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NO. COA12-138
NORTH CAROLINA COURT OF APPEALS

Filed: 5 June 2012

IN THE MATTERS OF:

G.M., A.M., and M.C.

Mecklenburg County
Nos. 11 J 267-69

Appeal by Respondent from order entered 24 October 2011 by Judge Elizabeth T. Trosch in Mecklenburg County District Court. Heard in the Court of Appeals 14 May 2012.

*Mecklenburg County Division of Youth and Family Services,
by Twyla E. Hollingsworth-Richardson, Petitioner-Appellee.*

Derrick J. Hensley for Guardian ad Litem.

Charlotte Gail Blake for Respondent-Appellant.

BEASLEY, Judge.

Respondent-mother appeals from an order (1) adjudicating her children G.M., A.M., and M.C. neglected, (2) adjudicating A.M. abused, and (3) placing M.C.¹ in the custody of her biological father (hereinafter referred to as "M.M.") and A.M.

¹ Initials are used to protect the identity of the minors.

and G.M. in the custody of their father (hereinafter referred to as "J.M."). We affirm.

On 11 May 2011, the Mecklenburg County Division of Youth and Family Services (hereinafter "YFS") filed juvenile petitions alleging that A.M., who was then four years old, and M.C., who was then six years old, were abused juveniles. YFS further alleged that the two girls and their three-year-old sister, G.M., were neglected and dependent minors. YFS obtained nonsecure custody of the children, removed them from Respondent-mother's residence, and initially placed them with J.M. and his parents.

On 1 September 2011, the trial court held an adjudication hearing and on 13 September 2011 held a disposition hearing. On 24 October 2011, the trial court filed an adjudication/disposition order from which Respondent-mother now appeals.

The trial court's findings of fact show that in the latter part of April 2011, the children were living with Respondent-mother in a motel room supplied by the Battered Women's Shelter. On 29 April 2011 YFS received a referral alleging A.M. had bruises on the right side of her face and multiple marks inside her right ear in a curved line pattern consistent with bite

marks. J.M. observed the injuries when he picked up the girls from the motel room. A.M. and M.C. told J.M. that Respondent-mother had caused the marks. A.M. also told J.M. that her mother had bitten her.

The trial court found that A.M. was bitten by Respondent-mother and that the bites were not inflicted accidentally. The trial court further found that the children have not been taken to well visits with their doctors on a regular basis; that M.C., who was eligible to begin school on 25 August 2010, had not been enrolled in school by Respondent-mother as of 11 May 2011; and that M.C. has speech impediments that are not being addressed.

The trial court found that A.M. was an abused minor because she received a serious physical injury inflicted by her Mother. The trial court found that all three girls were neglected juveniles because they were not receiving proper medical and remedial care and all three girls were living in an environment injurious to their welfare. The trial court additionally found that G.M. and M.C. were neglected minors because they lived in a home where a sibling, A.M., had been abused. The trial court also found that it is in their best interests that Respondent-mother have visitation with them.

In reviewing an adjudication order, this Court determines whether the trial court's findings of fact are supported by clear and convincing evidence and whether the findings of fact support the trial's court's conclusions of law. *In re Gleisner*, 141 N.C. App. 475, 480, 539 S.E.2d 362, 365 (2000). Review of a conclusion of law is *de novo*. *In re J.S.L.*, 177 N.C. App. 151, 154, 628 S.E.2d 387, 389 (2006).

Respondent-mother contends the trial court's conclusion that A.M. was an abused juvenile is not supported by the findings of fact and evidence. Respondent-mother argues the evidence fails to show a serious physical injury was inflicted upon the child.

An abused juvenile is defined in the Juvenile Code as one whose parent, *inter alia*, inflicts, or allows to be inflicted, a serious physical injury by other than accidental means. See N.C. Gen. Stat. § 7B-101(1)(a) (2011). Our Supreme Court has declared that a juvenile is abused within the meaning of the Juvenile Code "when a caretaker harms the juvenile in some way, allows the juvenile to be harmed, or allows a substantial risk of harm." *In re M.G.*, 363 N.C. 570, 573, 681 S.E.2d 290, 292 (2009). Whether a physical injury is serious is a determination to be made by the trial court based upon the evidence in the

particular case. *In re L.T.R.*, 181 N.C. App. 376, 383, 639 S.E.2d 122, 126 (2007).

Here, the trial court viewed photographs of A.M. which were taken by A.M.'s paternal grandmother showing bruises on the side of A.M.'s face and multiple marks inside her right ear. The marks in the ear were in a curved line pattern consistent with bite impressions. The findings further show that Respondent-mother on other occasions slapped and punched M.C., leaving marks on M.C.'s arms, legs, and face, and that she had locked all of the children in a closet, giving them bags to breathe through, so she could have private time with her adult male companion. Evidence of neglect or abuse of one child in a household is relevant to show mistreatment of another child in the same household. See N.C. Gen. Stat. § 7B-101(15) ("In determining whether a juvenile is a neglected juvenile, it is relevant whether that juvenile lives in a home where another juvenile . . . has been subjected to abuse or neglect by an adult who regularly lives in the home.") We hold the trial court's findings of fact and conclusions of law are supported by evidence.

Respondent-mother next contends that the trial court erred and abused its discretion by failing to order the time, place

and conditions of her visits with her children. A disposition order which removes a juvenile from a parent's custody "shall provide for appropriate visitation as may be in the best interests of the juvenile and consistent with the juvenile's health and safety." N.C. Gen. Stat. § 7B-905(c) (2011). A "minimum outline of visitation," including time, place and conditions under which visits are to occur, must be narrated by the court in its order. *In re E.C.*, 174 N.C. App. 517, 523, 621 S.E.2d 647, 652 (2005). Respondent-mother argues that although the order *sub judice* does set out a visitation plan, it fails to define in sufficient detail the time, place and manner of the visits.

We conclude the trial court's order does adequately comply with N.C. Gen. Stat. § 7B-905(c) and provides more than just a "minimum outline" of visitation. The order provides that visits by Respondent-mother shall be supervised by persons specifically identified by name. More particularly, visits with M.C. are to be supervised by her father, M.M.; are to be held monthly on the second weekend of every month, either on a Saturday or Sunday, for a period of two hours; are to occur in a public place such as a park, museum, restaurant; and are to be arranged four to eight hours in advance. Visits with the two other girls are to

be supervised by their paternal grandfather and are to occur once per week for one hour in a public place. The paternal grandfather is the only person allowed to transport the girls for visits, and is permitted to intervene only when an activity or action presents a threat of physical injury. The order also directs how the paternal grandfather is to supervise the visits and how he is to arrange the visits. If Respondent-mother appears for any visit in an impaired condition, then the designated supervising party is given the authority to terminate the visit. Nightly telephone calls of minimum specified durations are also permitted between Respondent-mother and the children at designated times.

Affirmed.

Judges CALABRIA and STEELMAN concur.

Report per Rule 30(e).