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NO. COA06-1129

NORTH CAROLINA COURT OF APPEALS

Filed: 17 April 2007

IN RE:

K.H.  
D.H.

Harnett County  
Nos. 04 J 82-83

Appeal by respondent from an order entered 31 January 2006, *nunc pro tunc* 13 January 2006, by Judge Resson O. Faircloth in Harnett County District Court. Heard in the Court of Appeals 2 April 2007.

*E. Marshall Woodall and Duncan B. McCormick, for petitioner-appellee Harnett County Department of Social Services.*

*Elizabeth Myrick Boone for appellee Guardian ad Litem.*

*Michael J. Reece for respondent-appellant.*

HUNTER, Judge.

On 20 April 2004, the Harnett County Department of Social Services ("DSS") filed a petition alleging that K.H. and D.H. were neglected and dependent juveniles. Specifically, DSS alleged that the children had been exposed to an injurious environment which included domestic violence, drug use, and an attempted suicide by the respondent-mother. The children had been placed with a relative following respondent-mother's hospitalization for mental health and substance abuse treatment, but were later removed and no

alternative child care arrangement existed. Respondent-mother failed to make significant progress towards addressing the issues that led to removal of the children, and had failed to establish a stable residence for the children. An order for non-secure tenure was entered and the children remained in DSS custody. On 11 June 2004, the children were adjudicated neglected and dependent juveniles.

On 1 March 2005, DSS filed a motion to terminate respondent-mother's parental rights. DSS alleged three grounds for termination: (1) that respondent-mother had neglected the juveniles pursuant to N.C. Gen. Stat. § 7B-1111(a)(1) by allowing them to live in a household which was injurious to their welfare, and that the neglect continued and was likely to continue; (2) that respondent-mother had willfully failed to pay a reasonable cost of the care for the children although physically and financially able to do so, pursuant to N.C. Gen. Stat. § 7B-1111(a)(3); and (3) that respondent was incapable of providing for the proper care and supervision of the juveniles, such that the juveniles were dependent juveniles within the meaning of N.C. Gen. Stat. § 7B-101, and there was a reasonable probability that such incapability would continue for the foreseeable future, pursuant to N.C. Gen. Stat. § 7B-1111(a)(6).

Hearings were held on the motion to terminate respondent's parental rights on 17 November 2005 and 13 January 2006. The trial court concluded that grounds existed pursuant to N.C. Gen. Stat. § 7B-1111(a)(1), (3), and (6) to terminate respondent's parental

rights. The court further concluded that it was in the children's best interest that respondent's parental rights be terminated. Respondent appeals. After a careful review of the record and briefs, we affirm.

Respondent-mother first argues that the trial court erred by finding that there were grounds to support the termination of her parental rights. Respondent-mother further argues that the trial court's findings of fact were not supported by competent evidence in the record. We disagree.

N.C. Gen. Stat. § 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 a 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) (citing N.C. Gen. Stat. § 7A-289.30(d) and (e)).

In the case *sub judice*, the trial court concluded that respondent-mother had neglected the juveniles pursuant to N.C. Gen. Stat. § 7B-1111(a)(1). The children were removed from respondent-mother's care due to her abuse of heroin and cocaine, a suicide attempt, and her hospitalization for mental health issues, which included bipolar and panic disorders. The adjudication of neglect required that respondent-mother "attend all mental health appointments [and] follow recommendations of treatment plan,

including any medication regimen." However, at the time of the hearing, said issues continued to exist. See *In re Shermer*, 156 N.C. App. 281, 286, 576 S.E.2d 403, 407 (2003) (citation omitted) ("[a]lthough prior adjudications of neglect may be admitted and considered by the trial court, they will rarely be sufficient, standing alone, to support a termination of parental rights, since the petition must establish that neglect exists at the time of hearing. Thus, the trial court must also consider evidence of changed conditions in light of the history of neglect by the parent and the probability of a repetition of neglect").

The trial court concluded that "[t]he acts of neglect of the juveniles continue up to the date of hearing and the likelihood is that said neglect would occur in the future if the children were returned to the mother." The trial court based its conclusion on findings that: (1) respondent-mother had failed to consistently attend mental health appointments and then declared she no longer needed treatment; (2) had failed to consistently take her medication for her bipolar disorder; and (3) had been dismissed from PRIDE, a drug treatment program, for failure to attend. The court based its findings on evidence in the record, including: (1) an admission to a foster care social worker, the day before the first hearing, that she was no longer taking her medication for bipolar disorder; (2) further testimony from the same social worker that respondent-mother failed to attend any mental health treatment; and (3) testimony from the same social worker that respondent-mother never pursued any drug treatment, and had been

dismissed from drug treatment for failure to attend. Accordingly, this Court believes there was clear, cogent, and convincing evidence in the record to support the trial court's findings and conclusion that grounds exist to terminate respondent-mother's parental rights pursuant to N.C. Gen. Stat. § 7B-1111(a)(1).

Since grounds exist pursuant to N.C. Gen. Stat. § 7B-1111(a)(1) to support the trial court's order, the remaining grounds found by the trial court to support termination need not be reviewed by the Court. *Taylor*, 97 N.C. App. at 64, 387 S.E.2d at 233-34. Furthermore, since we conclude that evidence in the record supports the trial court's findings of fact and conclusions of law that grounds exist to terminate respondent-mother's parental rights, we do not address respondent-mother's remaining assignments of error regarding other findings of fact.

Respondent next argues that the trial court erred by determining that termination of her parental rights was in the best interests of the children. Once the trial court has found that grounds exist to terminate parental rights, "the court shall determine whether terminating the parent's rights is in the juvenile's best interest." N.C. Gen. Stat. § 7B-1110(a) (2005). The trial court's decision to terminate parental rights at the disposition stage is discretionary. See *In re Montgomery*, 311 N.C. 101, 110, 316 S.E.2d 246, 252 (1984). Here, in light of respondent-mother's history of drug abuse and mental illness, her failure to adequately address these issues, and the juveniles' need for a stable and permanent home, we conclude that the trial court

did not abuse its discretion in determining that termination was in the juveniles' best interest. Accordingly, we affirm.

Affirmed.

Chief Judge MARTIN and Judge McGEE concur.

Report per Rule 30(e).