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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA26-16

Filed 19 August 2026

Robeson County, Nos. 23 JA 000178-770, 23 JA 000179-770

IN THE MATTER OF: E.C. & T.C.

Appeal by Respondent-mother from an order entered on 8 October 2025 by Judge Leah B. Lanier in Robeson County District Court. Heard in the Court of Appeals 21 July 2026.

J. Edward Yeager, Jr. for petitioner-appellee Robeson County Department of Social Services.

Robert W. Ewing for respondent-appellant mother.

Shannon Phillips for guardian ad litem.

WOOD, Judge.

Respondent-mother (“Mother”) appeals from the trial court’s order terminating her parental rights to her children, E.C. (“Eric”) and T.C. (“Tina”).¹ Respondent-father (“Father”) is not a party to this appeal. Mother argues the trial court erred by finding grounds existed under N.C. Gen. Stat. §§ 7B-1111(a)(1), (2), and (3) to terminate her parental rights. For the reasons set forth below, we reverse the trial court’s termination of Mother’s parental rights to Eric and Tina.

I. Factual and Procedural Background

On 5 April 2023, Robeson County Department of Social Services (“DSS”) received a report of neglect regarding one-year-old Tina after she was brought to the hospital by emergency services due to an overdose on an unknown substance. (R p 8). She was then transferred to UNC Health Southeastern (“UNC”) for medical treatment where she was diagnosed with a urinary tract infection and tested positive for an unknown opioid.

Mother informed social workers Tina had woken up from a nap and “started to wobble” so Mother called 911. Mother reported using marijuana but denied using any other illegal substances. Both Mother and Father denied he was living in the home at the time and agreed that the children would move out of Mother’s home and

¹ Pseudonyms are used to protect the identity of the juveniles pursuant to N.C. R. App. P. 42(b).

stay with Father at their paternal grandfather's home. Mother agreed to complete a substance abuse assessment with TT&T Services.

On 11 April 2023, the care manager at UNC informed social workers the opioid Tina had tested positive for was fentanyl. On 13 April 2023, Detective T. Gatlin of the Lumberton Police Department informed social workers Father was present at the home during Tina's fentanyl exposure and that they were informed Mother sold drugs, including fentanyl, from the home. Social worker Beverly Smith ("Smith") discussed the allegations with Mother and Father. Father admitted he was home when Tina began displaying symptoms of fentanyl exposure. Father agreed to move out and leave the children in the placement with their paternal grandfather and his girlfriend and to complete a substance abuse assessment.

Mother and Father both had completed substance abuse assessments by 28 April 2023. On their drug screens, Mother tested positive for Cocaine and THC, and Father tested positive for Cotinine, Amphetamine, Methamphetamine, D-Methamphetamine, Benzoyllecgonine, Fentanyl, Norfentanyl, THCA, Morphine, Tramadol, and O-desmethyl-tramadol.

On 1 May 2023, both Mother and Father were arrested and charged with felony child abuse inflicting serious injury, for the 5 April incident during which Tina was exposed to and had tested positive for fentanyl.

On 25 May 2023, DSS filed Juvenile Petitions alleging Tina and her five-year-old brother Eric to be neglected. The trial court granted non-secure custody of the juveniles to DSS that same day.

On 14 September 2023, the trial court conducted an adjudication and disposition hearing. The trial court found Tina and Eric to be neglected as defined in N.C. Gen. Stat. § 7B-101 (15), continued custody with DSS, and made reunification the initial plan. The adjudication and disposition order was not filed until three months later on 19 December 2023. In its written order, the trial court found as fact Mother had entered into a Family Services Agreement (“FSA”) with DSS to address parenting, substance abuse, housing, and income and employment. However, the trial court did not order either parent to complete any services, activities, or testing in order to facilitate reunification, nor did it order either parent to comply with a case plan. Further, the disposition order lacks any findings regarding what services, if any, the parents needed to engage in to reunify with their children.

On 7 December 2023, the trial court conducted a permanency planning hearing. The trial court entered the resulting permanency planning order on 25 March 2024. The trial court again found as fact that Mother had signed an FSA with DSS. The trial court further found as fact that Mother had completed her substance abuse assessment and recommended drug treatment and was employed but was non-compliant with outpatient services at TT&T, and had not obtained housing. The trial court continued the plan of reunification with a concurrent plan of custody with a

court-approved caretaker. Although reunification was the plan, the trial court still did not order either parent to complete any services, activities, or testing in order to facilitate or achieve reunification.

