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NO. COA05-1070

NORTH CAROLINA COURT OF APPEALS

Filed: 6 June 2006

IN THE MATTER OF
T.S.F. and
A.B.F.,
Minor Children.

Catawba County
Nos. 03 J 111
03 J 112

Appeal by respondent father from orders entered 10 February 2005 by Judge C. Thomas Edwards in Catawba County District Court. Heard in the Court of Appeals 22 May 2006.

J. David Abernethy for petitioner-appellee.

Moshera H. Mohamed for respondent-appellant.

GEER, Judge.

The respondent father has appealed from (1) a judgment and order of adjudication terminating the respondent father's parental rights to T.S.F. and A.B.F., and (2) a judgment and order of disposition concluding that termination was in the best interests of the children. We affirm.¹

¹We note that respondent's counsel has failed to comply with N.C.R. App. P. 3(b), requiring that "the name of the juvenile who is the subject of the action, and of any siblings or other household members under the age of eighteen, shall be referenced by the use of initials only in all filings, documents, exhibits, or arguments submitted to the appellate court with the exception of sealed verbatim transcripts submitted pursuant to Rule 9(c)." The rule also requires exclusion of the juvenile's address, social security number, and date of birth. We urge counsel to be diligent in complying with these provisions in order to protect the privacy of the children. Effective 1 May 2006, these provisions appear in

T.S.F. and A.B.F. were both born out of wedlock. Although respondent is the children's putative father, he has not (1) established paternity judicially or by affidavit filed in a central registry maintained by the Department of Health and Human Services; (2) legitimated his children pursuant to the provisions of N.C. Gen. Stat. § 49-10 (2005) or filed a petition for this purpose; or (3) married the children's mother.

On 12 March 2002, after having been incarcerated since 15 August 2000, respondent pled guilty to six counts of robbery with a dangerous weapon and two counts of attempted robbery with a dangerous weapon. Respondent was sentenced to a term of 102 to 132 months imprisonment and has a projected release date of 15 April 2010.

The children's mother signed a relinquishment for adoption of the children, and custody of the children was granted to the Catawba County Department of Social Services ("DSS"). On 31 August 2004, DSS filed a verified motion to terminate respondent's parental rights to the children. Respondent filed a response to the motion, requesting that it be denied.

At the hearing on DSS' motion, respondent testified he had never seen or spoken to his child A.B.F. and he had not seen or talked to T.S.F. since 14 August 2000. Although respondent testified he had sent cards and letters to his children since his incarceration, the cards and letters were forwarded to the children's therapist who recommended the children not receive them.

In April 2004, respondent began working towards obtaining his GED, and, in March 2004, respondent completed a seven-week parent education course. Respondent admitted, however, he would not be able to provide personal care for the children before his projected release date of 15 April 2010. The only money respondent had earned since his incarceration on 15 August 2000 was during 2002 when he was employed as a dishwasher at the prison. Respondent did not remit any of his earnings for the care of his children, and he quit his job after seven months because he no longer had the desire to work.

On appeal, respondent contends the trial court's conclusion that his parental rights should be terminated is not supported by clear, cogent, and convincing evidence or sufficient findings of fact. Since, however, respondent failed to specifically assign error to any of the trial court's findings of fact, those findings are conclusive on appeal. *In re J.D.S.*, 170 N.C. App. 244, 251, 612 S.E.2d 350, 355 (holding that the trial court's findings of fact were binding on this Court when no assignments of error were made to particular findings), *cert. denied*, 360 N.C. 64, 623 S.E.2d 584 (2005). In any event, based upon our review of the record, we hold that the evidence manifestly supports the trial court's findings of fact.

"A finding of any one of the enumerated grounds for termination of parental rights under N.C.G.S. 7B-1111 is sufficient to support a termination." *In re Humphrey*, 156 N.C. App. 533, 540, 577 S.E.2d 421, 426 (2003). Here, the trial court determined that

grounds existed for termination of respondent's parental rights pursuant to N.C. Gen. Stat. § 7B-1111(a) (5) and (6).

Under N.C. Gen. Stat. § 7B-1111(a) (5), the court may terminate parental rights upon finding that:

The father of a juvenile born out of wedlock has not, prior to the filing of a petition or motion to terminate parental rights:

- a. Established paternity judicially or by affidavit which has been filed in a central registry maintained by the Department of Health and Human Services; provided, the court shall inquire of the Department of Health and Human Services as to whether such an affidavit has been so filed and shall incorporate into the case record the Department's certified reply; or
- b. Legitimated the juvenile pursuant to provisions of G.S. 49-10 or filed a petition for this specific purpose; or
- c. Legitimated the juvenile by marriage to the mother of the juvenile; or
- d. Provided substantial financial support or consistent care with respect to the juvenile and mother.

It is undisputed the children were born out of wedlock, and respondent had not established paternity or legitimated the children by any of the methods set forth in N.C. Gen. Stat. § 7B-1111(a) (5) (a)-(c) before DSS filed its motion to terminate respondent's parental rights.

The question remains whether respondent provided substantial financial support or consistent care with respect to the children and their mother. As the trial court found, at the time DSS filed

its motion to terminate respondent's parental rights, respondent had not seen or talked to T.S.F. since 14 August 2000, and he had never seen or talked to A.B.F. Further, respondent had not provided any financial support for the care of either of the children since at least 14 August 2000.

Although respondent argues he did not have "the means or the know how" to direct the money he earned as a dishwasher to the care of the children, the statute requires no such showing. Instead, "[t]he statute only requires a showing that [the father] in fact did not provide substantial support or consistent care to the child[ren] or the mother." *In re Hunt*, 127 N.C. App. 370, 374, 489 S.E.2d 428, 430 (1997). The trial court's findings of fact, therefore, support the court's conclusion that grounds existed under N.C. Gen. Stat. § 7B-1111(a)(5) to terminate respondent's parental rights.

Because grounds for terminating respondent's parental rights exist under N.C. Gen. Stat. § 7B-1111(a)(5), we need not address respondent's further argument regarding N.C. Gen. Stat. § 7B-1111(a)(6). See *In re Stewart Children*, 82 N.C. App. 651, 655, 347 S.E.2d 495, 498 (1986) (where one statutory ground is established, this Court need not address assignments of error challenging other grounds).

Affirmed.

Chief Judge MARTIN and Judge BRYANT concur.

Report per Rule 30(e).