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NO. COA01-1017

NORTH CAROLINA COURT OF APPEALS

Filed: 19 March 2002

IN THE MATTER OF:
SYRIN KEVINO THOMAS
and
MYKIBA SHEE-LEE MCCOREY

Mecklenburg County
Nos. 00-J-105,06

Appeal by respondent from order entered 4 October 2000, *nunc pro tunc* 9 August 2000, by Judge Resa L. Harris in Mecklenburg County District Court. Heard in the Court of Appeals 18 February 2002.

Associate County Attorney Tyrone C. Wade for petitioner-appellee Mecklenburg County Department of Social Services.

Chiege O. Kalu Okwara for the Guardian Ad Litem.

Leslie C. Rawls for respondent-appellant.

EAGLES, Chief Judge.

The facts relevant to this appeal are as follows: Mykiba Shee-Lee McCorey was born on 22 May 1990 and Syrin Kevino Thomas was born on 28 August 1991. Respondent, Keva Thomas, is the children's mother. Mecklenburg County Department of Social Services (DSS) received a referral that Mykiba had been sexually abused by her mother's boyfriend. Mykiba also later named a thirteen-year old cousin who lived in the same home as her as the perpetrator of the abuse. DSS later substantiated the abuse. The

children were having academic problems and Mykiba was exhibiting inappropriate sexual behavior. DSS created a case plan recommending services for respondent and her children. DSS also implemented a protective plan to ensure adequate protection of the children. Respondent failed to fully cooperate with the terms of the case plan and the children continued to be exposed to the cousin who had abused Mykiba. Accordingly, on 22 October 1997, a non-secure custody order was entered and the children were placed in the custody of DSS. On 15 December 1997, the children were adjudicated abused, neglected, and dependent juveniles.

After the adjudication, on 3 February 1998, the court adopted a case plan. The court identified respondent's "depression" and "poor judgment as well as poor communication techniques with her children" as problems that had to be addressed. The court determined that respondent should: (1) participate with recommended therapeutic interventions; (2) successfully complete parenting classes and demonstrate her ability to implement sound parenting techniques; (3) follow through with outpatient treatment as long as it is determined that it is beneficial or needed; (4) complete parenting classes at Family Center, with the social worker to provide transportation if needed with three days notice; and (5) complete a custody evaluation once her outpatient therapy plateaued and she completed parenting classes.

On 20 January 2000, DSS filed a petition to terminate parental rights alleging that respondent: (1) willfully left the children in foster care for more than twelve months without showing to the

satisfaction of the court that reasonable progress had been made towards correcting those conditions that led to her removal, and (2) that respondent failed to pay a reasonable portion of the cost of child care for the children in the six months preceding the filing of the petition.

On 4 October 2000, *nunc pro tunc* 9 August 2000, the trial court found that the parental rights of respondent should be terminated. Specifically, the trial court found that respondent failed to follow through on case plans, failed to follow through with individual therapy, and failed to maintain regular and consistent visitation with the children. The court noted that respondent's participation at the Alexander Children's Center was "sporadic," and her behavior at the Family Center was "detrimental and abusive." Furthermore, the court noted that respondent had allowed the alleged sexual perpetrator against Mykiba, the father of her youngest child, to visit her in her home, and she had minimized the trauma that Mykiba had experienced. Thus, the court found that respondent did "not have an understanding at all of what these children's needs are nor does she have the ability to follow through and provide for them."

The court then found that respondent: (1) neglected the children as defined by N.C.G.S. § 7B-101(15) in that she failed to provide proper care, supervision, and discipline for them; (2) willfully left the children in foster care for more than twelve months without showing to the satisfaction of the court that reasonable progress had been made towards correcting those

conditions that led to her removal, and (3) that respondent failed to pay a reasonable portion of the cost of child care for the children in the six months preceding the filing of the petition. Accordingly, the trial court concluded that the best interests of the children required that respondent's parental rights be terminated.

On appeal, respondent contends that the trial court abused its discretion by terminating her parental rights. First, respondent contends that the trial court's findings of facts are not supported by the evidence. Respondent cites eleven specific findings of the court, findings which state how respondent failed to address problems and follow through on the recommendations made to foster reunification. Respondent contends that she participated in individual and family counseling, visited the children regularly, and tried to work with case plans. Respondent denies that she minimized the trauma Mykiba experienced, arguing that she believed Mykiba had been abused, but was unsure who had done it because Mykiba had told differing stories. Respondent argues that she had a "safety plan" in place so that the alleged abuser, the father of respondent's youngest child, would not come into contact with Mykiba. In regards to paying for reasonable cost of care while the children were in DSS custody, respondent notes that she was largely out of work and that there is no evidence that respondent had any income to pay support. Finally, respondent asserts that the trial court erred in finding grounds for termination and thus it was error to address whether termination was in the children's best

interest. Furthermore, respondent argues that the evidence does not support a finding that the children's best interests were served by termination. After careful review of the record and briefs, we affirm.

N.C.G.S. § 7B-1111 sets out the statutory grounds for terminating parental rights. A finding of any one of the separately enumerated grounds is sufficient to support termination. *In re Taylor*, 97 N.C. App. 57, 64, 387 S.E.2d 230, 233-34 (1990). "[T]he party petitioning for the termination must show by clear, cogent, and convincing evidence that grounds authorizing the termination of parental rights exist." *In re Young*, 346 N.C. 244, 247, 485 S.E.2d 612, 614 (1997).

Here, the trial court concluded that respondent willfully left the children in foster care for twelve months without showing to the satisfaction of the court that reasonable progress under the circumstances had been made within those twelve months in correcting those conditions which led to their removal. N.C.G.S. § 7B-1111(a)(2) (1999). The trial court based its conclusion on numerous findings that respondent failed to cooperate with DSS efforts aimed at reuniting her with her children. The court found that family therapy was scheduled for respondent but that it was discontinued due to respondent's lack of cooperation and progress. The court noted that respondent "has indicated throughout the case she did not believe she needed therapy although it has been recommended by other professionals in the case." The court also found that the alleged perpetrator of the sexual offense against

Mykiba, the father of respondent's youngest child, visited respondent just prior to termination proceedings, that respondent continued to have regular contact with him, and that respondent "continues to minimize the trauma that [Mykiba] has experienced." The court also found that respondent failed to maintain regular and consistent visitation with the children. Thus, the court found that respondent did not have the ability or understanding to provide for the children's needs or to protect them. Accordingly, we conclude that there was clear, cogent, and convincing evidence to support the trial court's finding that respondent had willfully left the children in foster care for twelve months without making reasonable progress towards correcting those conditions which led to her removal. Since grounds exist pursuant to N.C.G.S. § 7B-1111(a)(2) to support the trial court's order, the remaining grounds found by the trial court supporting termination need not be reviewed.

Once the trial court has found that grounds exist to terminate parental rights, "the court shall issue an order terminating the parental rights of such parent with respect to the juvenile unless the court shall further determine that the best interests of the juvenile require that the parental rights of the parent not be terminated." N.C.G.S. § 7B-1110(a) (1999). The trial court's decision to terminate parental rights at the disposition stage is discretionary. *In re Montgomery*, 311 N.C. 101, 110, 316 S.E.2d 246, 252 (1984). Here, the trial court found that it was in the best interest of the child that respondent's parental rights be

terminated. We hold that the trial court did not abuse its discretion in determining that termination was in the children's best interests. Accordingly, the order terminating respondent's parental rights is affirmed.

Affirmed.

Judges TIMMONS-GOODSON and McCULLOUGH concur.

Report per Rule 30(e).