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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA26-438

Filed 7 October 2026

Forsyth County, No. 23JA000199-330

IN THE MATTER OF: H.H.N.

Appeal by Respondent-Mother from order entered 23 January 2026 by Judge Frederick B. Adams in Forsyth County District Court. Heard in the Court of Appeals 16 September 2026.

Assistant County Attorney Melissa Starr Livesay for Petitioner-Appellee Forsyth County Department of Social Services.

Administrative Office of the Courts, by NC GAL Appellate Counsel Matthew D. Wunsche, for guardian ad litem.

Lisa Noda for Respondent-Appellant Mother.

GRIFFIN, Judge.

Respondent-Mother¹ appeals from the trial court's order terminating her parental rights. Mother argues the trial court erred by denying Mother's motion to continue which she alleges resulted in a fundamentally unfair proceeding. We hold Mother failed to preserve her constitutional challenge on appeal and the trial court

¹ Father is unknown.

did not abuse its discretion in denying the motion to continue.

I. Factual and Procedural Background

On 18 October 2023, Mother failed to pick up her daughter, Helena,² from daycare. Consequently, a daycare provider had to care for Helena overnight and then notified Forsyth County Department of Social Services (“DSS”) and law enforcement the following day after Mother failed to show up again. That day, DSS assumed custody of Helena, who was two years old at the time. DSS could not locate Mother. Also, a DSS social worker observed Helena had severe, untreated eczema. Thus, DSS filed a petition alleging Helena to be a neglected juvenile.

On several occasions, Mother has been homeless in the Winston-Salem area. Mother stated she would “be engaged in Hosanna’s Men and Women Restoration” but failed to provide additional information to any social workers.

In February 2024, the trial court adjudicated Helena to be a neglected juvenile. Included in the trial court’s plan for reunification, Mother was ordered to complete a parenting capacity evaluation, complete parenting classes, participate in consistent visits with Helena, continue mental health treatment, complete a substance abuse assessment and follow its recommendations, demonstrate sobriety, maintain safe and stable housing, and demonstrate her ability to financially provide for Helena.

² We use a pseudonym to protect the juvenile’s identity. *See* N.C. R. App. P. 42(b).

Mother made some limited progress on her plan. However, Mother failed to demonstrate progress in substance use or mental health treatment, failed to complete her parenting capacity assessment on schedule, was terminated from her job, and tested positive for controlled substances multiple times.

Due to Mother's limited progress, DSS filed a motion to terminate her parental rights on 12 August 2025. At the first hearing, DSS informed the trial court it intended to call Mother as a witness at the 12 January 2026 hearing. However, at the second hearing, Mother was not present in court when the matter was called. Instead, Mother supposedly had left her treatment facility prior to the hearing date to go to the hospital and had not returned. Mother's counsel asked for a one-month continuance, but the trial court denied the motion.

On 23 January 2026, the trial court entered an order terminating Mother's parental rights, on the grounds of neglect, failure to make reasonable progress, and willful abandonment. Mother timely appeals.

II. Analysis

Mother argues the trial court erred in denying her motion to continue.

Generally, the standard of review for a denial of a motion to continue is abuse of discretion. *State v. Blackwell*, 228 N.C. App. 439, 446, 747 S.E.2d 137, 143 (2013) (citation omitted). "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." *T.H. v. SHL Health Two, Inc.*, 293 N.C. App. 462, 465, 900 S.E.2d

719, 722 (2024) (citation omitted). Nevertheless, where a denial of a motion to continue raises a constitutional issue, the standard of review is de novo. *State v. Johnson*, 379 N.C. 629, 634, 866 S.E.2d 725, 729 (2021). Additionally, when the motion implicates a constitutional issue, a new trial is only warranted when a defendant shows the denial was erroneous and the error prejudiced the case. *Blackwell*, 228 N.C. App. at 446, 747 S.E.2d at 143 (citation omitted).

“Constitutional issues not raised before the trial court are not properly preserved for appeal.” *Dep’t of Transp. v. Haywood Oil Co.*, 195 N.C. App. 668, 678, 673 S.E.2d 712, 718 (2009) (citation omitted). To preserve a constitutional issue, a party must inform the trial court and opposing parties of the constitutional challenge and its basis. *In re K.C.*, 386 N.C. 690, 691, 909 S.E.2d 170, 172 (2024) (citation omitted).

A parent has “a fundamental right to make decisions concerning the care, custody, and control of his or her children.” *In re C.A.B.*, 381 N.C. 105, 112, 871 S.E.2d 468, 474 (2022) (citation modified). “[W]hen a parent is unable to attend a termination hearing as a result of the trial court’s refusal to grant a continuance, that parent’s constitutional due process rights may be implicated.” *Id.* However, an absence from the hearing may not always constitute a due process violation. *See In re J.E.*, 377 N.C. 285, 290, 856 S.E.2d 818, 822 (2021) (citation omitted). Further, “the existence of a constitutional protection does not obviate the requirement that arguments rooted in the Constitution be preserved for appellate review.” *In re J.N.*,

381 N.C. 131, 133, 871 S.E.2d 495, 497 (2022) (affirming that a parent “waived his constitutional argument by not first raising the issue before the trial court”).

“Continuances are not favored and the party seeking a continuance has the burden of showing sufficient grounds for it.” *In re J.E.*, 377 N.C. at 291, 856 S.E.2d at 823 (citation modified). The main consideration in determining whether to grant or deny a continuance is whether it will further substantial justice. *Id.* (citation omitted). “Continuances that extend beyond 90 days after the initial petition shall be granted only in extraordinary circumstances when necessary for the proper administration of justice.” *In re C.A.D.*, 298 N.C. App. 1, 4, 913 S.E.2d 267, 270 (2025) (citation modified).

Here, Mother did not raise a constitutional challenge before the trial court; therefore, such challenge is not preserved, and Mother waived this argument on appeal. While Mother’s counsel did express to the trial court and opposing side that Mother could be prejudiced due to her absence, this is insufficient to preserve a constitutional challenge especially considering no constitutional basis was given. Mother’s counsel did not mention the need to preserve Mother’s due process rights. Therefore, we review the denial of the motion to continue for abuse of discretion.

DSS filed the motion to terminate Mother’s parental rights on 12 August 2025. The requested one-month continuance, made on 12 January 2026, would have extended the matter beyond 90 days; therefore, there would have needed to be both

an extraordinary circumstance and the necessity of the proper administration of justice.

Mother had the burden of demonstrating sufficient grounds for a continuance. However, she failed to do so. Mother did not provide any evidence in support of her request. Additionally, no one could confirm that Mother was at a hospital. The trial court entertained granting a continuance when it asked for basic information confirming Mother's present location and her availability. The trial court offered more time to Mother's counsel to try and confirm such information, but counsel was unable to do so. The only information provided to the trial court was that Mother was likely at an unknown hospital for an unknown reason. All considering, Mother failed to show sufficient grounds for her motion to continue, let alone extraordinary circumstances and the necessity to ensure the proper administration of justice. The trial court did not abuse its discretion.

III. Conclusion

Mother did not preserve her constitutional challenge on appeal as she failed to raise it before the trial court. The trial court did not abuse its discretion in denying Mother's motion for a continuance.

AFFIRMED.

Judges HAMPSON and WOOD concur.

Report per Rule 30(e).