

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority. Citation is disfavored, but may be permitted in accordance with the provisions of Rule 30(e)(3) of the North Carolina Rules of Appellate Procedure.

IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA25-710

Filed 16 September 2026

Yancey County, Nos. 23JT000010-990; 23JT000011-990

IN THE MATTER OF:

M.X.N., L.E.N.

Appeal by Respondents from order entered 6 March 2025 by Judge Rebecca Eggers-Gryder in Yancey County District Court. Heard in the Court of Appeals 8 September 2026.

No brief for petitioner-appellee Yancey County Department of Social Services.

Ward and Smith, P.A., by Jordan M. Spanner and Mary V. Cavanagh, for Guardian ad Litem.

Candler Law Group, by Emily Sutton Dezio, for respondent-appellant Mother.

Peter Wood for respondent-appellant Father.

PER CURIAM.

Respondents-appellants (“Mother” and “Father”) appeal from the termination of parental rights (“TPR”) order entered on 6 March 2025. Mother’s counsel and Father’s counsel have each filed a no-merit brief under Rule 3.1(e) of our Rules of

Appellate Procedure. Mother's counsel and Father's counsel have each advised their client of their right to file supplemental arguments with this Court in accordance with Rule 3.1(e). Mother has filed a supplemental brief with this Court on her own behalf; Father has not filed a separate argument and a reasonable time to have done so has passed.¹

When filing a Rule 3.1(e) no-merit brief, counsel is required to "identify any issues in the record on appeal that arguably support the appeal and must state why those issues lack merit or would not alter the ultimate result." N.C. R. App. P. 3.1(e).

Here, counsel for Mother and counsel for Father each fully complied with all of the requirements set forth in Rule 3.1(e). Each advised their respective client of his/her right to file his/her own arguments and provided him/her with a copy of the brief, transcript of proceedings, printed record on appeal, and this Court's mailing address. In compliance with Rule 3.1(e), counsel for Mother and counsel for Father have identified three specific issues for our independent review. Counsel for Mother identified: (1) whether the trial court erred by denying Mother's motion to continue; (2) whether the trial court erred by finding grounds to terminate the parental rights of Mother; and (3) whether the trial court abused its discretion in determining that it was in the best interests of the children to terminate Mother's parental rights.

¹ The *pro se* brief submitted by Mother's counsel on her behalf includes Father's typed name at the end along with Mother's. However, the inclusion of his name at the end of the brief appears to be the extent of Father's involvement with this brief.

Counsel for Father identified: (1) whether the trial court erred by finding the termination ground of neglect; (2) whether the trial court erred by finding Father to have willfully left his child in foster care as a ground for termination; and (3) whether the trial court abused its discretion by determining that it was in the best interest of the child to terminate Father's parental rights. This Court conducts an independent review of the issues raised in the no-merit brief. *In re L.E.M.*, 372 N.C. 396, 402, 831 S.E.2d 341, 345 (2019). "[T]he text of Rule 3.1([e]) plainly contemplates appellate review of the issues contained in a no-merit brief." *Id.*

Mother filed her *pro se* brief after the guardian *ad litem* filed its brief. In Mother's brief, Mother relates how she and Father have had issues but now have stable housing, transportation, and have developed a strong support network through their church. Further, she states they are complying with the case plans by submitting to weekly drug screens, therapy, and appointments. However, although Mother and Father received notice of the hearing, neither she nor he appeared or offered any evidence at the TPR hearing. The information provided in Mother's brief purports to be evidence that Mother failed to present to the trial court. Since the matters she raises are outside the record, we cannot consider them. *See, e.g., Hampton v. Scales*, 248 N.C. App. 144, 156, 789 S.E.2d 478, 487 (2016) (quoting Rule 9(a) of our Rules of Appellate Procedure).

We have reviewed the order and are persuaded by the arguments made by the guardian *ad litem*. "[W]e are satisfied that the trial court's order terminating

[Mother's and Father]'s parental rights is supported by clear, cogent, and convincing evidence and is based on proper legal grounds.” *In re K.M.S.*, 380 N.C. 56, 59, 867 S.E.2d 868, 870 (2022). Accordingly, we affirm the trial court's order.

AFFIRMED.

Panel consisting of Judges WOOD, GRIFFIN, and FREEMAN.

Report per Rule 30(e).