On 14 March 2024, the trial court held another permanency planning hearing. The trial court entered the resulting order on 9 July 2024, almost four months. The trial court made the same finding regarding Mother's non-compliance with outpatient services at TT&T and her inability to obtain housing, and it changed the primary plan to custody with a court-approved caretaker with a concurrent plan of reunification. The trial court ordered: "the Department shall primarily focus its efforts on a plan of custody with a court approved caretaker, which is the best plan of care to achieve a safe, permanent home for the minor children within a reasonable period of time." Notably, the trial court again failed to find what services, activities, or testing, if any, the parents needed to complete in order to facilitate and achieve reunification, and it did not order them to complete any services, activities, or testing.

On 14 August 2024, the trial court held another permanency planning hearing. The resulting permanency planning order was not entered until six months later on 10 February 2025. As of the hearing in August, Mother had completed five out of eight parenting classes, last attending in February 2024, but had not obtained housing. Mother also was not consistently visiting with the children, only seeing them a few times a month. The trial court continued the previous primary plan of custody with a court-approved caretaker with a concurrent plan of reunification.

Additionally, the trial court directed DSS to conduct a home visit for Ms. Miller, another possible caretaker. The trial court still did not make any findings regarding, or enter any order requiring, either parent to complete any services, activities or testing in order to facilitate and achieve reunification.

On 8 October 2024, the trial court filed an order authorizing a home study for family members in Pennsylvania. On 15 January 2025, DSS and the Guardian *ad Litem* filed court reports recommending the plan for the children be changed to adoption and the termination of parental rights of both parents. However, no order in the record substantiates a permanency planning hearing occurred following the filing of the court reports. The record is devoid of any evidence that a permanency planning hearing was held after 14 August 2024.

On 25 March 2025, DSS filed a motion to terminate both parents' parental rights to Tina and Eric. DSS alleged the grounds for termination to be neglect, leaving the children in care for more than twelve months without making adequate progress to correct the conditions that prompted their removal, and failure to pay the cost of care for the children.

The termination hearing was held on 14 August 2025. Kristy Gerald ("Gerald"), the social work supervisor for DSS, testified Mother had signed a case plan to target parenting, substance abuse, housing, employment, and income. She testified that Mother had not completed parenting classes or located housing, but she had completed her substance abuse assessment and was still testing negative for

illegal substances with drug tests as recent as 21 July and 25 July of 2025. Gerald stated Mother also had maintained employment although was inconsistent in presenting pay stubs to DSS. She testified Mother was initially very active in her case plan, but when a parent died in mid-2024 her engagement became inconsistent both in her case plan and visitation with the children. However, Gerald testified that between March and May 2025 Mother had resumed engagement with DSS and services with TT&T. Mother was visiting virtually with her children on Saturday mornings because the children had been moved out of state to live with paternal relatives in March 2025. She testified Mother had recently provided a birthday gift for Eric, but she was not aware whether Mother had provided any other support for the children.

Mother testified that after her mother died in June 2024, she “fell off” and stopped working, attending parenting classes, and responding to her social worker consistently but did not relapse into drug use. Mother testified that she re-engaged with her social worker and parenting classes between March and May 2025, had been sober for almost two years, and was two weeks away from completing her parenting classes. Additionally, she stated she was trying to find housing but was struggling because of her pending felony charges.

The trial court found grounds existed to terminate parental rights, “based on the fact that the children have been found to be neglected, minor children have been left outside the home for at least 12 months, that no financial support had been

provided for the minor children, and there's no substantial progress on the case plan.” The trial court determined it was in the children's best interest to terminate the parental rights of both Mother and Father and entered an order terminating parental rights on 8 October 2025. Mother timely filed notice of appeal to this Court on 17 October 2025.

II. Analysis

On appeal, Mother argues the trial court erred by finding grounds existed under N.C. Gen. Stat. §§ 7B-1111(a)(1), (2), and (3) to terminate her parental rights. We agree.

