NO. COA12-462
NORTH CAROLINA COURT OF APPEALS

Filed: 4 September 2012

IN THE MATTER OF:

H.Z.C.

Surry County
No. 10 JT 62

Appeal by respondent-father from orders entered 2 February 2012 by Judge Charles M. Neaves, Jr., in Surry County District Court. Heard in the Court of Appeals 14 August 2012.

H. Lee Merritt, Jr., for Surry County Department of Social Services petitioner-appellee.

Smith, Anderson, Blount, Dorsett, Mitchell & Jernigan, L.L.P., by J. Mitchell Armbruster, for guardian ad litem.

Mary McCullers Reece for respondent-father appellant.

McCULLOUGH, Judge.

Respondent appeals from the trial court's orders terminating his parental rights as father to the minor child H.Z.C. Respondent raises the sole issue of whether the trial court abused its discretion in failing to place the minor child with paternal relatives. We affirm.

H.Z.C. was born in 2006. On 27 May 2010, the Surry County Department of Social Services ("DSS") filed a juvenile petition

alleging that he was a neglected juvenile due to dangerous conditions in the home and substance abuse issues by the mother. DSS was granted non-secure custody of the juvenile. Respondent's whereabouts were unknown at the time the petition was filed.

At the 14 July 2010 adjudication hearing, with respondent absent, the trial court adjudicated H.Z.C. a neglected juvenile. Respondent was arrested in Surry County on 26 November 2010, extradited to Virginia, and after pleading guilty to multiple felony charges, received sentences totaling over eight years. On 9 December 2010, the trial court relieved DSS of further reunification efforts with respondent. The court also authorized a permanent plan of reunification with the mother, and a concurrent plan of adoption. On 23 June 2011, the mother signed relinquishments to the child.

On 19 August 2011, DSS filed a motion to terminate respondent's parental rights and alleged the grounds of neglect, failure to make reasonable progress, and willful abandonment. The matter came on for hearing on 12 January 2012. The trial court concluded that grounds existed to terminate respondent's parental rights on all three bases alleged by DSS. In a separate disposition order, the court further determined that termination of respondent's parental rights is in the best interests of the

minor child, and ordered that respondent's rights be terminated. Respondent appeals.

"The standard for review in termination of parental rights cases is whether the findings of fact are supported by clear, cogent and convincing evidence and whether these findings, in turn, support the conclusions of law." *In re Clark*, 72 N.C. App. 118, 124, 323 S.E.2d 754, 758 (1984). "After an adjudication that one or more grounds for terminating a parent's rights exist, the court shall determine whether terminating the parent's rights is in the juvenile's best interest." N.C. Gen. Stat. § 7B-1110(a) (2011). "We review the trial court's decision to terminate parental rights for abuse of discretion." *In re Anderson*, 151 N.C. App. 94, 98, 564 S.E.2d 599, 602 (2002).

Here, respondent does not challenge the adjudicatory portion of the termination proceedings, or the grounds that were found to exist. Rather, respondent's sole argument on appeal is that the trial court erred and abused its discretion at the disposition phase by failing to consider and make specific findings of fact regarding the merits of placing the minor child with paternal relatives. Respondent contends that since placement with a relative takes priority over placement in foster care pursuant to the Juvenile Code, the trial court was

required to first make findings that the paternal relatives were unwilling or unable to provide a safe home for the child, or that such a placement would not be in the best interests of the child, before deciding to place the child in foster care. He argues that paternal relatives had repeatedly offered placement options for the child throughout the case, but no judicial determination was ever made regarding the suitability of the paternal relatives for placement. He asserts that evidence provided by DSS and the child's guardian ad litem was not sufficient to refuse placement to the paternal relatives without an independent judicial evaluation of those relatives' abilities. We do not agree with these assertions.

After a trial court adjudicates the existence of at least one ground upon which to base termination, the court must then determine at disposition whether termination is in the best interests of the child. N.C. Gen. Stat. § 7B-1110(a). "In each case, the court shall consider the following criteria and make written findings regarding" several enumerated factors, including the likelihood of adoption of the juvenile, the bond between the juvenile and the parent, and the relationship between the juvenile and the prospective adoptive parent. *Id.*

Here, the trial court made sufficient written findings addressing each of the factors contained in section 7B-1110(a). Respondent does not challenge any of these findings of fact, and they are therefore deemed supported by competent evidence and are binding on appeal. *See Koufman v. Koufman*, 330 N.C. 93, 97, 408 S.E.2d 729, 731 (1991). Respondent argues, however, that the trial court abused its discretion by failing to make additional findings regarding the suitability of placement with his mother and sister, who both testified at the hearing that they were able and willing to take the child.

It is clear that throughout the case, DSS and the guardian ad litem communicated with respondent about possible relative placement options, as found by the trial court in the adjudication portion of the termination hearing. Respondent provided DSS with his father's contact information, but DSS deemed the paternal grandfather to be unsuitable due to his criminal history and lack of employment. Respondent also gave DSS his cousin's name, but she told DSS she had no relationship with the child. Further, the DSS social worker testified at the termination hearing that respondent's mother had been considered as a placement option by DSS, but due to her previous involvement with social services, she was not an appropriate

option. At the time DSS looked into the paternal grandmother's suitability, respondent's sister was living in the same home and she could not be considered either.

Despite respondent's contentions about the trial court's obligations, this Court has stated that "the trial court is not required to make findings of fact on all the evidence presented, nor state every option it considered." *In re J.A.A.*, 175 N.C. App. 66, 75, 623 S.E.2d 45, 51 (2005). Furthermore, "[a] trial court may, but is not required to, consider the availability of a relative placement during the dispositional phase of a hearing to terminate parental rights." *In re M.M.*, 200 N.C. App. 248, 258, 684 S.E.2d 463, 469 (2009), *disc. review denied*, 364 N.C. 241, 698 S.E.2d 401 (2010). Here, even though the trial court did not make specific findings regarding respondent's mother or sister as possible placements, the lack of findings does not mean those possibilities were not considered. It is notable that by the time of the termination hearing, the minor child had been living with his foster family since August 2010. Moreover, where evidence was presented that the paternal grandmother was not a suitable placement due to her prior involvement with social services, and the paternal aunt was aware that respondent had named her as a placement option but she did not contact DSS,

the trial court did not abuse its discretion in deciding not to place the minor child with a relative rather than leave the child with his foster family. This argument is therefore without merit.

Based on the court's findings, we conclude the trial court did not abuse its discretion at disposition when it decided that termination of respondent's parental rights is in the best interests of the juvenile. Accordingly we affirm the orders of the trial court.

Affirmed.

Judges McGEE and GEER concur.

Report per Rule 30(e).