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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA26-309

Filed 7 October 2026

Person County, Nos. 23JA000006-720, 23JA000026-720, 23JA000027-720

IN THE MATTER OF: B.S.P., K.Z.S., K.D.S.

Appeal by Respondent-Mother from orders entered 5 December 2025 by Judge Adam S. Keith in Person County District Court. Heard in the Court of Appeals 15 September 2026.

Thomas L. Fitzgerald for Petitioner-Appellee Person County Department of Social Services.

Jack T. Brock, II for Respondent-Appellant-Mother.

Elon University School of Law Guardian ad Litem Appellate Advocacy Clinic, by Alan D. Woodlief, Jr., for Guardian ad Litem.

FREEMAN, Judge.

Respondent-Mother (Mother) appeals from the trial court's orders terminating her parental rights to her three minor children. Mother argues the trial court erred by (1) allowing the withdrawal and substitution of her appointed counsel in violation of her right to due process and (2) holding that she neglected her children and willfully left them in foster care without showing reasonable progress under the circumstances. After careful review, we affirm.

I. Factual and Procedural Background

Mother has three children subject to this appeal: Brittney, Kelly, and Kevin.¹ Brittney tested positive for cocaine and marijuana at her birth. Brittney and Mother began receiving in-home services in September 2022. By December 2022, the Person County Department of Social Services (DSS) had requested a third-party safety provider (TSP) for Brittney due to Mother's continued drug use. At an unscheduled visit by the social worker to the TSP's home, both Mother and the TSP admitted to ongoing drug use. Mother could not identify any other potential TSPs.

On 7 February 2023, DSS filed a neglect petition and took nonsecure custody of Brittney. A guardian ad litem (GAL) volunteer and an attorney were appointed for Brittney, and Adam Watkins was appointed Mother's attorney.

Brittney was adjudicated neglected on 19 September 2023. Her initial permanency plan was reunification with a concurrent plan of guardianship. Mother was required to cease drug use, submit to random drug tests, attend therapy, keep DSS informed of her contact information, and attend visitation with Brittney.

While Brittney's case progressed, Kelly was examined by a forensic nurse on 29 March 2023 for suspected sexual abuse by her father. Kelly's twin, Kevin, corroborated her account, stating that the abuse occurred in front of him and that their father had ordered Kelly not to tell Mother. Neither Mother nor the twins'

¹ These are pseudonyms used to protect the identity of the juveniles. See N.C. R. App. P. 42(b).

grandmother, with whom the twins partially resided, could identify any other potential perpetrators.

DSS filed a separate neglect action and took nonsecure custody of Kelly and Kevin on 31 March 2023. Adam Watkins was again appointed to represent Mother, while attorney Jerome Simmons was appointed for the twins' father. The twins were also assigned a GAL volunteer and an attorney.

The twins' partial residence with their father in Virginia prompted a jurisdictional inquiry before proceedings could continue in Person County. After conferring, judges from both jurisdictions agreed to a memorandum dated 1 June 2023 that would let the case proceed in North Carolina.

A court summary filed 16 November 2023 showed such mental turmoil in Kelly and Kevin that their great-grandparents, who were their current foster placement, were reluctant to house the twins for much longer. The twins were also believed to have begun engaging in sexual behaviors with each other due to their mutual trauma.

On 21 December 2023, Kevin was adjudicated neglected, and Kelly was adjudicated abused and neglected. After being placed in separate therapeutic foster homes, both twins' outlooks improved. An updated court summary filed 29 February 2024 recommended adoption for the twins. Their permanency plan was accordingly modified from reunification to adoption with a concurrent plan of reunification on 10 June 2024. Mother's case plan for the twins included the same requirements as Brittney's case plan, with the added condition that she maintain her employment.

