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NO. COA14-668

NORTH CAROLINA COURT OF APPEALS

Filed: 18 November 2014

IN THE MATTER OF:

G.J.K.

Haywood County
No. 11 JT 101

Appeal by respondent mother from orders entered 2 April 2014 by Judge Richlyn D. Holt in Haywood County District Court. Heard in the Court of Appeals 27 October 2014.

Rachael J. Hawes, for Haywood County Health and Human Services Agency, petitioner-appellee.

K&L Gates LLP, by Leah D'Aurora Richardson, for guardian ad litem.

Rebekah W. Davis, for mother, respondent-appellant.

McCULLOUGH, Judge.

Respondent mother appeals from the trial court's orders terminating her parental rights to the minor child, G.J.K. ("Gaia").¹ We affirm the trial court's orders.

¹A pseudonym is used to protect the privacy of the juvenile.

On 16 November 2011, Haywood County Department of Social Services ("DSS") filed a juvenile petition alleging Gaia was abused, neglected, and dependent. On that same date, the trial court entered a nonsecure custody order placing Gaia in DSS's custody. After a hearing on 17 January 2012, the trial court adjudicated Gaia abused, neglected, and dependent.

The case came on for a 90-day review hearing on 1 May 2012. The trial court found the conditions that led to Gaia's removal from the home continued to exist, but approved a permanent plan of reunification. After a permanency planning hearing on 17 December 2012, the trial court ceased reunification efforts with the father and changed the permanent plan to reunification with respondent only. The permanent plan changed again after a hearing on 26 March 2013. The trial court ceased reunification efforts with respondent and changed the permanent plan to legal guardianship with a relative or court-approved caretaker. The permanent plan was changed to adoption after a hearing on 5 September 2013. The proposed relative placement was not approved and no other appropriate guardians were recommended. The trial court ordered DSS to file a petition to terminate parental rights within 60 calendar days of the hearing.

On 5 November 2013, DSS filed a petition to terminate parental rights alleging grounds existed to terminate respondent's parental rights based upon neglect, failure to make reasonable progress, willful failure to pay a reasonable portion of the cost of care, dependency, and willful abandonment. See N.C. Gen. Stat. § 7B-1111(a)(1), (2), (3), (6), and (7) (2013). The termination hearing was held on 6 March 2014. By orders entered 2 April 2014, the trial court terminated respondent's parental rights. Respondent appeals.

As an initial matter we note the trial court entered separate adjudication and best interest orders and respondent's notice of appeal fails to properly identify the orders from which appeal is taken. "[A] notice of appeal [must] designate the order from which [an] appeal is taken." *In re D.R.F.*, 204 N.C. App. 138, 141, 693 S.E.2d 235, 238 (quoting *In re A.L.A.*, 175 N.C. App. 780, 782, 625 S.E.2d 589, 590-91 (2006)), *disc. review denied*, 364 N.C. 616, 705 S.E.2d 358 (2010). Respondent has filed a petition for writ of certiorari pursuant to N.C. R. App. P. 21 seeking review of the trial court's orders. In light of the importance of issues involving the relationship between parents and their children, we believe it is appropriate to

exercise our discretion and allow respondent's petition for writ of certiorari.

Respondent does not raise any issues related to the trial court's determination that grounds existed to terminate her parental rights. Rather, respondent challenges the trial court's determination that termination of her parental rights was in Gaia's best interest. Respondent contends the trial court abused its discretion when it concluded that termination of parental rights was in Gaia's best interest since Gaia would be traumatized by the adoption process and prospective adoptive parents had not been identified with certainty. Respondent further contends the trial court abused its discretion by failing to consider a relative placement. We are not persuaded.

"After an adjudication that one or more grounds for terminating a parent's rights exist, the court shall determine whether terminating the parent's rights is in the juvenile's best interest." N.C. Gen. Stat. § 7B-1110(a) (2013). The court must consider the following factors and make written findings regarding those that are relevant:

- (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.