As the statute requires and our Supreme Court has instructed, appellate courts “review a trial court's adjudication under [N.C. Gen. Stat.] § 7B-1109 to determine whether the findings are supported by clear, cogent and convincing evidence and the findings support the conclusions of law. The trial court's conclusions of law are reviewable de novo on appeal.” *In re C.B.C.*, 373 N.C. 16, 19, 832 S.E.2d 692, 695 (2019) (cleaned up).

In the case *sub judice*, the trial court made eighteen findings of fact. Of those eighteen findings, five identified the parties and noted none were subject to the Indian Child Welfare Act or the Service Member Civil Relief Act. Two findings stated the children were in DSS custody and were placed with relatives willing to adopt them, and two findings concerned only Father. Only nine findings purport to have

any application to the grounds the trial court determined to support termination of Mother's parental rights.

5. The minor children were adjudicated neglected children as defined in the statute 7B-101(15) on September 14, 2023.

6. The Department became involved with the family due to the minor child, [Tina], tested positive for Fentanyl while in the care of the Respondent Parents. That the Respondent Parents were charged with Felony Child Abuse.

7. Respondent Mother entered into a Family Services Case Plan to address the needs of: parenting, substance abuse, mental health, housing and employment.

9. Respondent Mother complete SAIOP and was recommended for outpatient therapy. Respondent Mother is currently engaged in services at TT&T. Respondent Mother has not been consistent with services; but, does show up to class sporadically.

10. Respondent Mother reports that she is employed at Sanderson Farms. Respondent Mother still has not obtained stable housing. Respondent Mother reported today that she is residing with a friend.

11. Respondent Mother reported today that she has been sober over a year and she has two more weeks left to finish her parenting classes.

12. The minor children have been in the custody of the Department for over 802 days and the Respondent Mother still has not obtained suitable housing for the minor children.

13. The minor children were placed with relatives in Pennsylvania in March, 2025 and the Respondent Mother had a visit with them prior to them being placed. The Respondent Mother was not visiting with the minor

children on a consistent basis prior to them being moved to Pennsylvania. The Respondent Mother reported today that she does have facetime with the minor children on a regular basis.

14. The minor children have continued to grow and thrive, continued to need clothes, medical appointments and everyday needs that the Respondent Mother has failed to provide for these minor children.

Mother does not contest these nine findings but argues these findings are insufficient to support the trial court's conclusions of law. We agree.

A. Willful failure to pay a reasonable cost of care

Pursuant to N.C. Gen. Stat. § 7B-1111(a)(3), the court may terminate parental rights upon a finding that,

The juvenile has been placed in the custody of a county department of social services, a licensed child-placing agency, a child-caring institution, or a foster home, and the parent has for a continuous period of six months immediately preceding the filing of the petition or motion willfully failed to pay a reasonable portion of the cost of care for the juvenile although physically and financially able to do so.

N.C. Gen. Stat. § 7B-1111(a)(3). When interpreting this statute, this Court has explicitly held, “[i]n considering whether a parent has failed to pay a reasonable portion of the cost of care, the trial judge *must* make findings of fact concerning both the ability of the parent to pay and the amount of the child’s reasonable needs.” *In re Phifer*, 67 N.C. App. 16, 27, 312 S.E.2d 684, 690 (1984) (emphasis added); *see also In re Anderson*, 151 N.C. App. 94, 99, 564 S.E.2d 599, 603 (2002).

A parent's ability to pay is the controlling characteristic of what is a "reasonable portion" of cost of foster care for the child which the parent must pay. A parent is required to pay that portion of the cost of foster care for the child that is fair, just and equitable based upon the parent's ability or means to pay.

In re Faircloth, 161 N.C. App. 523, 525, 588 S.E.2d 561, 563 (2003) (quoting *In re Clark*, 303 N.C. 592, 604, 281 S.E.2d 47, 55 (1981)).

The only findings of fact in the trial court's order relevant to Mother's ability to pay the cost of care were findings 10 and 14. Finding of fact 10 stated that Mother reports that she is employed at Sanderson Farms and finding of fact 14 states that the children need clothes, medical care and everyday needs that Mother has failed to provide. Neither finding discusses either the ability of Mother to pay or what a "reasonable portion" of the cost of care would be based on the needs of the children.

