NO. COA11-555
NORTH CAROLINA COURT OF APPEALS

Filed: 15 November 2011

IN THE MATTER OF:

J.M.G.
Juvenile.

Haywood County
No. 09-JT-25

Appeal by respondent-mother from orders entered 3 March 2011 by Judge Richard K. Walker in Haywood County District Court. Heard in the Court of Appeals 31 October 2011.

Rachael J. Hawes, for the petitioner-appellee Haywood County Department of Social Services.

Edward Eldred, Attorney at Law, PLLC, by Edward Eldred, for the respondent-appellant mother.

Pamela Newell, for the Guardian ad Litem.

THIGPEN, Judge.

Respondent-mother (hereinafter "respondent") appeals from orders terminating her parental rights. We affirm.

The Haywood County Department of Social Services ("DSS") first became involved with J.M.G. ("the juvenile") in December 2008, when it received a report alleging concerns with the care

the juvenile was receiving from respondent and the father. DSS commenced an in-home services case with the family, and arranged to have the juvenile placed with maternal cousins S.L. and A.L. ("the Longworths"). On 11 March 2009, DSS filed a petition alleging the juvenile was an abused, neglected, and dependent juvenile, and took non-secure custody of the juvenile. After a hearing on 15 July 2009, the trial court entered adjudication and disposition orders, which found the juvenile was neglected and dependent, continued custody of the juvenile with DSS, and sanctioned placement of the juvenile with the Longworths.

By order entered 1 April 2010, the trial court relieved DSS of efforts to reunify the juvenile with respondent, and DSS filed a petition to terminate respondent's parental rights to the juvenile on 22 April 2010. After a hearing on 14 February 2011, the trial court entered its adjudication and disposition orders terminating respondent's parental rights to the juvenile on 3 March 2011. Respondent appeals.

I: Notice of Appeal

We first note that respondent's notice of appeal states that she "hereby gives Notice of Appeal to the Court of Appeals of North Carolina from the properly preserved Order Terminating Parental Rights that was filed on 3/3/2011 . . . ." This Court

has imposed the requirements of Rule 3(d) of the North Carolina Rules of Appellate Procedure upon a party's filing of a notice of appeal from an order entered under Chapter 7B of the General Statutes of North Carolina. *In re D.R.F.*, __ N.C. App. __, __, 693 S.E.2d 235, 238, *disc. review denied*, __ N.C. __, 705 S.E.2d 358 (2010). "[Rule 3(d) of the North Carolina Rules of Appellate Procedure] requires that a notice of appeal designate the order from which appeal is taken." *In re A.L.A.*, 175 N.C. App. 780, 782, 625 S.E.2d 589, 590-91 (2006). Because respondent's notice of appeal does not identify with specificity the two separate orders terminating her parental rights, entitled "Order on Special Hearing, N.C.G.S. 7B-1108(b) and Adjudication, N.C.G.S. 7B-1109" and "Order Determining Best Interests of Juvenile N.C.G.S. 7B-1110," we hold respondent's notice of appeal is insufficient to confer jurisdiction upon this Court. *In re A.V.*, 188 N.C. App. 317, 321, 654 S.E.2d 811, 814 (2008).

However, recognizing that her notice of appeal failed to specifically state that she was appealing from both the adjudication and disposition orders terminating her parental rights, respondent filed a petition for writ of certiorari with this Court on 13 June 2011. No response in opposition to

issuance of a writ of certiorari has been filed with this Court by DSS or the Guardian *ad Litem*. Because respondent's notice of appeal was timely filed and due to the importance of issues involving the termination of parental rights, we exercise our discretion and allow respondent's petition for writ of certiorari and address the merits of her arguments.

II: Termination of Parental Rights

We next address respondent's argument that the trial court erred in concluding that grounds exist to terminate her parental rights pursuant to N.C. Gen. Stat. § 7B-1111(a)(6) (2009). We disagree.

"On appeal, our standard of review for the termination of parental rights is whether the trial court's findings of fact are based upon clear, cogent and convincing evidence and whether the findings support the conclusions of law." *In re J.S.L.*, 177 N.C. App. 151, 154, 628 S.E.2d 387, 389 (2006) (citation omitted). A trial court may terminate parental rights when:

> [T]he parent is incapable of providing for the proper care and supervision of the juvenile, such that the juvenile is a dependent juvenile within the meaning of G.S. 7B-101, and that there is a reasonable probability that such incapability will continue for the foreseeable future. Incapability under this

> subdivision may be the result of substance abuse, mental retardation, mental illness, organic brain syndrome, or any other cause or condition that renders the parent unable or unavailable to parent the juvenile and the parent lacks an appropriate alternative child care arrangement.