At this point, the permanency planning orders began to address all three children. The order entered 29 July 2024 now recommended adoption for all of them, as Mother had not sufficiently cooperated with DSS to make the children's placement in her home likely within the next six months. Mother "continue[d] to test positive" for various drugs, was not attending therapy, and "[did] not have appropriate housing for the children to return to."

The twins' father appeared to be avoiding contact with DSS. Simmons moved to withdraw on 13 June 2024, citing "lack of contact from his client during the pendency of this action." The court granted Simmons' motion in the same 29 July 2024 order.

On 30 August, DSS filed three separate motions to terminate all respondents' parental rights. The permanency planning review orders entered 31 December 2024 and 8 May 2025 repeated that DSS "ha[d] made reasonable efforts in dealing with the Respondents in order to eliminate the need for placement and to make it possible for [Brittney], [Kelly] and [Kevin] to return to one of the Respondents' homes." Despite this, "based on the lack of positive action by either parent[,] the Court finds that the best plan of care to achieve a safe, permanent home for each of the juveniles within a reasonable period of time would be [a]doption with a concurrent plan of reunification," as living with any respondent parent would be "contrary to the best interests of the juvenile[s]."

Mother attended the 3 April 2025 hearing. At the end of that hearing, Watkins

moved to withdraw as counsel for Mother. The court allowed Watkins to withdraw and appointed Jerome Simmons to represent Mother.

The children's GAL filed her report on 8 October 2025. She noted that at the time of filing, a permanent plan of adoption had been in place for nineteen months. In her words, "the children are better off in their current placements until [Mother] can demonstrate her desire to reunite with her family—in words AND actions." Although "[Mother] ha[d] met some of the minimum requirements set by D.S.S.," the GAL was "not aware of any substantial efforts" by Mother to "improve her parenting skills and her mental stability." Mother's discontinuation of mental health services earlier that year and her apparent lack of initiative to "formulate a legitimate plan of action" concerned the GAL. Mother's highest level of engagement with her case plan was attending monthly supervised visitations, "providing birthday/holiday celebrations[,] and buying clothing for the children."

After considering the evidence presented at the 8 October 2025 termination hearing, the trial court entered two separate termination orders on 5 December 2025, one regarding Brittney and one regarding Kelly and Kevin. Both orders concluded that grounds existed to terminate the parental rights of all respondent parents to these children. This conclusion was based on N.C.G.S. §§ 7B-1111(a)(1) and (a)(2) as to Mother. The court further concluded that termination was in the children's best interests. Mother timely appealed.

II. Jurisdiction

This Court has jurisdiction to review “any final judgment of a district court in a civil action.” N.C.G.S. § 7A-27(b)(2) (2023). We have jurisdiction to review “[a]ny order that terminates parental rights.” N.C.G.S. § 7B-1001(a)(7) (2021).

III. Standard of Review

“A trial court’s decision to grant or deny an attorney’s motion to withdraw is reviewed on appeal for an abuse of discretion.” *In re T.A.M.*, 378 N.C. 64, 71 (2021). “An ‘abuse of discretion results where the court’s ruling is manifestly unsupported by reason or is so arbitrary that it could not have been the result of a reasoned decision.’ ” *Id.* (quoting *In re T.L.H.*, 368 N.C. 101, 107 (2015)) (cleaned up).

We review a final order terminating parental rights “to determine whether the findings are supported by clear, cogent, and convincing evidence and the findings support the conclusions of law.” *In re L.C.*, 387 N.C. 475, 479–80 (2025) (cleaned up). Findings of fact left unchallenged are binding on appeal. *In re J.M.*, 275 N.C. App. 517, 521 (2020). We review the trial court’s conclusions of law de novo. *In re K.S.*, 380 N.C. 60, 64 (2022).

IV. Discussion

Mother raises two issues on appeal: whether her right to due process was violated by the withdrawal and substitution of her original attorney, and whether the trial court reversibly erred in concluding that she had neglected her children and failed to make adequate progress on her case plan. We address each issue in turn.

