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NO. COA06-1425

NORTH CAROLINA COURT OF APPEALS

Filed: 3 April 2007

IN THE MATTER OF:  
D.B., Ki.B., Ka.B.,  
and J.B.

Cleveland County  
Nos. 05 JA 196-98  
06 JA 33

Appeal by respondent-mother from orders entered 24 July 2006 by Judge Ali B. Paksoy in Cleveland County District Court. Heard in the Court of Appeals 12 March 2007.

*Tracie M. Jordan for Guardian ad Litem appellee.*

*Mary McCullers Reece for respondent-mother appellant.*

McCULLOUGH, Judge.

FACTS

Respondent-mother ("respondent") appeals from the trial court's 24 July 2006 orders terminating her parental rights to her four children, D.B., Ki.B., Ka.B., and J.B. Respondent's appeal from the order terminating her parental rights to D.B., Ki.B., and Ka.B. was dismissed by order of this Court on 15 December 2006. Thus, only the order terminating respondent's parental rights to J.B. is before this Court for review. For the reasons set forth below, we affirm.

ANALYSIS

Respondent contends several of the trial court's findings of fact were not supported by clear, cogent, and convincing evidence and the trial court erred by concluding that sufficient grounds existed to terminate respondent's parental rights to J.B. We disagree.

There are two stages to a termination of parental rights proceeding: adjudication and disposition. *In re Brim*, 139 N.C. App. 733, 741, 535 S.E.2d 367, 371 (2000). During the adjudication stage, the petitioner has the burden of proof by clear, cogent, and convincing evidence that one or more of the statutory grounds set forth in N.C. Gen. Stat. § 7B-1111 (2005) exists. N.C. Gen. Stat. § 7B-1109(e)-(f) (2005). "A finding of any one of the grounds enumerated ... [in N.C. Gen. Stat. § 7B-1111], if supported by competent evidence, is sufficient to support a termination." *In re J.L.K.*, 165 N.C. App. 311, 317, 598 S.E.2d 387, 391, *disc. review denied*, 359 N.C. 68, 604 S.E.2d 314 (2004), *reconsideration of disc. review denied*, 359 N.C. 281, 609 S.E.2d 773 (2005). The standard of appellate review 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 Huff*, 140 N.C. App. 288, 291, 536 S.E.2d 838, 840 (2000) (citation omitted), *disc. review denied, appeal dismissed*, 353 N.C. 374, 547 S.E.2d 9 (2001). After a trial court determines that grounds to terminate parental rights exist, "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).

Whether termination is in the best interests of the child is discretionary, and a court may decline to terminate parental rights only "where there is reasonable hope that the family unit within a reasonable period of time can reunite and provide for the emotional and physical welfare of the child ... ." *In re Blackburn*, 142 N.C. App. 607, 613, 543 S.E.2d 906, 910 (2001).

In the instant case, the trial court determined that respondent's parental rights should be terminated pursuant to N.C. Gen. Stat. § 7B-1111(a)(1). The statute provides that the trial court may terminate a parent's parental rights based upon neglect if "[t]he parent has ... neglected the juvenile. The juvenile shall be deemed to be ... neglected if the court finds the juvenile to be ... a neglected juvenile within the meaning of G.S. 7B-101." N.C. Gen. Stat. § 7B-1111(a)(1). N.C. Gen. Stat. § 7B-101(15) (2005) defines a neglected juvenile as:

[a] juvenile who does not receive proper care, supervision, or discipline from the juvenile's parent, guardian, custodian, or caretaker; or who has been abandoned; or who is not provided necessary medical care; or who is not provided necessary remedial care; or who lives in an environment injurious to the juvenile's welfare; or who has been placed for care or adoption in violation of law.

We hold that the trial court made findings of fact supported by clear, cogent, and convincing evidence which support the conclusion that respondent neglected J.B. Although respondent assigned error to many of the trial court's findings of fact, only four of the findings were argued in respondent's brief, and thus the other assignments of error have been abandoned. N.C. R. App.

P. 28(b)(6). "Where no exception is taken to a finding of fact by the trial court, the finding is presumed to be supported by competent evidence and is binding on appeal." *In re L.A.B.*, \_\_\_ N.C. App. \_\_\_, \_\_\_, 631 S.E.2d 61, 64 (2006) (citation omitted).

The trial court made an unchallenged finding that both respondent and J.B. tested positive for cocaine at J.B.'s birth. Respondent admitted to smoking crack and marijuana prior to J.B.'s birth. In addition, the siblings of J.B. have been in the custody of the Cleveland County Department of Social Services and a primary condition leading to their removal was respondent's history of substance abuse.

Although contested by respondent, the trial court found that there is a strong probability that the neglect of J.B. would continue for the foreseeable future evidenced by the complete lack of contact or involvement by the mother since May 2006 and her prior and continuing neglect and abandonment of her other children. We determine there is clear, cogent, and convincing evidence supporting this finding. For example, one uncontested finding states that other than her three visits, respondent has not maintained contact with the social worker or made other inquiry as to the well-being of J.B. The trial court also found that respondent has not provided any cards, gifts, letters, clothing, diapers, food or other items for or on behalf of J.B. Accordingly, we disagree with respondent. The order appealed from is affirmed.

Affirmed.

Judges HUNTER and TYSON concur.

Report per Rule 30(e).