Gerald testified Mother had recently provided a birthday gift for Eric but that "to [her] knowledge" she had not provided anything else. Throughout the pendency of this case, all of the various DSS Court Reports state that "Child Support forms have been completed," but no report or court order ever clarifies whether child support was ordered or paid. In actuality, the trial court never ordered Mother to do anything during the life of this case. Mother testified she has the current caretakers' Cash App so she can send money, and she sent them gifts. She also testified she had purchased shoes and clothes for the children and given money to their grandfather when the children were in his care.

Record evidence indicates Mother has held various jobs, including a previous job at Wal-Mart and her current employment at Sanderson Farms, since the children came into care. However, the trial court made no findings regarding her employment status during the six months preceding the filing of the petition or whether she was financially able to pay.

Review of the record reveals DSS did not present evidence from which the trial court could have made any findings regarding either the cost of care or Mother's ability to pay a reasonable portion thereof. "Absent such findings or evidence in the record that respondent-mother could pay some amount greater than zero towards the cost of care for children during that period of time, the trial court did not have clear, cogent, and convincing evidence to determine respondent's financial ability." *In re Faircloth*, 161 N.C. App. at 526, 588 S.E.2d at 564. Therefore, there was insufficient evidence to support the trial court's termination of Mother's parental rights under N.C. Gen. Stat. § 7B-1111(a)(3). That portion of the order is reversed.

B. Reasonable progress correcting conditions that led to removal

Pursuant to N.C. Gen. Stat. § 7B-1111(a)(2), the court may terminate parental rights upon a finding that, in pertinent part, "[t]he parent has willfully left the juvenile in foster care or placement outside the home for more than 12 months without showing to the satisfaction of the court that reasonable progress under the circumstances has been made in correcting those conditions which led to the removal of the juvenile." N.C. Gen. Stat. § 7B-1111(a)(2). This Court has set forth a two-part

analysis that the trial court must utilize to terminate parental rights under N.C. Gen. Stat. § 7B-1111(a)(2):

The trial court must determine by clear, cogent and convincing evidence that a child has been willfully left by the parent in foster care or placement outside the home for over twelve months, and, further, that as of the time of the hearing, as demonstrated by clear, cogent and convincing evidence, the parent has not made reasonable progress under the circumstances to correct the conditions which led to the removal of the child.

In re Z.D., 258 N.C. App. 441, 446, 812 S.E.2d 668, 672-73 (2018) (quoting *In re O.C.*, 171 N.C. App. 457, 464-65, 615 S.E.2d 391, 396 (2005)). In conducting this analysis, the Supreme Court has made it clear,

the issue of whether or not the parent is in a position to actually regain custody of the children at the time of the termination hearing is not a relevant consideration under N.C.[Gen. Stat.] § 7B-1111(a)(2), since there is no requirement for the respondent-parent to regain custody to avoid termination under that ground. Instead, the court must only determine whether the respondent-parent had made “reasonable progress under the circumstances . . . in correcting those conditions which led to the removal of the juvenile.” N.C.[Gen. Stat.] § 7B-1111(a)(2).

In re J.S., 374 N.C. 811, 819, 845 S.E.2d 66, 73 (2020) (quoting *In re L.C.R.*, 226 N.C. App. 249, 252, 739 S.E.2d 596, 598 (2013)). “Reasonable progress” is not synonymous with “completely remediate the conditions that led to the child’s removal.” *In re A.N.H.*, 381 N.C. 30, 35, 871 S.E.2d 792, 799 (2022) (cleaned up).

Nonetheless, “parental compliance with a *judicially adopted case plan* is relevant in determining whether grounds for termination exist pursuant to [N.C.

Gen. Stat.] § 7B-1111(a)(2)[.]” *In re B.O.A.*, 372 N.C. 372, 384, 831 S.E.2d 305, 313-14 (2019) (emphasis added). However, “for a respondent’s noncompliance with her case plan to support the termination of her parental rights, there must be a nexus between the components of the court-approved case plan with which the respondent failed to comply and the conditions which led to the child’s removal from the parental home.” *In re J.S.*, 374 N.C. at 815-16, 845 S.E.2d at 71 (cleaned up).

