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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA15-1269

Filed: 21 June 2016

Guilford County, No. 13 JA 329, 13 JA 330, 13 JA 331

IN THE MATTER OF: T.D.C., M.D.C., T.D.C.

Appeal by Respondent from order entered 12 March 2014 by Judge Betty Brown and order entered 26 August 2015 by Judge Angela Foster in Guilford County District Court. Heard in the Court of Appeals 31 May 2016.

*Mercedes O. Chut for the Petitioner-Appellee Guilford County Department of Social Services.*

*Sydney Batch for the Respondent-Appellant Father.*

*Administrative Office of the Courts, by GAL Appellate Counsel Matthew D. Wunsche, for the Guardian ad Litem.*

DILLON, Judge.

Respondent-Appellant Father (the “Father”) appeals from (1) the trial court’s 12 March 2014 permanency planning order ceasing reunification efforts (the “Cessation Order”) with T.D.C. (“Tim”),<sup>1</sup> M.D.C. (“Mary”), and T.D.C. (“Todd”) (collectively referred to as the “Juveniles”); and (2) the trial court’s 26 August 2015

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<sup>1</sup> Pseudonyms are used to protect the identity of the Juveniles (defined later) and certain other parties.

*Opinion of the Court*

order terminating his parental rights to the Juveniles (the “Termination Order”). On appeal, however, Father only challenges the Cessation Order. We affirm.

I. Background

In March 2013, Petitioner-Appellee Guilford County Department of Social Services (“DSS”) became involved with Father’s family after receiving a report that Father, the Juveniles’ surviving parent, had physically and sexually assaulted his girlfriend “Betty”<sup>2</sup> in the presence of the Juveniles. During the assault, Father hit Betty on the head with his fists and a number of blunt objects, knocked her to the ground, dragged her by her hair, and rubbed both human feces and dog feces in her face. Betty was subjected to a barrage of threats. Father told her that even if she called the police, he would kill her before they arrived, and his mother would get him out of jail. Father threatened to sodomize Betty with a screwdriver.

The Juveniles were initially placed with their paternal grandparents pursuant to a DSS safety plan, which barred contact between Father and the Juveniles, and required the Juveniles to receive therapy. However, DSS later discovered that this safety plan had been violated.

In May 2013, Betty gave birth to a son. DSS implemented a safety plan prohibiting Father from having any contact with Betty or the newborn. However, this safety plan was breached. DSS also learned that the paternal grandfather had

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<sup>2</sup> A pseudonym.

*Opinion of the Court*

inappropriately disciplined Tim. Accordingly, the Juveniles were removed from the paternal grandparents' home, and placed with a paternal aunt. After the paternal aunt proved to be uncooperative, DSS then placed the Juveniles with their maternal grandparents.

In August 2013, DSS obtained non-secure custody of the Juveniles and filed petitions alleging that the Juveniles were neglected and dependent. Shortly thereafter, DSS and Father entered into a case plan (the "Case Plan") to facilitate reunification. Under the Case Plan, Father agreed to do the following: (a) obtain a psychiatric evaluation and follow all recommendations; (b) complete the Domestic Violence Intervention Program ("DVIP") and aftercare and follow all recommendations of the program; (c) maintain stable housing, inform DSS of his living arrangements, and cooperate with unannounced DSS home visits; (d) actively participate in and complete the Parenting Connections class, complete a parenting assessment, and follow all recommendations of the assessment; and (e) obtain and maintain stable employment, provide verification of employment, and enter into a voluntary support agreement or pay child support as ordered. There is no indication that Father did not understand the requirements of the Case Plan or the potential consequences of failing to comply with the same.

On 20 November 2013, the trial court entered an order adjudicating the Juveniles neglected and dependent. On 17 December 2013, the trial court entered a

*Opinion of the Court*

disposition order (the “Disposition Order”) concluding that it was in the best interest of the Juveniles to remain in DSS custody, with placement continuing with the maternal grandparents. The trial court also concluded that Father and the paternal relatives’ contact with the Juveniles should remain suspended. In the Disposition Order’s findings of fact, the trial court detailed the components of the Case Plan and barriers to reunification of Father with the Juveniles.

In March 2014, the trial court entered the Cessation Order directing DSS to cease reunification efforts with Father. The trial court concluded that reunification efforts would be futile and inconsistent with the Juveniles’ need for a safe, permanent home within a reasonable period of time. This conclusion was based on “the extreme violence the juveniles were subjected to and the trauma they continue to suffer today, based on the therapists’ reports.” The court also modified the permanent plan for the Juveniles to adoption and ordered DSS to pursue termination of parental rights.

Shortly thereafter, DSS filed its petition to terminate parental rights. In August 2015, after a hearing to terminate parental rights, the trial court entered the Termination Order concluding that termination of Father’s parental rights was in the Juveniles’ best interest. Father timely appealed the Termination Order, as well as the Cessation Order.

