

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority. Citation is disfavored, but may be permitted in accordance with the provisions of Rule 30(e)(3) of the North Carolina Rules of Appellate Procedure.

NO. COA12-123
NORTH CAROLINA COURT OF APPEALS

Filed: 21 August 2012

IN THE MATTER OF:

C.A.

Wake County
No. 09 JT 857

Appeal by Respondent-Father from orders entered 24 November 2010 and 7 October 2011 by Judge Monica M. Bousman in Wake County District Court. Heard in the Court of Appeals 24 July 2012.

Office of the Wake County Attorney, by Kenneth R. Murphy, III and Julia B. Southwick, for Petitioner-Appellee Wake County Human Services.

Windy H. Rose for Respondent-Appellant Father.

Pamela Newell for Guardian ad Litem.

McGEE, Judge.

Respondent-Father purports to appeal from a permanency planning order (the planning order) ceasing reunification efforts with his minor child, C.I.A. (the Juvenile), and an

order terminating his parental rights as to the Juvenile¹ (the termination order). We dismiss Respondent-Father's appeal because he presents no arguments regarding the termination order and his appeal from the planning order is therefore moot.

Wake County Human Services (Petitioner) first became involved with Respondent-Father and the Juvenile in October 2009, when the Juvenile was admitted to the Wake Medical Center emergency room, suffering from fractures to his right leg and arm. Petitioner took non-secure custody of the Juvenile, and filed a petition alleging that the Juvenile was abused and neglected. The Juvenile was adjudicated to be an abused and neglected Juvenile by a consent order entered 2 December 2009.

As a result of the Juvenile's injuries, Respondent-Father was arrested and charged with felony child abuse. Respondent-Father subsequently pled guilty to misdemeanor child abuse and was released into the custody of U.S. Immigration and Customs Enforcement. Respondent-Father was deported to Mexico in March 2010.

The trial court initially ordered Respondent-Father to meet several conditions if he desired reunification with the Juvenile. However, on 24 November 2010, the trial court entered

¹ The Juvenile's mother relinquished her parental rights on 26 April 2011 and is not a party to this appeal.

a planning order ceasing reunification efforts and setting the permanent plan for the Juvenile as adoption. Petitioner filed a motion to terminate Respondent-Father's parental rights on 24 February 2011. After a hearing on 25 August 2011, the trial court entered an order terminating Respondent-Father's parental rights on the following grounds: that Respondent-Father (1) neglected the Juvenile; (2) willfully left the Juvenile in foster care for more than twelve months without making reasonable progress to correct the conditions that led to the removal of the Juvenile from Respondent-Father's home; and (3) failed to pay a reasonable portion of the cost of care for the Juvenile. Respondent-Father appeals.

While Respondent-Father does argue that the trial court erred in entering the planning order, he makes no argument in either his petition for writ of certiorari, or in his brief, that the trial court erred in entering its order terminating his parental rights. This Court has held that a subsequent termination of parental rights renders moot a parent's appeal from a permanency planning order ceasing reunification efforts where the findings of fact and conclusions of law in the termination order are independent of the permanency planning order. *In re V.L.B.*, 164 N.C. App. 743, 596 S.E.2d 896 (2004).

"A case is "moot" when a determination is sought on a matter which, when rendered, cannot have any practical effect on the existing controversy.'" *In re Stratton*, 159 N.C. App. 461, 463, 583 S.E.2d 323, 324 (quoting *Roberts v. Madison County Realtors Assn.*, 344 N.C. 394, 398-99, 474 S.E.2d 783, 787 (1996)), *appeal dismissed*, 357 N.C. 506, 588 S.E.2d 472 (2003).

In the case before us, one of the three grounds found by the trial court to terminate Respondent-Father's parental rights is that the Juvenile was placed in Petitioner's custody and Respondent-Father willfully failed to pay a reasonable portion of the cost of care for the Juvenile although he was physically and financially able to do so. The trial court's findings of fact regarding this ground do not rely on the planning order, which Respondent-Father seeks to appeal, and Respondent-Father's failure to pay a portion of the cost of care cannot be attributed to the planning order. See *In re Biggers*, 50 N.C. App. 332, 339, 274 S.E.2d 236, 241 (1981) (holding "[a]ll parents have the duty to support their children within their means"). Further, Respondent-Father does not argue that the trial court's findings regarding this ground for termination are unsupported by clear, cogent and convincing evidence; that the trial court's conclusion of law is unsupported by its findings

of fact; or that the trial court abused its discretion in concluding it was in the Juvenile's best interest to terminate Respondent-Father's parental rights. Accordingly, we hold Respondent-Father's attempted appeal from the planning order is moot, and we decline to grant *certiorari* in this case.

Dismissed.

Judges GEER and McCULLOUGH concur.

Report per Rule 30(e).