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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA15-1096

Filed: 5 April 2016

Robeson County, Nos. 12 JA 397-400; 12 JT 397-400

IN THE MATTER OF: J.L., F.L., C.L., and J.L.

Appeal by respondent-mother from orders entered 20 May 2014 and 22 July 2015 by Judge John B. Carter, Jr., in Robeson County District Court. Heard in the Court of Appeals 14 March 2016.

*No brief filed for petitioner-appellee Robeson County Department of Social Services.*

*Miller & Audino, LLP, by Jay Anthony Audino, for respondent-appellant mother.*

*Ellis & Winters LLP, by Lauren A. Golden, for guardian ad litem.*

ZACHARY, Judge.

E.L. (respondent-mother, hereafter ‘respondent’), appeals from orders ceasing reunification efforts and terminating her parental rights to her children J.L., F.L., C.L. and J.L. (“the children”).<sup>1</sup> We dismiss respondent’s appeal from the 20 May 2014 order ceasing reunification efforts, because she failed to give notice of her intent to appeal from the order. We vacate and remand the trial court’s 22 July 2015 order

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<sup>1</sup> The trial court also terminated the parental rights of the children’s father, but he is not a party to this appeal.

terminating parental rights, because the court failed to enter findings or conclusions adjudicating the existence of one or more grounds for termination of parental rights.

### I. Background

On 10 December 2012, the Robeson County Department of Social Services (“DSS”) obtained non-secure custody of the children and filed petitions alleging that they were neglected juveniles. After a hearing on 27 February 2013, the trial court entered an order in which it adjudicated the children to be dependent juveniles and continued custody of the children with DSS. The court entered a disposition order on 11 May 2013, establishing a plan of reunification of the children with respondent.

On 20 November 2013, the trial court conducted a permanency planning hearing. DSS filed a petition on 4 February 2014, seeking termination of respondent’s parental rights to the children on the basis of dependency and failure to make reasonable progress to correct the conditions that led to the children’s removal from her care and custody. *See* N.C. Gen. Stat. § 7B-1111(a)(2), (6) (2013). On 20 May 2014, six months after the permanency planning hearing and several months after DSS had filed a petition to terminate respondent’s parental rights, the trial court entered a permanency planning order that ceased reunification efforts and directed DSS to pursue termination of parental rights. After a hearing on the petition on 6 May 2015, the trial court entered an order terminating respondent’s parental rights to all four children on 22 July 2015. Respondent has appealed from the order that

changed the permanent plan to termination of parental rights and ceased reunification efforts, and from the order terminating her parental rights. [R 385-86]

## II. Appeal from Order to Cease Reunification Efforts

We first address respondent's appeal from the permanency planning order entered 20 May 2014, changing the permanent plan to adoption. At that time, N.C. Gen. Stat. § 7B-1001(a)(5) afforded respondent a statutory right to appeal an order entered pursuant to N.C. Gen. Stat. § 7B-507(c) ordering DSS to cease reunification efforts. Under current law, N.C. Gen. Stat. § 7B-1001(a)(5) allows appeal from an order under N.C. Gen. Stat. § 7B-906.2(b) that eliminates reunification as a permanent plan. These statutory amendments, which were made effective 1 October 2015, did not change the requirement that in order to preserve for appellate review the issue of the validity of an order ceasing reunification efforts, a party must give "notice to preserve the right to appeal" within thirty days of entry and service of the order. N.C. Gen. Stat. § 7B-1001(b). Here, there is no indication in the record that respondent filed a written notice of her intent to appeal the court's order ceasing reunification efforts, and she has therefore waived review of the order. Accordingly, we dismiss her attempted appeal from the 20 May 2014 order ceasing reunification efforts.

## III. Appeal from Order Terminating Parental Rights

Respondent next argues that the trial court erred in terminating her parental rights. We conclude that the termination order must be vacated and remanded for

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entry of an order that adjudicates the existence or nonexistence of at least one of the specific grounds for termination alleged in the petition.

N.C. Gen. Stat. § 7B-1109(e) (2014) provides in relevant part that in ruling on a petition to terminate parental rights, “[t]he court shall take evidence, find the facts, and shall adjudicate the existence or nonexistence of any of the circumstances set forth in G.S. 7B-1111 which authorize the termination of parental rights of the respondent.” In this case, the trial court made a single conclusion of law regarding grounds to terminate parental rights in its termination order, in which the trial court stated only that “grounds exist” for the termination of respondent’s parental rights. However, the trial court did not enter any conclusions of law adjudicating the existence of a specific ground for termination. Nor did the trial court enter a conclusion of law, mislabeled as a finding of fact, that identified a specific ground found by the court to support termination of respondent’s parental rights.

We note that during closing arguments the trial court indicated that it would not find the ground of dependency; however, although the trial court did not adjudicate the nonexistence of the ground of dependency in its order, it made findings that might have supported a conclusion as to this ground. Other findings of fact by the trial court suggest that the trial court was considering the ground of neglect, which was not alleged in the petition and thus could not support the termination of respondent’s parental rights. *See In re C.W.*, 182 N.C. App. 214, 228-29, 641 S.E.2d 725, 735 (2007).

“For this Court to exercise its appellate function, the trial court must enter sufficient findings of fact and conclusions of law to reveal the reasoning which led to the court’s ultimate decision.” *In re D.R.B.*, 182 N.C. App. 733, 738-39, 643 S.E.2d 77, 79 (2007). In *D.R.B.*, this Court vacated a judgment that failed to articulate the specific grounds for termination, stating:

The trial court failed to identify . . . any of the nine grounds for termination in N.C. Gen. Stat. § 7B-1111(a) to support its conclusion of law. Without an identified basis for the court’s adjudication under N.C. Gen. Stat. § 7B-1109(e), we cannot effectively review the termination order.

*D.R.B.*, 182 N.C. App. at 737-38, 643 S.E.2d at 80. This Court is bound by its prior decisions encompassing the same legal issue. *In re Civil Penalty*, 324 N.C. 373, 384, 379 S.E.2d 30, 36-37 (1989). Accordingly, because the trial court failed to enter any findings or conclusions stating the ground for its termination order, we must vacate the court’s order and remand for entry of a new order that specifically adjudicates the existence or nonexistence of grounds to terminate respondent’s parental rights.

DISMISSED IN PART; VACATED AND REMANDED IN PART.

Judges HUNTER, JR. and DAVIS concur.

Report per Rule 30(e).