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NO. COA13-420
NORTH CAROLINA COURT OF APPEALS

Filed: 20 August 2013

IN THE MATTERS OF: Currituck County
Nos. 11 JA 25-27
S.S., A.S., L.S.

Appeal by father from order entered 31 December 2012 by Judge Eula E. Reid in Currituck County District Court. Heard in the Court of Appeals 5 August 2013.

The Twiford Law Firm, PC, by Courtney S. Hull for petitioner-appellee Currituck County Department of Social Services.

Reece & Reece, by Mary McCullers Reece for respondent-appellant father.

Smith Moore Leatherwood LLP, by Kip D. Nelson, for Guardian ad Litem.

STEELMAN, Judge.

Where father made insufficient progress and the issues underlying this family's case had been going on for several years, the trial court's findings of fact supported its conclusions of law that reunification efforts would be futile or

inconsistent with the juveniles' best interests and that the juveniles cannot be returned home within the next six months.

I. Factual and Procedural Background

The Currituck County Department of Social Services (DSS) has been involved with this family since 2006. DSS's most recent investigation began in March 2011, after receiving reports of unsafe and unsanitary conditions in the home, and reports of drug use, domestic violence, and mental health issues on the part of the parents. On 8 April 2011, DSS received a second report after police officers conducted a drug raid at the family's residence. The juveniles were placed with their maternal grandparents on the following day. On 29 April 2011, DSS filed juvenile petitions alleging that the juveniles were neglected and dependent.

During the investigation, the parents entered into a case plan and safety agreement with DSS. In September 2011, DSS voluntarily dismissed the petitions because the parents had made progress on their case plan.

On 20 March 2012, after receiving a report of inappropriate discipline by father, DSS filed a second set of juvenile petitions alleging that the juveniles were neglected. The new petitions also alleged the same issues raised in the April 2011

petitions. On the same day, DSS was given nonsecure custody of the juveniles, but they continued to be placed with their maternal grandparents. The trial court adjudicated the juveniles neglected in an order entered on 4 May 2012, based upon the consent of the parents. The parents stipulated to the following findings of fact: that the parents violated their case plan and safety agreement; that on 19 March 2012, father used improper discipline on S.S.; that father has post-traumatic stress disorder and receives disability; that he has not been consistent with treatment for his domestic violence issues, his mental health issues, and his medication management; that the parents' destructive relationship creates instability and an injurious environment for the juveniles; and that the juveniles have been exposed to a substantial risk of harm due to their parents' domestic violence, drug use, instability, and mental health issues. In a subsequent disposition order, the trial court continued custody of the juveniles with DSS.

Following a hearing, the trial court entered a permanency planning order on 31 December 2012, concluding the following: (1) that it was not possible for the juveniles to return to the home of either parent within the next six months; (2) that it was in the juveniles' best interests for DSS to cease

reunification efforts with the parents, as such efforts would be futile or inconsistent with the juveniles' health, safety, and need for a safe, permanent home within a reasonable period of time; (3) that each parent has taken actions inconsistent with their constitutionally protected parental status; and (4) that the permanent plan for the juveniles should be changed to guardianship with the maternal grandparents. Based on these conclusions of law, the trial court granted the maternal grandparents guardianship of the juveniles pursuant to N.C. Gen. Stat. § 7B-600.

Father appeals.

II. Permanency Planning Order

In his only argument on appeal, father challenges the trial court's conclusions of law made pursuant to N.C. Gen. Stat. §§ 7B-507 and 7B-907 that reunification efforts would be futile and that the juveniles could not be returned to his home within six months. Father argues that these conclusions of law are not supported by the trial court's findings of fact. We disagree.

A. Standard of Review

While father purports to challenge the trial court's findings of fact, he makes no specific argument that the findings of fact lack evidentiary support. We therefore presume

that they are supported by competent evidence and that they are binding on appeal. *See In re P.M.*, 169 N.C. App. 423, 424, 610 S.E.2d 403, 404-05 (2005) (concluding respondent had abandoned factual assignments of error when she "failed to specifically argue in her brief that they were unsupported by evidence").

Because father does not challenge any of the trial court's findings of fact, our review of the permanency planning order is limited to whether the trial court's findings of fact support its conclusions of law. *In re J.C.S.*, 164 N.C. App. 96, 106, 595 S.E.2d 155, 161 (2004), *overruled on other grounds by In re R.T.W.*, 359 N.C. 539, 614 S.E.2d 489 (2005). Similarly, our review of the order ceasing reunification efforts is limited to "whether the findings of fact support the trial court's conclusions, and whether the trial court abused its discretion with respect to disposition." *In re C.M.*, 183 N.C. App. 207, 213, 644 S.E.2d 588, 594 (2007).

B. Analysis

Pursuant to N.C. Gen. Stat. § 7B-907(a), "[i]n any case where custody is removed from a parent, . . . the judge shall conduct . . . a permanency planning hearing within 12 months after the date of the initial order removing custody" and at least every six months thereafter. N.C. Gen. Stat. § 7B-907(a)

(2011). "The purpose of the permanency planning hearing shall be to develop a plan to achieve a safe, permanent home for the juvenile within a reasonable period of time." *Id.* The statute further provides that "[a]t the conclusion of the hearing, if the juvenile is not returned home, the court shall consider [six] criteria and make written findings regarding those that are relevant[,] " including "[w]hether 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) (2011).

A trial court may cease reunification efforts with the parents pursuant to N.C. Gen. Stat. § 7B-507(b). This statute provides:

In any order placing a juvenile in the custody or placement responsibility of a county department of social services, whether an order for continued nonsecure custody, a dispositional order, or a review order, the court may direct that reasonable efforts to eliminate the need for placement of the juvenile shall not be required or shall cease if the court makes written findings of fact that:

- (1) Such efforts clearly would be futile or would be inconsistent with the juvenile's health, safety, and need for a safe, permanent home within a reasonable period of time[.]

N.C. Gen. Stat. § 7B-507(b) (2011).

In the instant case, the trial court found that father has a history of chronic DSS involvement; that he has a pattern of unsafe behavior which directly affects the juveniles' safety and well-being; and that he failed to fully comply with his case plan. These ultimate findings of fact are based on factual findings that father has issues with substance abuse, domestic violence, and improper supervision and care of the juveniles; that his treatment has been sporadic; that he has failed to achieve housing, employment, and financial stability; that he has continued to show lack of insight as to his role in the removal of his children; and that he has violated court orders by continued contact with the juveniles' mother.

Father contends that the trial court's conclusions of law are not supported by its findings of fact because he made some progress on his case plan and was not given sufficient time to address the issues that led to the removal of the juveniles from the home. While the findings of fact show that father made some progress towards correcting the conditions that led to the removal, they also clearly show that his progress was insufficient. Moreover, as the trial court found, the issues underlying this family's case have been going on for several years. Therefore, we are not persuaded by father's contention

that he was not given sufficient time to show full progress. We hold that the trial court's findings were sufficient to support its conclusions that reunification efforts would be futile or inconsistent with the juveniles' best interests and that they cannot be returned home immediately or within the next six months. See *In re T.K.*, 171 N.C. App. 35, 613 S.E.2d 739 (holding that a parent's failure to make sufficient progress on correcting the conditions that led to removal supports conclusions made pursuant to N.C. Gen. Stat. §§ 7B-507(b) and 7B-907(b)), *aff'd per curiam*, 360 N.C. 163, 622 S.E.2d 494 (2005).

This argument is without merit.

AFFIRMED

Chief Judge MARTIN and Judge DILLON concur.

Report per Rule 30(e).