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NO. COA13-731
NORTH CAROLINA COURT OF APPEALS

Filed: 19 November 2013

IN THE MATTER OF:

T.F., N.S.

Warren County
Nos. 07 JA/JT 43-44

Appeal by respondent from order entered 8 April 2013 by Judge Randolph Baskerville in Warren County District Court. Heard in the Court of Appeals 28 October 2013.

No brief filed for petitioner Warren County Department of Social Services.

Marie H. Mobley, for guardian ad litem.

Ryan McKaig, for respondent-appellant.

CALABRIA, Judge.

Respondent, the mother of juveniles T.F. and N.S. (collectively, "the juveniles"), appeals from an order terminating her parental rights. T.F.'s father relinquished his parental rights, and the parental rights of N.S.'s unknown father have been terminated. As such, neither of the juveniles' respective fathers are parties in this appeal. We affirm.

This matter is before this Court for a second time. The full facts of this case are set forth in *In re T.F.*, ___ N.C. App. ___, 738 S.E.2d 830 (2013) (unpublished, COA12-1082).

On 6 September 2007, the Warren County Department of Social Services ("DSS") filed juvenile petitions alleging that T.F. and N.S. were neglected and dependent juveniles. The trial court adjudicated the juveniles as dependent and DSS subsequently filed a motion to terminate respondent's parental rights. On 24 February 2011, the trial court entered an order denying the motion. The trial court found that grounds existed to terminate respondent's parental rights under N.C. Gen. Stat. § 7B-1111(a)(2). However, the trial court concluded it was not in the best interests of the juveniles to terminate respondent's parental rights at that time.

DSS subsequently filed another motion to terminate respondent's parental rights on 28 June 2011. After a hearing, the trial court found grounds existed to terminate respondent's parental rights under N.C. Gen. Stat. § 7B-1111(a)(2) and N.C. Gen. Stat. § 7B-1111(a)(3) (willfully leaving the juveniles in foster care for more than twelve months without showing reasonable progress; willfully failing to pay a reasonable portion of the cost of care for the juveniles although

physically and financially able to do so). The trial court entered an order terminating respondent's parental rights on 12 June 2012. On appeal, this Court held that grounds existed to terminate respondent's parental rights pursuant to N.C. Gen. Stat. § 7B-1111(a)(2), but remanded the matter for a new dispositional hearing after determining that the trial court failed to make sufficient findings of fact indicating that it considered the statutory factors listed in N.C. Gen. Stat. § 7B-1110(a) regarding the best interests of the juveniles. *T.F.*, ___ N.C. App. at ___, 738 S.E.2d at ___.

The trial court held a hearing on remand on 26 March 2013, made findings of fact, and again concluded that termination of respondent's parental rights was in the best interests of the juveniles. Respondent appeals.

Respondent's sole argument on appeal is that the trial court erred by concluding it was in the best interests of the juveniles to terminate her parental rights. We disagree.

As an initial matter, respondent contends that the court's prior order denying a motion to terminate parental rights is evidence that the current order is a mistake on the part of the trial court. However, the record indicates that DSS made reasonable efforts to aid respondent to keep the family intact

and make progress towards reunification for over two years after the juveniles were removed. Furthermore, the actions of the court indicate the willingness to deny a request to terminate parental rights if there was a reasonable hope that the family unit could be reunited within a reasonable period of time. See N.C. Gen. Stat. § 7B-100(5) (2011). The trial court's initial denial of the motion to terminate reflects those efforts. However, with the filing of the new motion to terminate parental rights, the trial court maintained discretion in determining whether termination of parental rights was in the best interests of the juveniles, and upon the relevant statutory findings may terminate parental rights. N.C. Gen. Stat. § 7B-1110 (2011).

Respondent concedes that the trial court made all necessary findings on remand, but argues that the trial court nevertheless erred in finding that termination was in the best interests of the juveniles. Specifically, respondent asserts that the trial court failed to adequately consider the juveniles' strong bond with their mother and that reunification would be possible within a short period of time. Because respondent does not contest the trial court's findings of fact, they are deemed to be supported by competent evidence and are therefore binding on appeal. N.C.R. App. P. 28(b)(6); *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 [the findings] were unsupported by evidence").

