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NO. COA12-363  
NORTH CAROLINA COURT OF APPEALS

Filed: 2 October 2012

IN THE MATTER OF:

M.P.

Durham County  
No. 09 J 244

Appeal by respondent parents from order entered 31 January 2012 by Judge Nancy E. Gordon in Durham County District Court. Heard in the Court of Appeals 4 September 2012.

*Deputy County Attorney Cathy L. Moore, for petitioner-appellee Durham County Department of Social Services.*

*Associate Counsel Deana K. Fleming, for guardian ad litem.*

*Richard Croutharmel, for respondent-appellant mother.*

*Hunt Law Group, P.C., by James A. Hunt, for respondent-appellant father.*

HUNTER, JR., Robert N., Judge.

Respondents mother and father appeal separately from the trial court's 31 January 2012 permanency planning order changing the juvenile's permanent plan to guardianship and appointing the foster parents as the juvenile's guardians. Respondents each argue that the trial court was not authorized to appoint the

foster parents as the juvenile's guardians and that it erred by ceasing reunification efforts. Respondent mother additionally argues the trial court failed to find it was not in the juvenile's best interests to be placed with a maternal relative. We affirm.

The juvenile M.P. was born in January of 2009. In March 2009, the Durham County Department of Social Services ("DSS") investigated a report of domestic violence between respondents and found respondents to be in need of in-home services. After DSS intervention, respondents continued to engage in acts of domestic violence and abuse drugs and alcohol. On 10 September 2009, DSS filed a petition alleging the juvenile was neglected and dependent, and the juvenile was placed with the foster parents, K.S. and A.H.

On 18 November 2009, Judge James T. Hill entered an order adjudicating the juvenile neglected and dependent pursuant to stipulations by respondents. Judge Hill authorized a trial placement of the juvenile with L.C., the juvenile's maternal great-grandmother, while respondent-mother lived in the same home. The trial placement with L.C. ended on or about 24 November 2009, because respondent-mother was jailed and because L.C. was not able to care for the juvenile without assistance.

Judge Hill then ordered the juvenile be returned to the foster parents.

On 11 August 2010, Judge Hill entered a permanency planning order in which he set a concurrent permanent plan of reunification and guardianship. The juvenile remained in the foster placement. Judge Hill entered subsequent review and permanency planning orders in which he ordered the juvenile remain in the care of the foster parents and provided respondents with visitation. Judge Hill denied the foster parents' motions to intervene in the matter.

Following a hearing on 7 and 8 December 2011, the trial court entered another permanency planning order. The trial court concluded it was in the juvenile's best interests to be placed in a guardianship with the foster parents and made guardianship the juvenile's permanent plan. Respondents each gave notice of appeal. The trial court entered an amended permanency planning order on 31 January 2012, and respondents again entered notice of appeal.

On appeal, respondents each argue the trial court did not have the authority to appoint the foster parents, an unmarried couple, as guardians for the juvenile. The crux of respondents' argument is that as "two separate individuals with no legal

relationship to one another," the foster parents are not a single legal entity capable of being appointed to be a guardian for the juvenile. We disagree.

Respondents' argument is dependent on their own interpretation of N.C. Gen. Stat. § 7B-600, which authorizes the trial court to "appoint a guardian" for a juvenile when the court finds doing so would be in the juvenile's best interests. N.C. Gen. Stat. § 7B-600(a) (2011). Respondents claim the statute's use of the singular "guardian," rather than the plural "guardians," means it only permits appointment of a single person or legal entity, such as a married couple. Such an interpretation, however, ignores the fact that Chapter 7B's definitions section specifically provides "[t]he singular includes the plural, the masculine singular includes the feminine singular and masculine and feminine plural unless otherwise specified." N.C. Gen. Stat. § 7B-101 (2011); see also *In re E.X.J.*, 191 N.C. App. 34, 48, 662 S.E.2d 24, 32 (2008), *aff'd per curiam*, 363 N.C. 9, 672 S.E.2d 19 (2009). Thus, contrary to respondents' argument, we attach no significance to N.C. Gen. Stat. § 7B-600's use of the singular "guardian" rather than the plural "guardians."

Furthermore, adopting respondents' narrow reading of N.C. Gen. Stat. § 7B-600 would frustrate the statute's purpose by substantially limiting a trial court's authority to appoint the guardian or guardians best able to provide for a juvenile's best interests. In this case, the trial court appointed the foster parents as the guardians, but the unique circumstances of another case could also require the appointment of multiple unmarried guardians to protect a juvenile's best interests. As the juvenile's best interests are of paramount importance under Chapter 7B, we decline to adopt respondents' restrictive reading of N.C. Gen. Stat. § 7B-600(a). See *In re J.H.K.*, 365 N.C. 171, 176, 711 S.E.2d 118, 121 (2011) (the juvenile's best interests are "the polar star" in a Chapter 7B proceeding).