Id. "We review the trial court's decision to terminate parental rights for abuse of discretion." *In re Anderson*, 151 N.C. App. 94, 98, 564 S.E.2d 599, 602 (2002). "A trial court may be reversed for abuse of discretion only upon a showing that its actions are 'manifestly unsupported by reason.'" *Davis v. Davis*, 360 N.C. 518, 523, 631 S.E.2d 114, 118 (2006) (quoting *Clark v. Clark*, 301 N.C. 123, 129, 271 S.E.2d 58, 63 (1980)).

In its disposition order, the trial court made the following pertinent findings of fact:

85. The minor child was born [in] 2009 and is 4 years and 6 months of age. The likelihood of her adoption is very high. She is a young child who will thrive in a stable home environment. The minor child has [been] maintained in one foster care placement since coming into custody in November 2011, and has bonded appropriately with her caregivers. Her needs are being met in this home and through therapy.

86. Termination of the Respondent Mother's parental rights will aid in the

accomplishment of the permanent plan for the juvenile by legally freeing the child for adoption. The Respondent Father relinquished his parental rights on March 5, 2014.

87. The minor child did have a bond with the Respondent Mother at one time, but has not seen her Mother for one year. The Respondent Mother last visited with the child on March 8, 2013 and then voluntarily ceased visiting. She never complied with required drug screens to reinstate her visits as ordered by the Court on March 26, 2013. The child has not talked about or asked for her Mother.

88. It is Therapist Alesia Pierce's opinion that any contact by the Respondent Mother with the minor child would lead to further trauma and significant emotional and behavioral impacts, and such contact is not therapeutically recommended. Therapist Pierce supports termination of parental rights for the child. The child has remained in her current placement for 28 months and made significant progress and formed healthy attachments with the foster family.

89. The juvenile's foster family is very interested in adopting the minor child. The family has provided for the care of the minor child continuously since November 16, 2011; she has bonded very well with her foster parents and they love her very much. The child has also bonded well with their biological and adoptive sons. She calls her foster mother Mommy. This has remained a safe and stable home for the minor child.

90. A maternal relative has expressed interest in the minor child and been in contact with the Agency. It has been

explained to her what she needs to do for consideration of adoption of the minor child. It is unknown if this relative has any prior relationship with the child, and has never had visitation with the minor [child] since custody in November 2011.

91. The minor child's profile will be listed on NC Kids website if cleared for adoption.

Respondent contends the evidence does not support finding of fact 89. We disagree. The social worker testified that Gaia's "foster family is very interested in adopting her." She further testified that the foster parents' interest in adopting Gaia is "ongoing" and that they had completed a pre-placement evaluation.

Respondent also contends the N.C. Kids website is not in Gaia's best interest. However, contrary to respondent's contentions, there is no evidence that Gaia would have to meet multiple prospective adoptive families. The social worker testified that listing children on the N.C. Kids website is the procedure for all children once they are legally cleared for adoption and an adoptive home has not officially been chosen. The social worker further explained that people who express an interest in adopting Gaia will be reviewed by an adoption

committee and the adoption committee will chose a family for Gaia.

Lastly, respondent contends that her relative, C.P., contacted DSS about Gaia and DSS and the trial court did not look at family placement. This contention is without merit. In finding of fact number 90, the trial court found that respondent's relative contacted DSS and the relative was advised of the procedures if she wished to be considered for the adoption of Gaia.

Moreover, the evidence tended to show that relative placement was not in Gaia's best interest. Gaia's therapist testified that any contact with Gaia's biological family triggered Gaia's post-traumatic stress disorder symptoms. The therapist further testified that Gaia experienced heightened anxiety when she sensed that she might be introduced to a new person related to a biological family member.

In this case, given the substantial evidence, we cannot agree that the trial court's best interest determination was "manifestly unsupported by reason." *In re A.R.H.B.*, 186 N.C. App. 211, 218, 651 S.E.2d 247, 253 (2007), *appeal dismissed*, 362 N.C. 235, 659 S.E.2d 433 (2008). The trial court considered the statutory factors and made findings of fact regarding those that

were relevant. The trial court did not abuse its discretion in concluding that it was in Gaia's best interest to terminate the respondent's parental rights. Accordingly, we affirm the trial court's orders terminating respondent's parental rights.

Affirmed.

Judges GEER and STEPHENS concur.

Report per Rule 30(e).