A. Due Process

Mother argues that the trial court erred by allowing the withdrawal and substitution of her appointed counsel in violation of her right to due process. Specifically, she contends the trial court erred because there was no indication that she received reasonable notice and because substitute counsel previously represented Father in the same manner without obtaining a written conflict waiver.

Denial of due process in a juvenile case is a constitutional claim. *In re K.C.*, 386 N.C. 690, 695 (2024). We may not consider an unpreserved constitutional claim for the first time on appeal. *In re T.S.*, 298 N.C. App. 699, 707 (2025) (citing *In re J.M.*, 384 N.C. 584, 604 (2023)). We have consistently held that unpreserved constitutional arguments are waived on appeal. *In re J.N.*, 381 N.C. 131, 133 (2022).

Here, Mother has not preserved this issue for our review. The record contains no objection by Mother to Watkins' withdrawal nor to Simmons' appointment on her behalf at trial on 3 April 2025. Accordingly, Mother's unpreserved constitutional argument is waived.

B. Evidentiary Support for Findings and Conclusions

Mother next argues that “[t]he neglect ground and failure to make adequate progress ground must be reversed because the trial court failed to evaluate mother’s progress and current circumstances.”

A trial court may terminate parental rights upon a finding of a single ground, including that the “parent has abused or neglected the juvenile.” N.C.G.S. § 7B-

1111(a)(1) (2025). A neglected juvenile is one under eighteen years of age whose parent, *inter alia*, does not “provide proper care, supervision, or discipline”; has “refused to follow the recommendations of the Juvenile and Family Team”; 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) (2025).

This ground “requires a showing of neglect at the time of the termination hearing,” and “if 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). “When determining whether such future neglect is likely, the . . . court must consider evidence of changed circumstances occurring between the period of past neglect and the time of the termination hearing.” *In re Z.V.A.*, 373 N.C. 207, 212 (2019). “A parent’s failure to make progress in completing a case plan is indicative of a likelihood of future neglect.” *In re R.L.R.*, 381 N.C. 863, 869 (2022) (quoting *In re M.A.*, 374 N.C. 865, 870 (2020)). On its own, “a parent’s compliance with his or her case plan does not preclude a finding of neglect.” *In re J.J.H.*, 376 N.C. 161, 185 (2020). The parent must also show “acknowledgement and understanding” of why the children were taken from the parent’s custody, “as well as changed behaviors.” *In re R.L.R.*, 381 N.C. at 875 (quoting *In re Y.Y.E.T.*, 205 N.C. App. 120, 131 (2010)).

Poverty alone does not justify the termination of parental rights. N.C.G.S. § 7B-1111(a)(2) (2023) (“No parental rights, however, shall be terminated for the sole

reason that the parents are unable to care for the juvenile on account of their poverty.”); *In re N.K.*, 375 N.C. 805, 816 (2020).

1. Findings of Fact

Mother challenges the following findings of fact in the termination orders:

Finding of Fact 42 (Brittney)/38 (Kelly & Kevin): that Mother “has not utilized the reunification services offered by DSS”;

Finding of Fact 43 (Brittney)/39 (Kelly & Kevin): that Mother “has not been willing to work with the DSS social workers to reunify herself with her child”;

Finding of Fact 47 (Brittney): that Mother “has not provided regular care for her minor child since February 6, 2023”;

Finding of Fact 43 (Kelly & Kevin): that Mother “has not provided regular care for her minor children since March 30, 2023”;

Finding of Fact 51 (Brittney)/47 (Kelly & Kevin): that Mother “declined DSS reunification services as late as June 13, 2024”;

Finding of Fact 57 (Brittney)/53 (Kelly & Kevin): that at least “thirty-two months have passed since the child[ren] was[/were] removed from the mother’s custody and little likelihood exists that the parents will ever be able to resume custody of their child[ren]”;

