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NO. COA08-206

NORTH CAROLINA COURT OF APPEALS

Filed: 17 June 2008

IN THE MATTER OF:

C.T.H-C.  
C.T.H-C.  
K.C.C.  
K.C.C.  
D.C.C.H.  
D.T.Q.C.

New Hanover County  
Nos. 00 J 116-120  
04 J 493

# Court of Appeals

Appeal by Respondent from order entered 27 November 2007 by Judge Shelly S. Holt in District Court. Heard in the Court of Appeals 22 May 2008.

## Slip Opinion

*Dean W. Hollingsworth for Petitioner-Appellee New Hanover County Department of Social Services.*

*Pamela Newell Williams for Appellee Guardian ad Litem.*

*Wyrick Robbins Yates & Ponton LLP, by K. Edward Greene and Tobias S. Hampson, for Respondent-Appellant.*

STEPHENS, Judge.

In November 2004, Respondent lived in an apartment with four of her children, K.C.C., K.C.C. (hereinafter "K.C."), D.C.C.H., and D.T.Q.C. Petitioner-Appellee New Hanover County Department of Social Services ("DSS") had legal custody of her two older children, C.T.H-C. and C.T.H-C., and had placed them in foster care. On 17 November 2004, DSS filed a petition alleging that the children living with Respondent were neglected in that Respondent

allowed a dangerous dog into her home for approximately four days, ending on November 12, 2004[,] when [D.T.Q.C.], age 3, was viciously attacked and severely injured by the dog, resulting in law enforcement killing the dog to protect the child and others present. The three other Juveniles were exposed to the dog as well and most likely witnessed the attack. Prior to the attack, [Respondent] had kept the dog inside and allowed it to defecate and urinate in the residence, without cleaning up such waste.

Following a hearing held 13 January 2005, the trial court adjudicated all four children neglected and granted DSS custody of the children. D.T.Q.C. was placed in foster care, K.C.C. and K.C. were placed with their paternal grandmother, and D.C.C.H. was placed with his maternal aunt.

Following a permanency planning hearing held 14 July 2005, the trial court ordered DSS to cease reunification efforts and to file a petition to terminate Respondent's parental rights to her four younger children. The trial court conducted permanency planning review hearings on 19 January and 14 September 2006, but did not alter the children's permanent plans. In 2007, Respondent filed motions seeking to change the permanent plans to reunification. The trial court conducted another review hearing on Respondent's motion and, on 27 November 2007, entered another review order. *Inter alia*, the trial court awarded legal guardianship of K.C. to her paternal grandmother and of D.C.C.H. to his maternal aunt. Respondent timely filed a notice of appeal. Although the 27 November 2007 order addressed all six of Respondent's children, Respondent's appeal pertains only to the trial court's determinations concerning K.C. and D.C.C.H.

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Respondent first argues that the trial court failed to make adequate findings of fact as required by N.C. Gen. Stat. § 7B-907(b). That section provides that if a juvenile is not returned home at the conclusion of a permanency planning hearing, "the trial court is required to consider certain criteria and make written findings of fact on the criteria relevant to the case." *In re Harton*, 156 N.C. App. 655, 659, 577 S.E.2d 334, 336 (2003) (citing N.C. Gen. Stat. § 7B-907(b) (2001)). A trial court's permanency planning order need not contain a formal listing of the statutory criteria as long as the trial court makes findings of fact on the relevant criteria. *In re L.B.*, 181 N.C. App. 174, 639 S.E.2d 23 (2007). Among other criteria, the trial court must consider:

(1) Whether it is possible for the juvenile to be returned home immediately or within the next six months, and if not, why it is not in the juvenile's best interests to return home . . . .

N.C. Gen. Stat. § 7B-907(b) (2007). Respondent asserts that "the trial court's complete silence on [] whether reunification might occur within the next six months" mandates reversal of the 27 November 2007 order and a new permanency planning hearing. We disagree.

The trial court made the following findings of fact:

13. The Court finds that the community support for the Respondent-Mother is of great benefit for her at this time, however, she is still not in a position to parent her children, as she has significant issues of poor judgment and lacks parenting skills necessary to care for her children in any combination.

. . . .

19. The Juveniles' return to the family home would be contrary to the Juveniles' best interest and welfare as detailed in the Court Report and due to the lack of certainty of their safety due to the Respondent-Mother's poor judgment in the past, her poor prognosis for change as detailed in her psychological evaluation completed in 2005 and the extensive services she is receiving to maintain her own living situation in the absence of the responsibility of caring for six children.

