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NO. COA13-505
NORTH CAROLINA COURT OF APPEALS

Filed: 5 November 2013

IN THE MATTER OF:

K.G.

Union County
No. 12 JT 6

Appeal by respondent-mother from orders entered 16 August 2012 by Judge Joseph Williams and 27 February 2013 by Judge Stephen Higdon in Union County District Court. Heard in the Court of Appeals 15 October 2013.

Perry, Bundy, Plyler, Long & Cox, LLP, by Natalie J. Broadway and Melanie D. Cox, for petitioner-appellee, Union County Department of Social Services.

Parker Poe Adams & Bernstein LLP, by Jami J. Farris for Guardian ad litem.

David A. Perez for respondent-appellant, mother.

HUNTER, Robert C., Judge.

Respondent appeals from a permanency planning order and an order terminating her parental rights to her child K.G. ("Kathleen"). We affirm.

T.G. ("respondent") is the mother of Kathleen, who was born in June 2010. Prior to Kathleen's birth, respondent assumed the identity of "Lisa M." and it is this name respondent used on Kathleen's birth certificate. On 10 January 2012, the Union County Department of Social Services ("DSS") filed a juvenile petition alleging that Kathleen was a neglected and dependent juvenile. DSS alleged that respondent left Kathleen in the care of a non-relative, Ms. McC., "on and off for the past 16 months without providing a provisional plan for any of the child's basic needs[;]" that respondent was fifteen weeks pregnant; and that respondent was transient and did not have stable housing. DSS took nonsecure custody of Kathleen.

After holding a hearing, the trial court adjudicated Kathleen a dependent juvenile. The trial court held a permanency planning hearing on 18 July 2012 and, by order filed 16 August 2012, the trial court ordered the permanent plan to be adoption with a concurrent plan of guardianship. DSS filed a petition to terminate respondent's parental rights on 10 September 2012. DSS alleged the following grounds for termination: (1) neglect pursuant to N.C. Gen. Stat. § 7B-1111(a)(1) (2011); failure to pay reasonable cost of care

pursuant to N.C. Gen. Stat. § 7B-1111(a)(3) (2011); and (3) dependency pursuant to N.C. Gen. Stat. § 7B-1111(a)(6) (2011).

In January 2013, the trial court conducted a hearing on the termination petition. Respondent attended the hearing via telephonic communication as she was incarcerated in Colorado due to pending identity theft charges in that jurisdiction. By order filed 27 February 2013, the trial court concluded all three grounds existed to terminate the parental rights of respondent. The trial court further concluded that it was in the best interest of Kathleen to terminate respondent's parental rights. A.G., Kathleen's father, relinquished his parental rights. Respondent appeals.

Respondent contends the court erred in determining grounds existed to terminate her parental rights. Preliminarily we note that although the trial court concluded grounds existed pursuant to sections 7B-1111(a)(1), (3), and (6) of the North Carolina General Statutes to terminate respondent's parental rights, we find it dispositive that the evidence is sufficient to support termination of respondent's rights under section 7B-1111(a)(6). See *In re Pierce*, 67 N.C. App. 257, 261, 312 S.E.2d 900, 903 (1984) (a finding of one statutory ground is sufficient to support the termination of parental rights).

In reviewing a trial court's order terminating parental rights, this Court must determine whether the findings of fact are supported by clear, cogent, and convincing evidence and whether those findings support the conclusions of law. *In re S.N., X.Z.*, 194 N.C. App. 142, 146, 669 S.E.2d 55, 58-59 (2008), *aff'd per curiam*, 363 N.C. 368, 677 S.E.2d 455 (2009). "The trial court's conclusions of law are fully reviewable *de novo* by the appellate court." *Id.* at 146, 669 S.E.2d at 59 (citation and internal quotation marks omitted).

N.C. Gen. Stat. § 7B-1111(a)(6) provides that a court may terminate parental rights upon finding:

That the parent is incapable of providing for the proper care and supervision of the juvenile, such that the juvenile is a dependent juvenile within the meaning of G.S. 7B-101, and that there is a reasonable probability that such incapability will continue for the foreseeable future. Incapability under this subdivision may be the result of substance abuse, mental retardation, mental illness, organic brain syndrome, or any other cause or condition that renders the parent unable or unavailable to parent the juvenile and the parent lacks an appropriate alternative child care arrangement.

N.C. Gen. Stat. § 7B-1111(a)(6) (2011). A dependent child is one who is "in need of assistance or placement because the juvenile has no parent, guardian, or custodian responsible for

the juvenile's care or supervision or whose parent, guardian, or custodian is unable to provide for the care or supervision and lacks an appropriate alternative child care arrangement." N.C. Gen. Stat. § 7B-101(9) (2011).

