil neglected.

B. Dependency

A dependent juvenile is one "in need of assistance or placement because . . . the juvenile's parent . . . is unable to provide for the juvenile's care or supervision and lacks an appropriate alternative childcare arrangement." N.C.G.S. § 7B-101(9) (2023). To support a finding of dependency, "the trial court must address both (1) the parent's ability to provide care or supervision, and (2) the availability to the parent of alternative childcare arrangements." *In re P.M.*, 169 N.C. App. 423, 427 (2005). The former can be shown by a parent's failure to follow a DSS safety plan, *In re K.W.*, 192 N.C. App. 646, 656 (2008), or a parent's refusal to acknowledge and address the cause of the abuse or neglect, *In re A.W.*, 377 N.C. 238, 251 (2021).

Along with FOFs #24, #26, #27, and #30, the trial court found FOF #10 regarding CCDSS's inability find "suitable kinship placement" for Neil. Ray testified that, since placing Neil in CCDSS custody on 4 February 2021, Mother and Father have failed to eliminate the conditions that led to his removal or to provide CCDSS with names of relatives willing and proper to care for Neil. We hold that clear and convincing evidence supports this finding because a "reasonable factfinder could have found" FOF #10. *J.C.-B.*, 276 N.C. at 184. Thus, because FOF #10, in addition to the other FOFs, show Mother and Father's inability "to provide for [Neil's] care or supervision" and their "lack [of] an appropriate childcare arrangement," it supports the trial court's ultimate finding of Neil's dependency in FOF #51. *G.C.*, 384 N.C. at 67. Therefore, this Court holds that the trial court did not err by adjudicating Neil dependent.

IV. Conclusion

For the following reasons, this Court holds that sufficient evidence supports the trial court's evidentiary findings and that those findings, in turn, support the ultimate findings. Therefore, this Court holds that the trial court did not err in adjudicating Neil neglected and dependent.

AFFIRMED.

Judge COLLINS concurs.

Judge FREEMAN concurs in the result only.

Report per Rule 30(e).