IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA15-616

Filed: 1 December 2015

Wake County, No. 11 JT 284

IN THE MATTER OF: J.E.J.

Appeal by respondent from order entered 16 February 2015 by Judge Monica M. Bousman in District Court, Wake County. Heard in the Court of Appeals 9 November 2015.

Office of the Wake County Attorney, by Roger A. Askew, for petitioner-appellee.

Smith Moore Leatherwood LLP, by Kip D. Nelson, for guardian ad litem.

Mercedes O. Chut, for respondent-appellant.

STROUD, Judge.

Respondent appeals from an order terminating her parental rights to her son Joey[1]. For the following reasons, we dismiss in part and affirm in part.

I. Background

On 3 November 2011, Wake County Human Services ("WCHS") filed a petition alleging that then six-month-old Joey was a neglected and dependent juvenile due to respondent's failure to appropriately treat her long-standing mental health issues

[1] A pseudonym will be used to protect the identity of the minor involved.

that have resulted in violent behavior. On 2 December 2011, the court appointed a guardian *ad litem* and counsel for respondent. On or about 2 February 2012, the court adjudicated Joey to be a neglected juvenile. On 3 October 2013, the court allowed the motion of respondent's guardian *ad litem* to withdraw, concluding that good cause had been shown, and "[t]here is not a substantial question of the respondent's competency to conduct his or her litigation according to his or her own judgment and inclination."

On 19 November 2013, the court filed an order ceasing reunification efforts and changing the permanent plan to adoption. On 24 February 2014, WCHS filed a motion for termination of parental rights. On or about 16 February 2015, the court filed an order terminating respondent's parental rights for neglect and failure to make reasonable progress. Respondent appeals the order terminating her parental rights.

Respondent's notice of appeal states only that she is appealing "from the Order Terminating Parental Rights[.]" But in her brief, respondent raises issues only regarding the 3 October 2013 order allowing her guardian *ad litem* to withdraw and the 19 November 2013 order ceasing reunification efforts. *See generally* N.C. Gen. Stat. § 7B-1001 (2013). Because respondent failed to appeal from the 3 October 2013 order releasing her guardian *ad litem*, we will not address that portion of her appeal. *See* N.C.R. App. P. 3.1(a) (noting that an order or judgment must be appealed via a

proper notice of appeal). As to the 19 November 2013 order ceasing reunification, because respondent complied with North Carolina General Statute § 7B-1001(5)(a), a notice of appeal as to the 19 November 2013 order is not required. *See* N.C. Gen. Stat. § 7B-1001(5)(a) ("The Court of Appeals shall review the order to cease reunification together with an appeal of the termination of parental rights order if all of the following apply: 1. A motion or petition to terminate the parent's rights is heard and granted. 2. The order terminating parental rights is appealed in a proper and timely manner. 3. The order to cease reunification is identified as an issue in the record on appeal of the termination of parental rights.")

II. Cessation of Reunification Efforts Order

Respondent contends that "the trial court erred in entering an order which ceased reunification efforts where the court did not make proper or adequate findings of fact to support cessation of reunification efforts." (Original in all caps.) Defendant does not challenge any of the findings of fact but instead argues that "[t]he trial court did not find that further reunification efforts with Respondent Mother would be futile" because the trial court's order uses the language "best interest" in the pertinent finding of fact rather than the specific language of North Carolina General Statute § 7B-507(b)(1). The relevant portion of North Carolina General Statute § 7B-507(b)(1) provides,

> (b) In any order placing a juvenile in the custody or placement responsibility of a county department of

> social services, whether an order for continued nonsecure custody, a dispositional order, or a review order, the court may direct that reasonable efforts to eliminate the need for placement of the juvenile shall not be required or shall cease if the court makes written findings of fact that:
>
> (1) Such efforts clearly would be futile or would be inconsistent with the juvenile's health, safety, and need for a safe, permanent home within a reasonable period of time[.]

N.C. Gen. Stat. § 7B-507(b)(1) (2013). The finding of fact that respondent contends does not follow statutory language provides:

> The mother would need almost constant assistance and monitoring to be able to provide a safe and permanent home for [Joey] and it is unlikely that the juvenile can be returned to her home in the next six months and further efforts to reunify the juvenile with the mother are inconsistent with the best interests of the juvenile.

"Our review of the cease reunification order in this case is limited to whether there is competent evidence in the record to support the findings of fact and whether the findings support the conclusions of law." *In re L.M.T.,* 367 N.C. 165, 168, 752 S.E.2d 453, 455 (2013) (citation, quotation marks, and brackets omitted). Our Supreme Court has determined that where the findings of fact "embrace[] the substance" of the statutory requirements, the findings are sufficient to support the conclusion of law. *Id.* at 169, 752 S.E.2d at 456. In *L.M.T.*, the Supreme Court stated,

> [w]hile these findings of fact do not quote the precise language of subsection 7B–507(b), the order embraces the substance of the statutory provisions requiring findings of fact that further reunification efforts would be futile or

> would be inconsistent with the juvenile's health, safety, and need for a safe, permanent home within a reasonable period of time. As an example, the trial court's finding that the environment that the Respondent Mother and her husband have created is injurious indicates that further reunification efforts would be inconsistent with the juveniles' health and safety. Likewise, the trial court's findings of fact related to respondent's drug abuse, participation in domestic violence, deception of the court, and repeated failures at creating an acceptable and safe living environment certainly suggest that reunification efforts would be futile. Moreover, these findings clearly support the trial court's conclusions that return of the juveniles is contrary to the welfare and best interest of the juveniles, that in the best interest of the juveniles, legal and physical custody should remain with the Cumberland County Department of Social Services, and that the Cumberland County Department of Social Services should be relieved of reunification and visitation efforts with the Respondents.

Id. (citations, quotation marks, ellipses, and brackets omitted).

Here, the trial court found "there is concern about [respondent's] ability to care for herself financially, make decisions that affect her mental health and her ability to act independently[;]" "[t]he mother is in need of multiple health care providers to meet her basic needs[;]" respondent's "family support . . . has a conviction of felony child abuse[;]" and as already noted, respondent "would need almost constant assistance and monitoring to be able to provide a safe and permanent home[.]" Thus, while the trial court did not quote North Carolina General Statute § 7B-507(b)(1) verbatim, we conclude that the trial court did make findings of fact addressing the substance of the statutory provisions. *See id.* The findings of fact demonstrate that

reunification "efforts clearly would be futile or would be inconsistent with the juvenile's health, safety, and need for a safe, permanent home within a reasonable period of time[.]" N.C. Gen. Stat. § 7B-507(b)(1). This argument is overruled.

III. Conclusion

For the foregoing reasons, we dismiss the 3 October 2013 order allowing respondent's guardian to withdraw, and affirm the 19 November 2013 order ceasing reunification efforts and the 16 February 2015 order terminating respondent's parental rights.

DISMISSED IN PART AND AFFIRMED IN PART.

Judges CALABRIA and DAVIS concur.

Report per Rule 30(e).