Finding of Fact 59 (Brittney)/54 (Kelly & Kevin): that “the child[ren] has[/have] remained in foster care for in excess of twelve months without [Mother] 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 juveniles (NCGS 7B-1111(a)(2))”;

Finding of Fact 60 (Brittney)/55 (Kelly & Kevin): that “the actions of the Respondent mother are willful”;

Finding of Fact 61 (Brittney)/56 (Kelly & Kevin): “[t]hat the willfulness of the Respondent mother continues at this time”;

Finding of Fact 68 (Brittney)/63 (Kelly & Kevin): that at least “thirty-two months have passed since the child[ren] was removed from the parents’ custody and little likelihood exists that the parents will ever be able to resume custody of their child[ren]”;

Finding of Fact 70 (Brittney)/66 (Kelly & Kevin): that “[b]ased upon the foregoing facts, there are grounds to terminate the parental rights as to the parents[/mother] pursuant to NCGS 7B-1111(a1) as [Brittney/Kelly & Kevin] is[/are] [a] neglected juvenile[s]”;

Finding of Fact 72 (Brittney)/68 (Kelly & Kevin): that “[t]here is a probability that the parents’ neglect will continue for the [foreseeable] future pursuant to the statute because neither parent has addressed the issues that brought [Brittney/Kelly & Kevin] into care, i.e. lack of parental care, substance abuse”;

Finding of Fact 74 (Brittney): that “[t]here is a probability that the neglect will continue for the [foreseeable] future pursuant to the statute because the Respondent parents have not addressed the issues that brought [Brittney] into care[,] including

substance abuse and lack of parental care”;

Finding of Fact 78 (Kelly & Kevin): that “[Kelly & Kevin] have virtually no bond at all between themselves and their parents, due to lack of contact by the parents and the bond, if any, is not significant”;

In support of her challenges, Mother points to testimony that she: regularly attended visitation with the children, which she and they all appeared to enjoy; she began testing negative on drug screens; she completed some required mental health services; she had maintained a job and secured a new house; and she took the twins school shopping and Christmas shopping.

These challenges are without merit. The three categories Mother was required to address under her case plan were “substance use, housing, and mental health.” Competent evidence presented at trial, which we analyze below, supports each finding of fact that Mother willfully failed to make satisfactory progress in these categories since the children were removed from her care on the dates given, and that she consciously rejected the services DSS offered or recommended to help her make such progress. While testifying about each category, Mother consistently found someone else to blame for her lack of progress.

a. Substance Use

The trial court found that Mother “continuously test[ed] positive for methamphetamine and cocaine” for two years and “refused several drug screens” until the children’s primary goal was changed from reunification to adoption. She

began consistently testing negative on her drug screens only after the TPR motions were filed, when losing her rights to her children became a real possibility.

Mother blamed her drug use on her “domestic relationship” and the recent automobile deaths of her sister and niece. She claimed she “only” smoked marijuana until she started dating Brittney’s allegedly abusive father, who was the reason she had started using harder drugs.

b. Housing

Further, regarding Mother’s housing, the trial court found that although Mother had “made strides in the substance abuse area,” housing “continue[d] to be an issue.” She “did not have appropriate housing” during the two years she “was still testing positive” for drugs. At the beginning of this case, the social worker gave Mother a housing list that provided potentially appropriate options for a residence. Mother chose not to utilize the housing assistance offered. The two-bedroom, one-bath house on Providence Road in Roxboro, to which Mother moved instead, was “not an appropriate place for three children.” A previous apartment she lived in would have been suitable, but she left that apartment to be closer to her work. Because she did not have a driver’s license, she did not want to drive too far.

Mother offered to convert an “extra” room of the Providence Road house into a third bedroom so there would be enough space for all three children. She testified that she understood the twins needed separate bedrooms because of their “sexualized behavior.” Later, she claimed not to know the twins were having problems,

contending they were separated because their latest foster families only accepted single-sex placements. Still later, during the same hearing, she denied that the twins were having sexual issues.

