

SUPREME COURT OF NORTH CAROLINA

In re V.S. and A.S.

2022-NCSC-44 (N.C. 2022) · No. No. 121PA21 · Decided March 18, 2022

SUMMARY

The Supreme Court of North Carolina affirmed orders terminating the respondent mother’s parental rights to V.S. and A.S. based on neglect. The court held that unchallenged findings supported a likelihood of repetition of neglect, notwithstanding the respondent’s argument that family members could assist her in caring for the children.

CASE DETAILS

COURT	Supreme Court of North Carolina
WRITING FOR THE COURT	Barringer, Justice
JURISDICTION	North Carolina
DECIDED	March 18, 2022
DOCKET	No. 121PA21
DISPOSITION	affirmed
PROCEDURAL POSTURE	Respondent appealed orders terminating her parental rights. After the trial court dismissed her notice of appeal because her guardian ad litem had not signed it, the Supreme Court of North Carolina allowed respondent's petition for writ of certiorari and reviewed the merits.
STANDARD OF REVIEW	The appellate court determines whether the trial court's findings supporting termination under N.C.G.S. § 7B-1111(a) are supported by clear, cogent, and convincing evidence and whether the findings support the conclusions of law. Unchallenged findings are binding on appeal, and conclusions of law are reviewed de novo.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Respondent-appellant mother v. Beaufort County Department of Social Services, Guardian ad Litem

TOPICS

- termination of parental rights
- parental rights
- family law procedure
- writ of certiorari
- appellate procedure

PRACTICE AREAS

family law

termination of parental rights

appellate procedure

QUESTIONS PRESENTED

1. Whether the trial court erred in determining that there was a likelihood of a repetition of neglect sufficient to establish the neglect ground for termination of parental rights under N.C.G.S. § 7B-1111(a) (1).
2. Whether respondent's reliance on family members or other caregivers required the trial court to find that future neglect was unlikely.
3. Whether exclusion of testimony from respondent's witnesses prejudiced respondent when unchallenged findings independently supported termination.
4. Whether the appeal was properly before the Supreme Court after the trial court dismissed respondent's notice of appeal for failure to obtain her guardian ad litem's signature.

HOLDINGS

1. The trial court properly determined that there was a likelihood of a repetition of neglect if the children were returned to respondent's care, and the unchallenged findings were sufficient to establish the neglect ground for termination of parental rights.
2. A parent's reliance on others for assistance does not displace the requirement that the trial court assess the fitness and ability of the parent herself to prevent future neglect, because the parent retains ultimate authority over the child.
3. Any error in excluding testimony from respondent's witnesses was nonprejudicial because the unchallenged findings independently supported the findings of past neglect, likelihood of repetition, and the neglect ground for termination.

KEY QUOTATIONS

“Accordingly, a parent must be able to understand the past neglect her children suffered while in her care; comprehend how to keep them safe from harm through proper care, supervision, discipline, and provision of a living environment not injurious to their welfare; and demonstrate an ability to do so.” (¶ 12)

“The trial court did not err when it adjudicated that the ground of neglect existed to terminate respondent’s parental rights pursuant to N.C.G.S. § 7B-1111(a)(1), and respondent does not challenge the trial court’s best interests determination.” (¶ 14)

FACTUAL BACKGROUND

The children had lived with respondent in unsafe and unstable conditions, including filthy homes, inadequate housing, poor hygiene, exposure to domestic violence and pornography, and a home containing maggots under the carpet from improperly disposed garbage. Respondent had significant cognitive and developmental limitations, lacked insight into the reasons for the children's removal, and was found unable to independently provide proper care or understand the children's safety and special needs. At the termination hearing, the trial

court found no meaningful change in circumstances and determined that the children would likely experience a repetition of neglect if returned to respondent's care.

PROCEDURAL HISTORY

Bertie County Department of Social Services filed neglect and dependency petitions in 2017, and the trial court adjudicated the children neglected and dependent. The trial court later relieved DSS of reunification efforts, changed the primary plan to adoption, and, after a termination hearing, adjudicated grounds for termination based on neglect and dependency. The trial court dismissed respondent's notice of appeal for lack of her guardian ad litem's signature; the Supreme Court allowed certiorari and affirmed the termination order on the ground of neglect.

DISPOSITION

affirmed

CASES CITED

- In re E.H.P., 372 N.C. 388, 392 (2019)
- In re T.N.H., 372 N.C. 403, 407 (2019)
- In re B.O.A., 372 N.C. 372, 379 (2019)
- In re C.B.C., 373 N.C. 16, 19 (2019)
- In re D.L.W., 368 N.C. 835, 843 (2016)
- In re Z.V.A., 373 N.C. 207, 212 (2019)
- In re Ballard, 311 N.C. 708, 715 (1984)
- In re Z.G.J., 378 N.C. 500, 2021-NCSC-102, ¶ 26
- Adams v. Tessener, 354 N.C. 57, 60 (2001)
- In re M.A., 374 N.C. 865, 875 (2020)