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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA25-1177

Filed 4 November 2026

Haywood County, No. 24JA000062-430

IN THE MATTER OF:

K.P.S.
Juvenile

Appeal by respondent-father from order entered 27 August 2025 by Judge Donna Forga in Haywood County District Court. Heard in the Court of Appeals 24 August 2026.

Garron T. Michael for respondent-appellant father.

Matthew D. Wunsche for Guardian ad Litem.

Agency Attorney Mattson T. Smith for petitioner-appellee Haywood County Health and Human Services.

DILLON, Chief Judge.

In this appeal, Respondent-Father ("Father") asks this court to consider whether the trial court abused its discretion by placing the juvenile in Haywood County Health and Human Services Agency custody. We affirm.

I. Background

In February 2022, Father reached out to the Agency regarding concerns he had

about the welfare of his daughter, Kira[1], stating he did not believe her mother ("Mother") was providing Kira with appropriate care. Father was in prison when he wrote the letter and has remained so throughout the duration of this case.

The Agency opened an investigation based upon the allegations made in Father's letter. Prior to this investigation, Mother signed medical and educational consents over to the maternal grandmother, who was serving as the primary caregiver for Kira. After conducting the investigation, the Agency referred Kira to attend counseling. In 2023, the Agency received a new report alleging Kira was being assaulted by her maternal grandfather. During this investigation, Mother informed the Agency that Kira and her sister[2] were staying with their neighbors, the Burkes. The Agency assessed and approved the Burkes' home as a temporary living arrangement for Kira and her sister.

On 3 July 2024, the Agency filed a juvenile petition alleging Kira was an abused and neglected juvenile. Kira and her sister remained placed with the Burkes while the petition was pending. On 19 November 2024, the trial court entered an order, determining Kira to be a neglected juvenile.

In January 2025, at the initial disposition hearing, the trial court ordered that Kira remain in the custody of her parents while placement remained with the Burkes was in her best interest. Kira's permanency plan was designated as reunification

[1] A pseudonym.

[2] Kira's sister is subject to this appeal.

with a concurrent plan of legal custody.

On 11 August 2025, after a permanency plan hearing, Kira's permanency plan remained reunification and her concurrent plan was changed to legal guardianship with a relative or court-approved caretaker due to Mr. Burke's unexpected passing and Mrs. Burke no longer being able to serve as a long-term placement. Although the court found Father had completed multiple educational and training courses in compliance with his case plan during this time, the court held there was no credible evidence Father would be released prior to Kira turning eighteen. Father appealed.

II. Analysis

On appeal, the sole issue before us is whether the trial court abused its discretion by placing Kira in the Agency's custody.

"Appellate review of a trial court's permanency planning order is restricted to whether there is competent evidence in the record to support the findings [of fact] and whether the findings support the conclusions of law." *Matter of J.M.*, 384 N.C. 584, 591 (2023) (cleaned up). "Competent evidence is evidence that a reasonable mind might accept as adequate to support the finding." *State v. Ashworth*, 248 N.C. App. 649, 651 (2016). "The trial court's findings of fact are conclusive on appeal if supported by any competent evidence." *In re A.P.W.*, 378 N.C. 405, 410 (2021).

Here, the trial court's findings are supported by competent evidence. First, the trial court had competent evidence to support the conclusion that there were no appropriate placements for Kira at the time of the hearing. Mother was not in

compliance with her case plan and was unable to care for Kira. Kira was no longer able to stay with the Burke family due to their change in circumstances with Mr. Burke unexpectedly passing. Additionally, Kira was not allowed to return to her maternal grandparents' home due to the abuse endured at the hands of her maternal grandfather, and she objected to being placed with any paternal relatives.

Father argues the trial court abused its discretion because there was no substantial risk or imminent harm in Father receiving custody of Kira because he was "substantially complying with his case plan, and measures had been taken to ensure the placement provider could access medical and educational care for Kira." However, the fact that Father remains incarcerated with no set release date prior to Kira turning eighteen provides ample support for the trial court's determination that Kira remaining in Agency custody was in her best interest, as Father is not able to provide her with proper care and supervision at this time. *See Matter of A.L.S*, 375 N.C. 708, 714 (2020) (holding that, the respondent-mother was unable to provide proper care and supervision for the child due to her extended period of incarceration).

III. Conclusion

For the reasoning stated above, we hold the trial court's decision was supported by competent evidence and it did not abuse its discretion in concluding Kira should be placed in Agency custody.

AFFIRMED.

Judges CARPENTER and GRIFFIN concur.

Report per Rule 30(e).