

IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA14-1051

Filed: 7 April 2015

Cleveland County, Nos. 10 JT 154; 13 JT 10-11

IN THE MATTER OF:

A.G.W., C.J.W., R.J.W.

Appeal by Respondent from order entered 15 July 2014 by Judge Ali B. Paksoy in Cleveland County District Court. Heard in the Court of Appeals 3 March 2015.

Charles E. Wilson, Jr. for petitioner-appellee Cleveland County Department of Social Services.

Womble Carlyle Sandridge & Rice, LLP, by Whitney A. Passmore, for guardian ad litem.

Rebekah W. Davis for respondent-appellant mother.

DIETZ, Judge.

Respondent appeals from the trial court's order terminating her parental rights to her three children. Respondent's sole argument on appeal is that the trial court failed to consider the relevant statutory factors before determining that termination was in the best interest of one of the three children.

For the reasons discussed below, we hold that the trial court properly considered the relevant statutory factors before making its best interest

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determination and that this determination was not an abuse of discretion. Accordingly, we affirm the trial court's order terminating Respondent's parental rights.

Facts and Procedural Background

On 17 January 2013, the Cleveland County Department of Social Services ("DSS") filed a juvenile petition alleging that Respondent's three children, A.G.W. ("Amanda"), C.J.W. ("Cameron"), and R.J.W. ("Ricky"), were abused and neglected juveniles. DSS alleged that Amanda had been sexually abused by her maternal grandfather and that Respondent and her live-in boyfriend engaged in domestic violence in front of the children. DSS obtained nonsecure custody of the children.

The trial court adjudicated the children neglected on 8 April 2013. The court held periodic review hearings and ultimately entered a permanent plan for the children to be adopted, with a concurrent plan of custody or guardianship with a court-approved caretaker.

DSS filed petitions to terminate the parental rights of Respondent on 21 January 2014. DSS alleged neglect, failure to make reasonable progress, and failure to pay a reasonable portion of the cost of care for the children as grounds for termination. *See* N.C. Gen. Stat. §§ 7B-1111(a)(1)-(3) (2013). After conducting a termination hearing, the trial court concluded that all three grounds existed for termination of Respondent's parental rights. The trial court also concluded that

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termination of Respondent's parental rights was in the children's best interests. Respondent timely appealed.

Analysis

Respondent's only argument on appeal is that the trial court erred in determining that termination of her parental rights was in the best interest of her daughter Amanda.

"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). When determining whether it is in the best interests of a child to have parental rights terminated, the trial court must consider:

- (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.

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Id. This statute further requires the trial court to “make written findings regarding the [criteria] that are relevant.” *Id.* The trial court’s best interests determination is reviewed by this Court for abuse of discretion. *In re Shermer*, 156 N.C. App. 281, 285, 576 S.E.2d 403, 407 (2003).

Here, the trial court made the following findings of fact to support its conclusion that termination was in the best interest of Amanda:

128. That [Amanda] was 8 years old at the time of her removal from the home of her mother, and she is presently 10 years old.

....

134. That [Cameron] and [Ricky] have been placed together in the same foster care home since January 16, 2013. They are clearly bonded to each other and to their foster parents, and call the foster parents “mom” and “dad.”

....

139. That the foster parents are committed to adopting [Cameron] and [Ricky]. The foster parents are also interested in adopting [Amanda], but plan to move slowly toward placement and adoption, given that [Amanda] has never been placed in their home and is currently in a therapeutic foster home.

140. That [Amanda] has visited with her brothers in the foster home on a couple of occasions, and more visits are planned. There were no behavioral problems or concerns during these visits.

141. That [Amanda] and her brothers are clearly bonded to each other.

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142. That [Amanda] is diagnosed with disruptive mood disorder anxiety, ADHD, and Post Traumatic Stress Disorder.

143. That [Amanda] had four different placements shortly after being removed from the mother's home, but she has been in the same Level Two therapeutic foster home since May 2013. Plans are underway for [Amanda] to step down to a regular foster home in the near future.

144. That [Amanda's] aggressive and sexualized behaviors have decreased. She continues to receive counseling services.

145. That the termination of the mother's parental rights would significantly improve the likelihood that [Amanda] would be adopted.

146. That there is evidence of a bond or relationship between [Cameron] and [Amanda] and their mother. Initially after their removal from the home, the bond was clearly evident, but it has significantly decreased in recent months, particularly after the mother did not visit with the children for two months between August and October 2013.

....

148. That [Amanda] has stated over the past year that she wanted to return home to her mother. The Court, however, can not [sic] find that a return to the mother's home would be in the best interest of the juvenile.

149. That although the respondent mother has been visiting weekly since November 2013, there has not [been] much interaction between [Amanda] and her mother during the one hour visits.

....

153. That the Court has concerns, particularly for

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[Amanda], with placing the children in the [maternal] grandparents' home where there has been domestic violence and allegations of sexual abuse.

Respondent does not challenge any of the above-quoted findings of fact, which are therefore binding on appeal. *Koufman v. Koufman*, 330 N.C. 93, 97, 408 S.E.2d 729, 731 (1991). Instead, Respondent contends that the trial court did not address several of the mandatory statutory factors in its best interest determination. We disagree.

Respondent first asserts that the trial court did not address the likelihood of Amanda's adoption under § 7B-1110(a)(2). But findings of fact 139 and 145, quoted above, directly address this factor and find that there is a likelihood that Amanda could be adopted by the foster parents currently caring for her two brothers. Thus, Respondent's argument is without merit.

Respondent next asserts that the trial court erred by failing to address the likelihood of the children's adoption as a sibling group. Section 7B-1110 does not expressly require the trial court to consider this factor. In any event, finding of fact 139, quoted above, specifically addresses the plan to move toward adoption of Amanda and her two brothers by the same foster parents. Thus, the trial court considered the likelihood of adoption as a sibling group.

Finally, Respondent contends that the trial court did not take into consideration her bond with Amanda. But findings of fact 146, 148, and 149, quoted

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above, directly address this issue. In those findings, the trial court acknowledged Respondent's once-strong bond with Amanda but found that this bond decreased over the eighteen months that Amanda was in DSS custody. The trial court also found that there was little interaction between Respondent and her daughter in more recent visitations. Thus, we conclude that the trial court adequately addressed this factor.

In sum, we hold that the trial court considered the necessary statutory factors in its best interest determination. We further hold that, based upon the trial court's unchallenged findings, the trial court did not abuse its discretion in determining that termination of Respondent's parental rights was in Amanda's best interest. Accordingly, we affirm the trial court's order.

AFFIRMED.

Judges BRYANT and CALABRIA concur.

Report per Rule 30(e).