To support its conclusion that grounds existed to terminate respondent's parental rights pursuant to N.C. Gen. Stat. § 7B-1111(a)(6), the trial court made the following findings of fact under number 11A:

i. Approximately 7 years ago [Respondent] began using and assumed the identity of a person by the name of Lisa [M.].

ii. [Respondent] used Lisa [M.]'s name for the purpose of obtaining food stamps, a Medicaid card and other benefits.

iii. [Respondent] used the name of Lisa [M.] when the child was born. Lisa [M.]'s name was put on the birth certificate.

iv. [Respondent], while still using the name of Lisa [M.], began living with Mary [McC.] and her family shortly after the child was born.

v. While with the [McC.'s], on and off for 16 months, [respondent] did not provide any monetary contributions. She has provided some diapers and some food. However, it was not enough to meet the child's needs.

vi. [Respondent] was presented paperwork, which was prepared by the [McC.'s] so that the child could be cared for in the event of an emergency. The paperwork was signed in the name of Lisa [M.].

vii. In approximately November 2011 the real Lisa [M.] attempted to obtain benefits in Ohio. [Respondent] was notified and at that time she disclosed to authorities that she had assumed someone else's identity.

viii. [Respondent] has not established stable housing. She earns some income but has not used it to pay any child support for the use and benefit of the child.

ix. [Respondent] was married to [A.G.] at the time she gave birth to the juvenile. However, she used the name of Lisa [M.] at that time and therefore; the name of Lisa [M.] is on the marriage certificate.

x. On February 1, 2012 the court entered an order finding that [A.G.] is the legal father of [Kathleen]. [A.G.] has informed DSS that he does not have the means to provide for the child at this time.

xi. [Respondent] has had difficulty obtaining a Medicaid card because of the legal issues involved in her assumption of Lisa [M.]'s name.

xii. The child did not have a Medicaid card because of the mother's actions.

xiii. The child's parents are unable to properly provide for the child's care and supervision. They lack an appropriate alternative childcare arrange[ment] for the child at this time.

In addition, finding of fact 11D provided:

[Respondent] is incapable of providing for the proper care and supervision of the juvenile, such that the juvenile is a dependent juvenile within the meaning of

G.S. 7B-101, and that there is a reasonable probability that such incapability will continue for the foreseeable future. [Respondent] has failed to demonstrate stability in her lifestyle so as to provide a safe and secure residence for the juvenile. [Respondent] has pending charges from the state of Colorado for Identity Theft connected to Lisa [M.] [Respondent] was extradited to Colorado and charged with three counts of identity theft. Although trying to determine the outcome of the charges is speculation, [Respondent] did not have a proposal for a short-term or long-term plan for the child to go home. [Respondent's] inability to care for the child is likely to continue due to her pending criminal charges in Colorado and not knowing an expected outcome.

Respondent first argues the trial court erred in concluding that Kathleen is a dependent juvenile because the court failed to make a finding that respondent lacked an appropriate alternative child care arrangement. However, in finding of fact 11A.xiii, the trial court specifically found that the parents "lack an appropriate alternative childcare arrange[ment] for the child at this time." Further, this finding of fact is supported by the evidence. Respondent testified that she suggested Kathleen be placed with Ms. P., the woman with whom respondent had been living in South Carolina after Kathleen went into DSS custody. However, there was no evidence that Ms. P. was willing, interested, and capable of being a placement for

Kathleen. Accordingly, the trial court properly found respondent lacked an appropriate alternative child care arrangement and concluded Kathleen was a dependent juvenile.

Respondent also argues the trial court erred in concluding that there was a reasonable probability that respondent's incapability of providing for Kathleen would continue for the foreseeable future. To support her argument, respondent challenges the trial court's finding that she did not have a "short-term or long-term plan for the child to go home." We find this detail immaterial to the merits of the termination order. See *In re T.M.*, 180 N.C. App. 539, 547, 638 S.E.2d 236, 240 (2006) (stating erroneous findings unnecessary to the determination do not constitute "reversible error" where an adjudication is supported by additional valid findings.)

The trial court found in its termination order that respondent has three pending identity theft charges in Colorado, that she has been extradited to Colorado, and that the outcome of her charges is speculative. Respondent's testimony at the hearing supports these findings and respondent admits in her brief on appeal that these findings are correct. The trial court further found that respondent failed to demonstrate stability in her lifestyle. Respondent testified that she was

homeless from January 2012, when Kathleen came into DSS custody, until May 2012, when she moved to South Carolina and lived with Ms. P. Respondent also testified that she did not know the sentence she would receive if convicted of her identity theft charges. Respondent's extradition to Colorado, the speculation as to the outcome of respondent's charges, and the history of respondent's instability supports the trial court's conclusion that there was a reasonable probability that respondent's incapability of providing for Kathleen would continue in the foreseeable future.

In sum, we conclude the trial court's findings of fact are supported by competent evidence, and those findings of fact support the trial court's conclusion that grounds existed to terminate respondent's parental rights under N.C. Gen. Stat. § 7B-1111(a)(6).

AFFIRMED.

Judges CALABRIA and HUNTER, JR. concur.

Report per Rule 30(e).