In the case *sub judice*, the trial court found as fact, in every order beginning with the initial disposition in 2023, through each permanency planning order, and into the current order terminating parental rights: “Mother entered into a Family Services Case Plan to address the needs of: parenting, substance abuse, mental health, housing, and employment.” However, the trial court never “judicially adopted” or “approved” the DSS case plan nor ordered either parent to engage in any assessments, classes, therapy or testing during the entire life of this case. Further, the record does not contain the Family Services Case Plan; therefore, the requirements with which DSS tasked Mother to complete in order to address the needs of “parenting, substance abuse, mental health, housing, and employment,” are not evident.

Although the trial court’s findings were limited, it did make a few findings regarding the areas of need identified by DSS, these included: Mother completed her substance abuse intensive outpatient program, has been sober for over a year, has two weeks left in her parenting classes, is employed at Sanderson Farms, is engaged

in services at TT&T but can be sporadic in attendance, is regularly doing Facetime visitation with her children who are located out of state, but has not obtained stable housing or provided for the cost of care for the children. The vast majority of these findings demonstrate Mother's significant progress addressing the areas of need. Additionally, the findings do not address Mother's willfulness with regard to the areas of concern that were not achieved.

The children were adjudicated neglected because Tina was taken to the hospital and tested positive for Fentanyl and both parents tested positive for illicit drugs. Based upon the evidence and the trial court's findings, Mother has made clear and consistent progress in correcting all of the direct conditions which led to the children's removal in that she has not only obtained sobriety but has maintained that sobriety for over a year. Additionally, according to the trial court, Mother has either met or made substantial progress on parenting and employment. The trial court made no findings regarding mental health.

Housing is the only area in which the trial court made a single finding that Mother has not had any success. When the children came into care, Mother had housing, but she testified she was told by DSS the children could not return to the home where the "incident" occurred. The trial court made no findings concerning Mother's attempts to obtain housing or DSS' efforts to help Mother achieve safe and appropriate housing. The DSS social worker testified Mother did not have housing but did not testify to any attempts by DSS to help Mother locate housing or her

knowledge concerning the efforts Mother herself had invested in achieving acceptable housing.

In contrast, Mother testified she had been looking for housing “pretty much everywhere [she] know[s] [she] can look” but her options were limited because of her situation with pending felony charges related to the “incident.” Based upon the limited testimony, DSS presented no evidence of Mother’s willfulness in failing to secure housing and the trial court made no findings of fact to support the element of willfulness in regard to Mother’s housing. “Willfulness is established when the respondent had the ability to show reasonable progress but was unwilling to make the effort.” *In re J.S.L.*, 177 N.C. App. 151, 160, 628 S.E.2d 387, 392 (2006). Mother’s uncontested testimony clearly demonstrates she was making an effort to locate housing. There were no findings or testimony to support the conclusion that Mother’s failure to make substantial progress on housing was willful.

Additionally, “a parent’s failure to fully satisfy all elements of the case plan goals is not the equivalent of a lack of ‘reasonable progress.’” *In re J.S.L.*, 177 N.C. App. at 163, 628 S.E.2d at 394 (citation omitted). In light of the court’s findings of Mother’s significant progress reaching and maintaining sobriety and employment, Mother’s failure to achieve housing despite her significant efforts does not support the finding she failed to make reasonable progress. *Id.*

Having reviewed the trial court’s findings of fact, we conclude the findings simply do not suffice to support the trial court’s determination that Mother had willfully not

made substantial progress on her case plan, or in correcting the conditions that led to the children's removal. Therefore, the trial court erred in concluding Mother's parental rights to her children were subject to termination pursuant to N.C. Gen. Stat. § 7B-1111(a)(2).

C. Neglect

Generally, the court may terminate parental rights upon a finding that,

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.

