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NO. COA09-243

NORTH CAROLINA COURT OF APPEALS

Filed: 7 July 2009

IN THE MATTER OF:

S.C.

Harnett County
No. 07 J 157

Appeal by respondent from order entered 21 November 2008 by Judge Resson O. Faircloth in Harnett County District Court. Heard in the Court of Appeals 22 June 2009.

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

Lisa Skinner Lefler, for respondent-appellant mother.

Pamela Newell Williams, for appellee Guardian ad Litem.

HUNTER, Robert C. Judge.

Respondent appeals from the trial court's order terminating her parental rights to the minor child S.C.¹ After careful review, we affirm.

S.C. was born cocaine-positive in June 2007. Respondent had used cocaine four days prior to S.C.'s birth. Petitioner Harnett County Department of Social Services ("DSS") became involved and made arrangements for S.C. to be placed with a relative where S.C. could live with respondent under supervision by others. In July

¹ S.C.'s father's parental rights were terminated in a separate order and he is not a party to this appeal.

2007, respondent removed S.C. from the residence where they were living and went to respondent's mother's house. Respondent left S.C. with respondent's mother, even though DSS had determined that S.C. could not live with respondent's mother due to domestic violence in that home. DSS immediately took S.C. into custody, and subsequently filed a juvenile petition on 24 July 2007, alleging neglect and dependency. DSS prepared a case plan for respondent on 24 August 2007, which would have required respondent to: (1) participate in substance abuse treatment; (2) take parenting classes; (3) provide a safe and stable environment for S.C.; and (4) obtain and maintain stable employment. The agreement was signed only by the DSS social worker because respondent could not be found.

On 14 March 2008, the trial court adjudicated S.C. neglected and dependent, placed S.C. in DSS custody, and ceased reunification efforts. In the adjudication order, the trial court noted that respondent had two older children who had previously been removed from respondent's custody and placed with a relative in a guardianship arrangement. The trial court also found respondent had a history of involvement with DSS child protective services, had failed previously to comply with family service agreements with regard to her other children, and had a history of substance abuse. At a permanency planning hearing held on 2 May 2008, the trial court changed the permanent plan to adoption.

DSS filed a motion to terminate respondent's parental rights on 24 June 2008, alleging as grounds for termination: (1) neglect;

(2) failure to pay a reasonable cost of care for the juvenile; (3) willful abandonment; and (4) dependency. On 15 July 2008, the guardian ad litem filed a reply joining in the prayer for relief. On 17 October 2008, before the start of the motion hearing, respondent filed an answer denying the material allegations of the motion, asserting affirmative defenses, and seeking the dismissal of the motion to terminate her parental rights.

At the time of the hearing, respondent was incarcerated on a drug conviction she received in August 2008. Prior to her incarceration, respondent had been in a rehabilitation facility for a brief time. In prison, respondent attended parenting classes, substance abuse classes, and other classes. Respondent had not visited with S.C. since July 2007. Respondent stated at the hearing that she did not visit S.C. because she did not think she was allowed to do so.

DSS social worker Elaine Coley ("Ms. Coley") testified that after S.C. was taken into DSS custody in July 2007, she had trouble finding respondent despite undertaking numerous efforts to locate her. Respondent came to court for the adjudication hearing on 18 January 2008, but left before the hearing commenced. Respondent did not maintain contact with DSS between January 2008 and August 2008, and Ms. Coley's attempts to find respondent during this time were unsuccessful. Ms. Coley heard about respondent's incarceration from respondent's landlord. Respondent had not visited with S.C. since July 2007, nor had respondent provided any gifts or money for S.C.'s care.

Ms. Coley also testified that S.C. had been in the same foster home since 24 July 2007, that S.C. had developed a good relationship with the foster parents and the other children in the home, that the foster parents were able and willing to adopt, and that the foster home was a stable environment. In Ms. Coley's opinion, termination of parental rights would aid in continuing the establishment of the stable home.

At the close of the hearing, the trial court entered its order terminating respondent's parental rights on 21 November 2008. The trial court found that DSS presented clear, cogent, and convincing evidence to support the grounds of neglect, willful abandonment, and failure to pay support. The trial court further found that termination of respondent's parental rights was in S.C.'s best interests and ordered that respondent's parental rights be terminated. Respondent appeals.