Finally, respondents also attempt to pick specific language from Chapter 35A of the General Statutes, which addresses appointment of a guardian in cases where an individual is found to be incompetent, to supplement their interpretation of N.C. Gen. Stat. § 7B-600. As the proceeding below was conducted pursuant to Chapter 7B, rather than Chapter 35A, and as the creation of the guardianship in this case was unrelated to competency, the provisions of Chapter 35A cited by respondents are not relevant.

Respondents also each contend the trial court made insufficient findings of fact pursuant to N.C. Gen. Stat. §§ 7B-507 and 7B-907 (2011) and abused its discretion by ceasing reunification efforts. We disagree.

In a permanency planning order:

If the juvenile is not returned home, the court shall enter an order consistent with its findings that directs the department of social services to make reasonable efforts to place the juvenile in a timely manner in accordance with the permanent plan, to complete whatever steps are necessary to finalize the permanent placement of the juvenile, and to document such steps in the juvenile's case plan.

N.C. Gen. Stat. § 7B-907(c) (2011). Furthermore, "[i]f the court continues the juvenile's placement in the custody or placement responsibility of a county department of social services, the provisions of G.S. 7B-507 shall apply to any order entered under this section." *Id.*

In this case, the trial court's order sets a permanent plan of guardianship and accomplishes that permanent plan by placing the juvenile in guardianship with the foster parents. We have previously held that placing a juvenile in a guardianship does not necessarily obviate the need for further reunification efforts. *In re E.C.*, 174 N.C. App. 517, 521, 621 S.E.2d 647, 651 (2005). But findings related to future reunification

efforts when a child is placed in a guardianship are only necessary when guardianship is not the permanent plan. *Id.* Thus, because guardianship was the permanent plan in this case, findings related to reunification efforts were not necessary because the permanent plan had been accomplished. In addition, the order does not place the juvenile in DSS custody, so N.C. Gen. Stat. § 7B-507 does not apply. Consequently, we hold that the trial court was not required to make findings related to further reunification efforts and we do not need to review the sufficiency of any such findings.

Finally, respondent mother argues the trial court failed to make sufficient findings of fact that it was contrary to the juvenile's best interests to be placed with the maternal great-grandmother. We disagree.

In placing a juvenile outside of the home:

[T]he court shall first consider whether a relative of the juvenile is willing and able to provide proper care and supervision of the juvenile in a safe home. If the court finds that the relative is willing and able to provide proper care and supervision in a safe home, then the court shall order placement of the juvenile with the relative unless the court finds that the placement is contrary to the best interests of the juvenile.

N.C. Gen. Stat. § 7B-903(a)(2)(c) (2011).

This Court has recognized that Chapter 7B gives a preference, where appropriate, to relative placements over non-relative, out-of-home placements. *In re L.L.*, 172 N.C. App. 689, 701, 616 S.E.2d 392, 399 (2005), *abrogated on other grounds*, *In re T.H.T.*, 362 N.C. 446, 665 S.E.2d 54 (2008). In *L.L.*, we remanded a permanency planning order for further findings of fact where the trial court placed a juvenile with a foster family without making any "specific finding that placement with [the relative] would not be in [the juvenile's] best interests." *Id.* at 704, 616 S.E.2d at 401.

Contrary to respondent mother's argument, however, N.C. Gen. Stat. § 7B-903(a)(2)(c) did not require the trial court to either place the juvenile with L.C. or to make findings as to why placement with L.C. was contrary to the juvenile's best interests in this case. Instead, the statute first required the court to consider whether a relative "is willing *and able* to provide proper care and supervision of the juvenile in a safe home." N.C. Gen. Stat. § 7B-903(a)(2)(c) (2011) (emphasis added).

Here, the trial court made findings demonstrating that it considered whether L.C. was able to provide the juvenile with proper care and a safe home. The trial court's findings



establish that it considered L.C.'s testimony, reviewed the prior orders entered in the matter, and took judicial notice of those orders. In the initial dispositional order in the matter, Judge Hill ordered the juvenile placed in a trial placement with L.C. That placement ended within about a week because L.C. was not able to care for the juvenile. Although L.C. expressed a willingness to attempt to care for the juvenile in her testimony at the permanency planning hearing, nothing in L.C.'s testimony contradicted the findings in the prior orders about her inability to care for the juvenile. Thus, the trial court's findings demonstrate that it satisfied N.C. Gen. Stat. § 7B-903 by first considering whether L.C. was an "able" relative placement, and the trial court was not required to make further findings of fact. Accordingly, we affirm the trial court's order placing the juvenile in a guardianship with the foster parents.

Affirmed.

Judge BRYANT and BEASLEY concur.

Report per Rule 30(e).