It is important to note that the relevant statute sets forth six factors for the trial court's consideration in determining a juvenile's best interests, including the juvenile's age and likelihood of adoption; the parent-child bond; whether the termination of parental rights will aid in the juvenile's DSS permanent plan; the quality of the relationship between the juvenile and the proposed adoptive parent; and any other relevant consideration. N.C. Gen. Stat. § 7B-1110(a) (2011). The parent-child bond is only one of the factors considered, and by itself is not dispositive. See *id.*; see *In re C.L.C.*, 171 N.C. App. 438, 448, 615 S.E.2d 704, 709-10 (2005) (upholding the trial court's decision when a respondent's bond with her children was outweighed by other facts, including, *inter alia*, her failure to complete parenting classes, pay support, or obtain stable housing and employment). "The fact that the parent loves or is concerned about [her] child will not necessarily prevent the court from making a determination[.] The welfare or best interest of the child is always to be

treated as the paramount consideration to which even parental love must yield." *In re P.L.P.*, 173 N.C. App. 1, 9, 618 S.E.2d 241, 246 (2005) (citation and quotation marks omitted).

A trial court's decision to terminate parental rights is reversible only if the trial court abused its discretion in doing so, *In re D.W.C.*, 205 N.C. App. 266, 271, 698 S.E.2d 79, 82-83 (2010), meaning "the court's ruling is manifestly unsupported by reason or so arbitrary that it could not have been the result of a reasoned decision." *In re C.I.M.*, 214 N.C. App. 342, 347, 715 S.E.2d 247, 251 (2011) (citation omitted).

In the instant case, the trial court made specific findings addressing the factors set forth in N.C. Gen. Stat. § 7B-1110(a). The trial court recognized that "[t]he children love their mother and the mother loves the children." Respondent contends that this finding indicates the court acknowledged a "strong" bond between respondent and the juveniles, and therefore should not have terminated respondent's parental rights. However, the trial court did not specifically find that the parent-child bond was "strong," but that it became more apparent during therapy sessions. The trial court also found that respondent had no structure with the juveniles and the juveniles' negative behaviors increased after having contact

with respondent. During eight months of therapy sessions, there was no growth on respondent's part in recognizing and redirecting the juveniles' negative behavior.

Moreover, the trial court found that the juveniles had been in the non-secure custody of DSS since 5 September 2007. T.F. and N.S. had been placed in foster care when they were both under the age of three. At the time the court ordered termination of respondent's parental rights, the juveniles had been in foster care for over five years, a period of time which encompasses almost their entire lifetimes.

The trial court further found that the juveniles have a strong bond with their foster mother, that their relationship is one of "stability and love," and that the foster mother will likely adopt the juveniles. One of the guiding principles of the Juvenile Code is to provide standards to ensure that "the best interests of the juvenile are of paramount consideration by the court and that when it is not in the juvenile's best interest to be returned home, *the juvenile will be placed in a safe, permanent home within a reasonable amount of time.*" N.C. Gen. Stat. § 7B-100(5) (2011) (emphasis added). Since the juveniles had been in foster care for over five years at the

time respondent's parental rights were terminated, more than a reasonable amount of time had elapsed.

The trial court made additional dispositional findings that adoption was the permanent plan for the juveniles, and that termination of respondent's parental rights would aid in accomplishing the permanent plan. These findings address the relevant factors in N.C. Gen. Stat. § 7B-1110(a) and demonstrate that the trial court reached a reasoned decision upon these factors.

The trial court made the necessary and relevant findings under N.C. Gen. Stat. § 7B-1110(a), and those findings demonstrate a reasoned decision within the court's discretion. We conclude that the trial court did not abuse its discretion and affirm the decision of the trial court.

Affirmed.

Judges HUNTER, Robert C. and HUNTER, JR., Robert N. concur.

Report per Rule 30(e).