NO. COA06-317

NORTH CAROLINA COURT OF APPEALS

Filed: 7 November 2006

IN THE MATTER OF:
K.L.I.

Guilford County
No. 04 J 169

Appeal by respondent father from an order entered 10 June 2005 by Judge Sherry F. Alloway in Guilford County District Court. Heard in the Court of Appeals 2 October 2006.

Office of the Guilford County Attorney, by Deputy County Attorney James A. Dickens, for petitioner-appellee Guilford County Department of Social Services.

Smith, James, Rowlett & Cohen, L.L.P., by Margaret Rowlett, for appellee Guardian Ad Litem.

Terry F. Rose for respondent-appellant.

JACKSON, Judge.

On 19 April 2004, the Guilford County Department of Social Services ("DSS") filed a petition alleging that K.L.I. was a neglected juvenile in that he lived in an environment injurious to his welfare. At the time, the child was living with his mother, and the child's father, David C. ("respondent") was incarcerated. DSS assumed custody through a non-secure custody order, and in an order entered 28 May 2004, K.L.I. was adjudicated a neglected juvenile.

On 24 November 2004, DSS filed a petition seeking to terminate respondent's parental rights, as well as the parental rights of K.L.I.'s mother. On 24 March 2005, the mother's parental rights were terminated. On 16 May 2005, hearings were held on the motion to terminate respondent's parental rights. The trial court concluded that grounds existed pursuant to section 7B-1111(a)(3) and (7) to terminate respondent's parental rights. The court further concluded that it was in the child's best interest that respondent's parental rights be terminated. Respondent appeals.

Respondent first argues the trial court erred by taking judicial notice of certain findings of fact from the order terminating the mother's parental rights. Respondent contends the findings were made without any evidence being presented to the trial court, and without any request for judicial notice or for a stipulation. Respondent further argues the findings concerning the child's mother were improper because he was neither present during the acts nor had knowledge of them. Respondent asserts the trial court abused its discretion by including these findings in the record, and argues that consideration of the findings demonstrated bias towards him. We are not persuaded.

This Court has stated that "'[a] trial court may take judicial notice of earlier proceedings in the same cause.'" *In re J.B.*, 172 N.C. App. 1, 16, 616 S.E.2d 264, 273 (2005) (quoting *In re Isenhour*, 101 N.C. App. 550, 553, 400 S.E.2d 71, 73 (1991)). Moreover, "[n]either party was required to offer the file into evidence." *Isenhour*, 101 N.C. App. at 553, 400 S.E.2d at 73. This

Court has also "previously held that in a termination of parental rights proceeding, prior adjudications of abuse or neglect are admissible, but they are not determinative of the ultimate issue." *J.B.*, 172 N.C. App. at 16, 616 S.E.2d at 273 (*citing In re Huff*, 140 N.C. App. 288, 300, 536 S.E.2d 838, 846 (2000), *disc. review denied*, 353 N.C. 374, 547 S.E.2d 9 (2001); *In re Beck*, 109 N.C. App. 539, 545, 428 S.E.2d 232, 236 (1993)). Accordingly, we conclude the trial court properly took judicial notice of the juvenile file.

Respondent next contends the trial court erred by finding there were grounds to support the termination of his parental rights. After careful review of the record, briefs and contentions of the parties, we affirm.

North Carolina General Statutes, section 7B-1111 sets out the statutory grounds for terminating an individual's 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 sections N.C. Gen. Stat. § 7A-289.30(d) and (e) (1995)September 25, 2006).

In the case *sub judice*, the trial court found that since the time that DSS took custody of K.L.I., respondent had attempted to contact him only once. The court noted that in September 2004, DSS

provided respondent with five postage-free envelopes so that he could contact his son. However, respondent did not attempt to contact K.L.I. until 1 March 2005, after the petition to terminate his parental rights had been filed. The court thus concluded that respondent had willfully abandoned K.L.I. for at least six consecutive months immediately preceding the filing of the petition to terminate his parental rights in that he did not have any contact with him. *See* N.C. Gen. Stat. § 7B-1111(a)(7). Respondent did not assign error to these findings of fact, nor did he assign error to the conclusion of law that he abandoned his son. Thus, the findings of fact are deemed supported by competent evidence and are conclusive on appeal. *See In re Padgett*, 156 N.C. App. 644, 648, 577 S.E.2d 337, 340 (2003). Accordingly, we conclude that grounds exist pursuant to section 7B-1111(a)(7) to support the termination of respondent's parental rights.

Since grounds exist pursuant to section 7B-1111(a)(7) to support the trial court's order, the remaining grounds found by the trial court to support termination of respondent's parent rights need not be reviewed by the Court. *Taylor*, 97 N.C. App. at 64, 387 S.E.2d at 233-34.

Affirmed.

Chief Judge MARTIN and Judge CALABRIA concur.

Report per Rule 30(e).