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NO. COA13-502
NORTH CAROLINA COURT OF APPEALS

Filed: 15 October 2013

IN THE MATTER OF: Chatham County
D.C. No. 10 JA 46
10 JT 46

Appeal by respondent from orders entered 18 April 2012 and 24 January 2013 by Judge Beverly Scarlett in District Court, Chatham County. Heard in the Court of Appeals 17 September 2013.

Holcomb & Cabe, LLP, by Carol J. Holcomb and Samantha H. Cabe, for appellee Chatham County Department of Social Services.

Parker Poe Adams & Bernstein LLP, by William L. Esser IV, for guardian ad litem.

J. Thomas Diepenbrock for respondent-appellant mother.

STROUD, Judge.

Respondent mother appeals from orders changing the permanent plan to adoption and terminating her parental rights to her child. Because the trial court failed to make the requisite findings of fact to justify the ceasing of reunification efforts, we reverse the orders and remand for

further proceedings.

I. Background

On 15 March 2011, the Chatham County Department of Social Services ("DSS") filed a juvenile petition alleging that Derrick¹ was a neglected and dependent juvenile, and on 1 June 2011, the trial court adjudicated Derrick a neglected juvenile. On 18 April 2012, the trial court changed Derrick's permanent plan to adoption and ordered that "[a] Termination of Parental Rights Motion shall be filed[.]" Respondent filed notice preserving her right to appeal the 18 April 2012 order. On 24 January 2013, the trial court terminated respondent-mother's parental rights due to neglect, failure to make reasonable progress, and failure to pay a reasonable portion of support. Respondent appealed the 24 January 2013 order.

II. Cessation of Reunification Efforts

On appeal, respondent contends that the trial court erred in its 18 April 2012 permanency planning order by ceasing reunification efforts without entering the necessary findings of fact required by North Carolina General Statute § 7B-507(b)(1). DSS argues that the trial court never ordered the cessation of reunification efforts and, therefore, was not required to make

¹ A pseudonym will be used to protect the identity of the child involved.

findings under North Carolina General Statute § 7B-507(b). This Court determined in *In re A.P.W.* that an order which directs the filing of a petition to terminate parental rights and changes the permanent plan to adoption has implicitly ordered the cessation of reunification efforts. ___ N.C. App. ___, ___, 741 S.E.2d 388, 391 ("As in *J.N.S.*, the trial court in the instant case directed DSS to file a petition to terminate parental rights. Moreover, the trial court here changed the permanent plan to adoption, and respondent-mother properly preserved her right to appeal the cessation of reunification efforts pursuant to N.C. Gen. Stat. § 7B-507(c). Based on the foregoing, we hold that the trial court's 21 June 2011 order implicitly ceased reunification efforts, and we reject DSS's argument for dismissal."), *disc. review denied*, ___ N.C. ___, ___ S.E.2d ___ (2013).

"This Court reviews an order that ceases reunification efforts to determine whether the trial court made appropriate findings, whether the findings are based upon credible evidence, 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).

North Carolina General Statute § 7B-507(b) provides:

In any order placing a juvenile in the custody or placement responsibility of a county department of social services, . . . 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) (1) (2011).

This Court recently "reiterate[d] to the trial court that an order ceasing reunification efforts must contain the ultimate findings mandated by N.C. Gen. Stat. § 7B-507(b)." *In re A.P.W.*, ___ N.C. App. at ___, 741 S.E.2d at 392; see *In re I.R.C.*, ___ N.C. App. ___, 714 S.E.2d 495, 498 (requiring "findings of fact that support[] an ultimate conclusion of law by the trial court that reunification efforts would be futile or inconsistent with the juveniles health, safety, and need for a safe, permanent home"). Here, the trial court failed to make the findings of fact required by North Carolina General Statute § 7B-507(b) (1) to support a determination that reunification efforts should cease. Accordingly, we "must reverse the permanency planning order as well as the termination of parental

rights order and remand this case to the trial court for further proceedings." *In re I.R.C.* at ____, 714 S.E.2d at 499.

In light of our conclusion, we need not address respondent's other argument. However, we do note that DSS suggests that "this Court should hold that a properly entered order terminating parental rights . . . makes moot the question of whether there is any error in an underlying permanency planning order." We disagree, since acceptance of such an argument would stand in direct conflict with the cases herein cited.

REVERSED AND REMANDED.

Judges MCGEE and BRYANT concur.

Report per Rule 30(e).