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NO. COA13-738
NORTH CAROLINA COURT OF APPEALS

Filed: 19 November 2013

IN THE MATTER OF:

K.C. Durham County
L.C. Nos. 10 J 295-96

Appeal by respondent-mother from order entered 15 March 2013 by Judge William A. Marsh in Durham County District Court. Heard in the Court of Appeals 28 October 2013.

Deputy County Attorney Cathy L. Moore for petitioner Durham County Department of Social Services, appellee.

David A. Perez for respondent-mother, appellant.

Alston & Bird LLP, by Matthew P. McGuire and Richard A. McAvoy, for guardian ad litem, appellee.

STROUD, Judge.

Respondent-mother appeals from the trial court's order terminating her parental rights. Respondent contends the trial court abused its discretion by finding it was in the best interests of her children, Keith and Linda, to terminate her parental rights.¹ We affirm.

¹ To protect the identity of the children and for ease of

In December of 2010, the Durham County Department of Social Services ("DSS") filed a petition alleging that Keith and Linda were neglected and dependent, based on respondent's mental health problems, her inability to care for the juveniles, and her erratic behavior. The children's father was incarcerated at the time. The children were placed in non-secure custody. On 3 March 2011, the trial court entered an order adjudicating both Keith and Linda neglected and dependent. In an order entered 11 June 2012, the trial court approved a concurrent permanent plan of adoption and reunification, and ordered DSS to file a petition to terminate the parents' parental rights.

DSS filed a motion to terminate parental rights on 16 July 2012, in which it alleged the following grounds to terminate respondent's parental rights under N.C. Gen. Stat. § 7B-1111(a) (2011): (1) neglect; (2) willful failure to make reasonable progress; (3) dependency; and (4) respondent's rights to another child had been involuntarily terminated. The children's father executed a relinquishment of his parental rights on 7 February 2013. On 15 March 2013, the trial court entered an order terminating respondent's parental rights. As grounds for termination, the trial court found neglect, willful failure to

reading, we will refer to them by pseudonym.

make reasonable progress, and dependency. The trial court also found it was in the children's best interests to terminate respondent's rights. Respondent filed timely written notice of appeal.

Respondent argues on appeal only that the trial court abused its discretion by concluding it was in the children's best interests to terminate her parental rights. We disagree.

We first note that respondent does not challenge any of the grounds for termination found by the trial court. Once the trial court has determined a ground for termination exists, it proceeds to the disposition stage, where it must determine whether termination is in the best interests of the juvenile. N.C. Gen. Stat. § 7B-1110(a) (2011). In determining the best interests of the juvenile, the trial court must consider the following factors:

- (1) The age of the juvenile.
- (2) The likelihood of adoption of the juvenile.
- (3) Whether the termination of parental rights will aid in the accomplishment of the permanent plan for the juvenile.
- (4) The bond between the juvenile and the parent.
- (5) The quality of the relationship between the juvenile and the proposed adoptive

parent, guardian, custodian, or other permanent placement.

(6) Any relevant consideration.

N.C. Gen. Stat. § 7B-1110(a). The trial court must make written findings addressing the relevant factors. *In re J.L.H.*, ___ N.C. App. ___, ___, 741 S.E.2d 333, 337-38 (2012). The trial court's decision at this stage is reviewed for an abuse of discretion. *In re Anderson*, 151 N.C. App. 94, 98, 564 S.E.2d 599, 602 (2002).

In this case, the trial court made the following findings addressing the statutory factors:

3. The permanent plan for the children is adoption.

4. It is necessary in order to promote the healthy and orderly physical and emotional well-being for the children that the permanent plan for their care is advanced at this time.

5. The child, [Keith], is four years old. The child, [Linda], is three years old.

6. The children have lived with the foster parents since June 2012 in a legal risk adoptive placement. The children's foster parents are interested in adopting the children. The children are too young to express a wish, but are bonded to the foster parents.

7. The children's bond with the mother is questionable due to their young ages, the length of time the children have been out of

her home, and contact that is limited to two hours per week, supervised by DSS. [Keith's] behaviors are better when his mother does not visit.

8. Termination of parental rights will aid in the accomplishment of the permanent plan of adoption as relinquishment of parental rights by the mother is not an option and the father has relinquished his parental rights.

9. Adoption is likely because the children's foster parents are interested in adopting the children. The foster parents are not present in court due to the foster father's father being placed in hospice care last night.

We hold that these findings adequately address the relevant statutory factors and demonstrate that the trial court exercised its discretion in determining that termination of respondent's parental rights was in Keith and Linda's best interests.

Respondent specifically contends that the trial court's characterization of her bond with the juveniles as "questionable" in finding 7 does not sufficiently address the fourth statutory factor. The trial court clearly considered this factor and made a relevant written finding, as required, *In re J.L.H.*, ___ N.C. App. at ___, 741 S.E.2d at 337-38. Moreover, the finding was not limited to a statement that the bond was "questionable." The trial court further found that it was questionable "due to their young ages, the length of time

the children have been out of her home, and contact that is limited to two hours per week, supervised by DSS." We find the trial court's use of the word "questionable" to be an adequate description of a problematic or uncertain bond. *See generally*, "Questionable," Merriam-Webster's Collegiate Dictionary 1020 (11th ed. 2005) (defining "questionable" as, *inter alia*, "affording reason for being doubted, questioned, or challenged."). Therefore, this argument is unavailing.

Respondent also takes issue with the portion of the finding describing Keith's behavior as improved when respondent does not visit, but acknowledges that prior orders stated that his behavior deteriorated after visits. Additionally, the GAL reported that the children are more problematic after visiting with respondent and that Keith's behavior in particular is significantly affected by visits with her. Thus, this finding was supported by competent evidence.

Finally, respondent argues that the trial court neglected to give sufficient weight to her own cognitive limitations by failing to make a finding pursuant to N.C. Gen. Stat. § 7B-1110(a)(6) addressing whether DSS adequately assisted her in light of those limitations. Respondent cites no case holding that the tailored nature of the support given to a respondent-

parent is a relevant consideration at the disposition stage. The trial court found that DSS had provided services to improve respondent's parenting skills for 23 months, but that she had failed to demonstrate that her behavior had changed. The trial court concluded that she failed to make "reasonable progress under the circumstances." Neither this finding nor this conclusion have been challenged. Respondent simply speculates that perhaps with more assistance she could have learned the necessary parenting skills, but she has not demonstrated any particular deficiency in the services offered to her. Certainly all parents have different levels of ability to parent and to improve their skills, but our Departments of Social Services do not have unlimited resources, and children do not have unlimited time to wait for their parents' skills to improve. Almost every case of termination of parental rights involves a balancing of these factors.

We hold that the trial court's findings are supported by competent evidence, that its findings demonstrate that it exercised its discretion in determining the best interests of the children, and that the trial court did not abuse its discretion in deciding that the best interests of the children mandated termination of respondent's parental rights.

Therefore, we affirm the trial court's order terminating respondent's parental rights.

AFFIRMED.

Chief Judge MARTIN and Judge MCCULLOUGH concur.

Report per Rule 30(e).