Respondent contends the trial court's decision to terminate her parental rights was not a reasoned decision and constitutes an abuse of discretion. Respondent argues that she has worked on improving herself in order to be a parent to the minor child, including drug rehabilitation, parenting classes, life skills classes, and mental health counseling, and that such progress obviates the need to terminate her parental rights. We do not find these arguments persuasive.

Termination of parental rights cases involve two separate components. *In re Blackburn*, 142 N.C. App. 607, 610, 543 S.E.2d 906, 908 (2001). In the adjudicatory stage, the burden is on the

petitioner to prove that at least one ground for termination exists by clear, cogent, and convincing evidence. N.C. Gen. Stat. § 7B-1109 (2007); *Blackburn*, 142 N.C. App. at 610, 543 S.E.2d at 908. Review in the appellate courts is limited to determining whether clear and convincing evidence exists to support the findings of fact, and whether the findings of fact support the conclusions of law. *In re Huff*, 140 N.C. App. 288, 291, 536 S.E.2d 838, 840 (2000), *appeal dismissed and disc. review denied*, 353 N.C. 374, 547 S.E.2d 9 (2001). Once the trial court has determined that a ground for termination exists, the trial court moves on to the disposition stage, where it must determine whether termination is in the best interests of the juvenile. N.C. Gen. Stat. § 7B-1110(a) (2007). The decision of the trial court regarding the juvenile's best interests is within the discretion of the trial court and will not be overturned absent an abuse of discretion. *In re Anderson*, 151 N.C. App. 94, 98, 564 S.E.2d 599, 602 (2002). Abuse of discretion occurs when the trial court's "challenged actions are manifestly unsupported by reason." *In re R.B.B.*, 187 N.C. App. 639, 648, 654 S.E.2d 514, 521 (2007) (citation and internal quotation marks omitted), *disc. review denied*, 362 N.C. 235, 659 S.E.2d 738 (2008).

Since respondent does not challenge any of the trial court's findings or conclusions regarding the statutory grounds for termination, our review is limited to deciding whether the trial court abused its discretion in concluding that termination was in the best interests of S.C. A determination of whether termination is in the best interests of the minor child is governed by N.C.

Gen. Stat. § 7B-1110, which states that the trial court shall consider the following factors:

- (1) The age of the juvenile.
- (2) The likelihood of adoption of the juvenile.
- (3) Whether the termination of parental rights will aid in the accomplishment of the permanent plan for the juvenile.
- (4) The bond between the juvenile and the parent.
- (5) The quality of the relationship between the juvenile and the proposed adoptive parent, guardian, custodian, or other permanent placement.
- (6) Any relevant consideration.

N.C. Gen. Stat. § 7B-1110(a) (2007). Findings of fact that are not challenged are deemed supported by competent evidence and are binding on appeal. *Koufman v. Koufman*, 330 N.C. 93, 97, 408 S.E.2d 729, 731 (1991); see also *In re S.N.H. & L.J.H.*, 177 N.C. App. 82, 83, 627 S.E.2d 510, 512 (2006). Here, the trial court made the following relevant findings of fact:

29. Since June 24, 2007, [S.C.] has been in a foster home with foster parents who have other children in their home [one child about the same age as [S.C.]] [S.C.] has developed a good relationship with the parents and the children in their home and is very bonded with them. The foster parents have expressed a desire to adopt [S.C.] This home is now considered a pre-adoptive placement.

30. [S.C.] has had no relationship with [respondent] and does not have a parental bond with her.
31. [S.C.] is in need of a stable environment; she has been in such environment since June 2007. Her needs have been appropriately met.
32. Termination of the rights of [respondent] will aid and assist in gaining a stable environment for [S.C.]
33. It is in the best interest of [S.C.] for the parental rights of [respondent] to be terminated.

Of these findings, respondent only challenges finding of fact 33; therefore, the remaining findings of fact are deemed binding on appeal.

We find that the trial court properly considered and addressed each of the factors listed in section 7B-1110(a), as required by statute, to arrive at its best interests determination. The trial court considered and made findings regarding: the likelihood of adoption of S.C., the bond between S.C. and respondent, the quality of the relationship between the prospective adoptive parents and S.C., and S.C.'s need for a stable and permanent home. Since the trial court properly considered the statutory factors and came to a decision based on its findings, we find the trial court did not abuse its discretion in determining that the best interests of S.C. are served by terminating respondent's parental rights. Respondent's assignments of error on this issue are therefore overruled.

Affirmed.

Chief Judge MARTIN and Judge ELMORE concur.

Report per Rule 30(e).