N.C. Gen. Stat. § 7B-1111(a)(1). "Termination of parental rights based upon this statutory ground requires a showing of neglect at the time of the termination hearing[.]" *In re L.H.*, 378 N.C. 625, 629, 862 S.E.2d 623,627 (2021) (quoting *In re R.L.D.*, 375 N.C. 838, 841, 851 S.E.2d 17, 20 (2020)). However, when the child has not been in parental custody for a significant time prior to the termination hearing, our courts have employed a different analysis to support a finding of neglect. "The trial court must consider evidence of changed conditions in light of the history of neglect by the parent, and the probability of a repetition of neglect." *In re Z.D.*, 258 N.C. App. 441, 449, 812 S.E.2d 668, 674 (2018) (citation omitted). "In such cases, a trial court may terminate parental rights based upon prior neglect of the juvenile if the trial court *finds by clear and convincing evidence a probability of repetition of neglect* if the juvenile were returned to his or her parents." *In re M.B.*, 382 N.C. 82,

86, 876 S.E.2d 260, 264 (2022) (quoting *In re E.L.E.*, 243 N.C. App. 301, 308, 778 S.E.2d 445, 450 (2015)).

“A parent’s failure to make progress in completing a case plan is indicative of a likelihood of future neglect. At the same time, a parent’s compliance with his or her case plan does not preclude a finding of neglect.” *In re A.N.H.*, 381 N.C. at 46, 871 S.E.2d at 805 (cleaned up).

Here, the trial court’s findings do not support the conclusion that Mother had failed to make reasonable progress on her case plan when the uncontested findings illustrate Mother’s significant progress in staying clean, sober, and employed for an extended period of time including the six months immediately preceding the termination proceedings and maintaining consistent visitation with her children. Similarly, the trial court made no findings of fact concerning the likelihood of potential repeated neglect before concluding,

4. There is a high likelihood that based on the Respondent Mother and Respondent Father’s failure to complete or substantially comply with their case plan that if the minor children [were] placed with the Respondent Mother and Respondent Father that the neglect of the minor children would continue.

Irrespective of conclusion of law four, the evidence supporting the trial court’s findings of fact demonstrates Mother *did* substantially comply with her case plan and, therefore, the conclusion that neglect would continue were the children placed with Mother is not supported.

In the case of *In re A.N.H.*, our Supreme Court clearly acknowledged that a parent does not have to meet every element of a plan as evidence to show repetition of neglect is unlikely. 381 N.C. at 46-47, 871 S.E.2d at 805. The Court held Father had “complied with almost all of the requirements of his case plan,” even though he continued to test positive for drugs “on occasion” because there were no findings to support the conclusion that the remaining issues would result in “some physical, mental, or emotional impairment of the juvenile or a substantial risk of such impairment” *Id.* The conclusion that the child would likely be neglected if returned to her parent was “not supported” by the findings of fact. *Id.* at 47, 871 S.E.2d at 806.

Similarly, in this case, the probability of repeated neglect is not shown by clear and convincing evidence. The trial court’s conclusion that the children would likely be neglected if returned to Mother’s care cannot be supported when the findings of fact illustrate Mother had made substantial progress on her case plan and the findings of fact do not discuss any risk of future physical, mental, or emotional impairment to the children related to the areas of the case plan that were not yet fully achieved.

The trial court’s limited findings of fact are wholly insufficient to support the trial court’s order adjudicating any of the grounds alleged in the petition for termination of Mother’s parental rights under N.C. Gen. Stat. § 7B-1111(a)(1), (2) and (3). Additionally, a thorough review of the record and testimony does not reveal the

necessary evidence to meet the state's burden and from which the trial court could conclude Mother's parental rights may be terminated under N.C. Gen. Stat. § 7B-1111(a)(1), (2) or (3). Therefore, the trial court's unsupported order terminating Mother's parental rights to her minor children is reversed.

III. Conclusion

For the foregoing reasons, we hold the evidence and findings demonstrate Mother had made significant progress towards correcting the conditions that led to the children's removal. Therefore, the trial court erred in finding that grounds existed under N.C. Gen. Stat. § 7B-1111(a)(1) and (2) to terminate Mother's parental rights for neglect or for willfully leaving the child in care for more than twelve months. Additionally, no evidence was presented from which the trial court could make the necessary and supported findings under N.C. Gen. Stat. § 7B-1111(a)(3) to hold that grounds existed to terminate Mother's parental rights for failure to pay the cost of care. Therefore, we reverse the trial court's termination of Mother's parental rights to both children.

REVERSED.

Judges STROUD and TYSON concur.

Report per Rule 30(e).