N.C. Gen. Stat. § 7B-1111(a)(6). Respondent concedes that the juvenile is a dependent juvenile due to her mental disability. However, respondent contends that she has an appropriate alternative child care arrangement in her cousins, the Longworths, and thus the trial court's finding that she lacks an alternative child care arrangement is unsupported by the evidence.

This Court has "consistently held that in order for a parent to have an appropriate alternative child care arrangement, the parent must have taken some action to identify viable alternatives." *In re L.H.*, __ N.C. App. __, __, 708 S.E.2d 191, 197 (2011); *see also In re J.D.L.*, 199 N.C. App. 182, 189, 681 S.E.2d 485, 490 (2009) ("A conclusion that a juvenile is dependent may be supported by evidence that the parent is unable to care for the child or to suggest an appropriate alternative placement for the child") (citation omitted). Here, there is no evidence in the record to support respondent's contention that she offered the Longworths as a

possible alternative child care arrangement, or took any other action to identify a possible alternative child care arrangement. The only evidence regarding who was responsible for the identification of the Longworths as a placement of the juvenile came from the social worker initially assigned to the case, who stated that among the reasonable efforts DSS made with respondent was the kinship placement for the juvenile. Accordingly, we hold the trial court did not err in finding that respondent lacks an appropriate alternative child care arrangement, or in concluding that grounds exist to terminate respondent's parental rights to the juvenile pursuant to N.C. Gen. Stat. § 7B-1111(a)(6). Because we hold the trial court did not err in concluding grounds existed to terminate respondent's parental rights pursuant to N.C. Gen. Stat. § 7B-1111(a)(6), we do not address respondent's arguments regarding the court's conclusions that grounds also existed to terminate her parental rights under N.C. Gen. Stat. § 7B-1111(a)(1) and (2). *In re P.L.P.*, 173 N.C. App. 1, 8, 618 S.E.2d 241, 246 (2005) ("[W]here the trial court finds multiple grounds on which to base a termination of parental rights, and an appellate court determines there is at least one ground to support a conclusion that parental rights should be terminated, it is unnecessary to

address the remaining grounds." (citation and quotations omitted)), a*ff'd per curiam*, 360 N.C. 360, 625 S.E.2d 779 (2006).

III: Best Interest of the Child

Respondent also argues the trial court failed to exercise its discretion in making its determination of whether or not terminating respondent's parental rights was in the best interest of the juvenile because the court relied solely upon respondent's mental disability. Respondent's argument is misplaced.

When determining whether it is in the best interest of a child to terminate parental rights, the trial court must consider the factors set forth in N.C. Gen. Stat. § 7B-1110(a). "The decision to terminate parental rights is vested within the sound discretion of the trial judge and will not be overturned on appeal absent a showing that the [trial court's] actions were manifestly unsupported by reason." *In re J.A.A.*, 175 N.C. App. 66, 75, 623 S.E.2d 45, 51 (2005) (citation omitted). "However, a court's complete failure to exercise discretion amounts to reversible error." *In re M.H.B.*, 192 N.C. App. 258, 261, 664 S.E.2d 583, 585 (2008) (citation and quotations omitted). Here, the trial court found:

> Given the uncontroverted evidence heard concerning the abilities of the biological Mother to develop the skills that she needs to properly care for a child of this age, the Court must conclude that it is in the best interests of the minor child, born December 9, 2008, that the parental rights of the Respondent Mother be terminated.

We do not interpret the trial court's conclusion as stating it could not exercise its discretion in making the best interest determination, but rather that the trial court found the evidence presented at the hearing was overwhelming in support of termination of respondent's parental rights. Indeed, respondent concedes that "[t]he uncontroverted evidence was that [her] mental disability renders her not only unable to properly care for her daughter but also unable to develop the skills necessary to care for her daughter." The trial court properly considered the statutory factors set forth in N.C. Gen. Stat. § 7B-1110, and we cannot say the court's conclusion is manifestly unsupported by reason. Accordingly, we affirm the trial court's orders terminating respondent's parental rights.

Affirmed.

Judges HUNTER and MCCULLOUGH concur.

Report per Rule 30(e).