We agree with the Guardian *ad Litem* that these findings satisfy the requirements of section 7B-907(b). Although the trial court did not use the words "immediately" or "within six months," the findings indicate that the children cannot be returned to the home immediately and that there is a "poor prognosis for change[.]" Additionally, the findings explain why the juveniles cannot be returned home, notably stating that there is a "lack of certainty of their safety[.]"

We find unavailing Respondent's reliance on *In re Everett*, 161 N.C. App. 475, 588 S.E.2d 579 (2003). In *Everett*, respondent's wife and two children moved out of the family's house in Fayetteville and into the wife's parents' house in Wilmington. Shortly thereafter, the department of social services filed a petition alleging that respondent and his wife failed to provide proper care, supervision, and discipline to the children, "but no facts were alleged to support this allegation against respondent." *Id.* at 475, 588 S.E.2d at 580. Rather, the petition alleged that respondent's wife sexually abused the children while living in Wilmington. Nevertheless, the trial court adjudicated both

children dependent and neglected as to respondent because respondent had observed his wife inappropriately administer medication to the children and because respondent was unable to maintain a residence of his own without the assistance of others. Following a permanency planning hearing, the trial court found, *inter alia*, that "reunification with [respondent's wife] is not imminent[,]” *id.* at 480-81, 588 S.E.2d at 583 (footnote and quotation marks omitted), and relieved the department of social services of further reunification efforts *with respondent*.

On appeal, we held that the trial court's findings did not comply with section 7B-907(b). Of the three findings set out in our opinion, we held that one was not supported by competent evidence in the record. Moreover, neither of the other two findings addressed the issue of whether the children could be returned *to respondent* immediately or within six months. Thus, *Everett* is distinguishable and does not support Respondent's argument. We conclude that the trial court adequately complied with section 7B-907(b), and Respondent's first argument is overruled.

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Respondent next argues that the trial court erred in failing to verify that K.C.'s and D.C.C.H.'s appointed guardians understood the legal significance of their appointments and had adequate resources to care for the children. N.C. Gen. Stat. §§ 7B-600(c), 7B-906(g), 7B-907(f) (2007). Again, we disagree.

A trial court need not make specific findings in order to comply with the statutorily mandated verification requirement. In *re J.E.*, 182 N.C. App. 612, 643 S.E.2d 70 (2007). In *J.E.*, the trial court apparently made no findings of fact concerning the verification. We held, nevertheless, that the trial court made the verification because the trial court received and considered evidence which tended to show that the guardians understood the legal significance of their appointments and had adequate resources to care for two juveniles. We also noted that a department of social services recommended the guardians as a placement for the juveniles.

In the case at bar, the trial court's findings of fact and the evidence received and considered by the trial court establish that the trial court made the required verification. The trial court found:

14. . . . [D.C.C.H.'s maternal aunt] is willing to be [his] legal guardian . . . .

. . . .

16. Social worker . . . stated that she has explored the possibility of legal guardianship with relatives for the Juveniles [K.C.] and [D.C.C.H.] and now recommends this as the permanent plan to the Court. [K.C.] would be with her paternal grandmother, . . . and [D.C.C.H.] would be with the maternal aunt . . . .

D.C.C.H.'s aunt testified that she understood "all that's gonna go along with [being D.C.C.H.'s guardian.]" A DSS social worker testified that she had explored guardianship with K.C.'s grandmother and that the grandmother could provide for K.C.

Additionally, the trial court accepted and considered court reports prepared by DSS and the Guardian *ad Litem*. DSS's report stated that K.C. and D.C.C.H. were in "stable, loving and nurturing homes[,]" and that both children were "happy" with their relatives. DSS's report also stated that "[K.C.'s] and [D.C.C.H.'s] caregivers have agreed to legal guardianship" and recommended that the trial court award the relatives guardianship. The Guardian *ad Litem*'s report stated that K.C. and D.C.C.H. were "happy" with their placements and that D.C.C.H. had a "strong bond" with his aunt. The Guardian *ad Litem*'s report recommended that both children remain with their relatives and that their permanent plans should remain adoption. We conclude that the trial court adequately verified that the children's guardians understood the legal significance of their appointments and had adequate resources to care for the children. Respondent's second argument is overruled.

Assignments of error set out in the record on appeal but not brought forward in Respondent's brief are deemed abandoned. N.C. R. App. P. 28(a).

AFFIRMED.

Judges McCULLOUGH and BRYANT concur.

Report per Rule 30(e).