She blamed the allegations of unsuitable housing on the social worker's failure to come and see the house or to do a home visit "in over a year." On this point, Mother appeared to be trying to convince the court that even if her house *did* have problems, the foster homes were worse. She alleged that Kelly was abused at her foster home, with no investigation or intervention by the social worker, and that Brittney was often unkempt. "Taylor [the social worker] don't communicate with me. I've been trying to reach out to her and talk to her. She hasn't reached out." Mother also insists in her brief to this Court that by finding her house had insufficient space for all three children, the trial court was simply punishing her for being poor, which she argues is reversible error.

c. Mental Health

Regarding Mother's mental health, the trial court found that Mother completed a mental health assessment in 2022. She was recommended to complete a forty-hour DWI treatment course at that time, which she completed in late 2024. She had also begun seeking therapy from the RHA Health office in Roxboro in October 2023, but she was discharged for "abandonment of services due to no-shows" in January 2025.

She blamed her noncompletion of her mental health requirements on RHA's

failure to provide a female counselor at an office location that was convenient for Mother. RHA's office in Caswell County was farther away than she wanted to drive without a license, and she refused to see a male counselor at their Roxboro office. Seconds later, when explaining how she would get the children to the hospital in an emergency, Mother testified she could always get a ride from her unemployed brother, who lived three houses away and did have a driver's license.

2. Conclusions of Law

Mother also challenges the following conclusions of law:

Conclusion of Law 3 (Brittney/Kelly & Kevin): that Mother "has neglected her minor child[ren], [Brittney/Kelly & Kevin]";

Conclusion of Law 4 (Brittney/Kelly & Kevin): that "the neglect of [Mother] is likely to continue in the future";

Conclusion of Law 5 (Brittney/Kelly & Kevin): that Mother "has left her child[ren] in foster care for in excess of twelve 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 by NCGS 7B-1111(a)(2)";

Mother did not challenge Conclusion of Law 6 in either order, which states that it would be in the best interests of all three children for Mother's parental rights to be terminated.

The social worker, who has been with this case since its inception, credited

Mother with continuing to work on her case plan even after the primary recommendation changed to adoption. Mother made progress and largely “follow[ed] through with the case plan.” However, as our precedent mandates, partial progress is not enough if the parent does not acknowledge her own role in her children’s removal and change her behavior to demonstrate that she understands why the children were taken away. *See In re R.L.R.*, 381 N.C. 863 (2022); *In re J.J.H.*, 376 N.C. 161 (2020). While Mother has made some changes, she has taken little to no responsibility for her own actions. She opened her testimony by insisting, “they’re trying to terminate my rights,” “I think I deserve a second chance with my kids,” and “I just feel like I should have a second chance with my babies,” while shifting blame to the social worker and the foster parents for this case’s having reached the termination stage.

While poverty cannot be the *sole* reason a parent’s rights are terminated, the trial court is not required to make a specific finding about poverty if the respondent parent’s financial ability to support the child is only one of many factors in evidence. *In re T.M.L.*, 377 N.C. 369, 382–83 (2021). Here, Mother’s incomplete progress on her case plan and her attempts to shift to others the blame for her own actions support the trial court’s termination of her rights without reaching the question of her financial resources. Therefore, the trial court did not err in concluding as a matter of law based on the relevant findings of fact that the children were neglected and that Mother’s neglect was likely to continue.

V. Conclusion

For the foregoing reasons, we dismiss Mother's due process claim as unpreserved and hold that there was clear, cogent, and convincing evidence that supported the trial court's findings of fact and those findings support at least one ground to terminate Mother's parental rights under N.C.G.S. § 7B-1111(a)(1). Accordingly, we affirm the trial court's order.

AFFIRMED.

Judges ZACHARY and FLOOD concur.

Report per Rule 30(e).