II. Analysis

*Opinion of the Court*

In his sole argument on appeal, Father challenges the Cessation Order. Father makes no argument concerning the Termination Order.

In order to cease reunification efforts with a parent, the trial court must make findings of fact in accordance with N.C. Gen. Stat. § 7B-507(b). “A trial court may cease reunification efforts upon making a finding that further 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.’” *In re C.M.*, 183 N.C. App. 207, 214, 644 S.E.2d 588, 594 (2007). “[T]he determination that grounds exist to cease reunification efforts under N.C.G.S. § 7B–507(b)(1) is in the nature of a conclusion of law that must be supported by adequate findings of fact.” *In re E.G.M.*, 230 N.C. App. 196, 211, 750 S.E.2d 857, 867 (2013) (citation omitted).

Our review of the Cessation Order is limited to “whether the trial court made appropriate findings, whether the findings are based upon credible evidence, whether the findings of fact support the trial court’s conclusions, and whether the trial court abused its discretion with respect to disposition.” *C.M.*, 183 N.C. App. at 213, 644 S.E.2d at 594 (citations omitted). “The trial court may ‘only order the cessation of reunification efforts when it finds facts based upon credible evidence presented at the hearing that support its conclusion of law to cease reunification efforts.’” *In re N.G.*, 186 N.C. App. 1, 10, 650 S.E.2d 45, 51 (2007). “Findings of fact not challenged on

*Opinion of the Court*

appeal are presumed to be supported by competent evidence and are also binding.”

*In re T.J.C.*, 225 N.C. App. 556, 562, 738 S.E.2d 759, 763-64 (2013).

After reviewing the Cessation Order, we conclude that the trial court’s findings of fact support its conclusion that further reunification efforts would be futile and inconsistent with the Juveniles’ safety. For instance, in finding of fact 23, the trial court found that Father failed to comply with the Case Plan. Although Father attended DVIP, he failed to demonstrate that he had learned anything from it. He continued to minimize the severity and significance of his physical and verbal abuse of Betty and claimed that domestic violence did not harm the Juveniles. He registered for parenting classes only one day before the Cessation Order hearing, and, while he completed the parenting assessment, his psychologist testified that Father should have made more progress. While Father claimed to be a painter, he failed to provide written documentation verifying his employment.

We note other findings of fact that support the Cessation Order, which include the following:

25. There have been no visits based on the recommendations from the children’s therapists. Looking at the recommendation from the therapists, these children were significantly traumatized by a series of domestic violence incidents, beginning with the domestic violence between their father and mother, the death of their mother, and their observation and participation during the domestic violence between [Father] and [Betty]. Visitation should remain suspended.

*Opinion of the Court*

26. Further efforts to reunite the juvenile[s] with the father clearly would be futile and inconsistent with the safety of the juveniles, and their need for a safe and permanent home within a reasonable period of time. The juveniles witnessed extreme violence by their father, and suffered trauma as a result. The Court is particularly concerned with the failure of the father and the paternal family to adhere to the safety plan, especially their refusal to allow the juveniles to see a therapist to determine what if any trauma was suffered and any necessary treatment, and allowing the father to visit. If the safety plan had been followed, the juveniles would not be in foster care today.

....

33. The barriers to achieving reunification are:
- The need for the children to address their emotional trauma and the extreme violence they were subjected to and the trauma they continue to suffer today by participating in therapy to address the trauma caused by the death of their mother and the domestic violence in the home.
  - The therapist is not recommending contact between the father and the juveniles due to the trauma they suffered in his home.
  - The need for the father to complete the Domestic Violence Intervention Program and after care program and follow all recommendations.
  - The need for the father to participate [in] and successfully complete parenting classes to increase his parenting skills so he can learn and demonstrate his ability to parent his children appropriately in a safe environment.
  - The need for the father to maintain clean,

*Opinion of the Court*

safe, suitable housing . . . .

Father only challenges findings of fact 26, and 29-32. Consequently, the remaining findings of fact are deemed supported by the evidence. *See T.J.C.*, 225 N.C. App. at 562, 738 S.E.2d at 763-64.

Father's sole issue with finding of fact 26 is "the trial court's reliance on [Father's] violations to the safety plan and the family's failure to arrange for the children to attend therapy as a justification to cease reunification efforts." Citing *In re A.G.M.*, \_\_\_ N.C. App. \_\_\_, 773 S.E.2d 123, 134 (2015), Father contends that the trial court did not have authority to order him to comply with the case plan, which included certain services and requirements, until adjudication and disposition. Father's reliance on *A.G.M.* is misplaced. In *A.G.M.*, the trial court failed to acquire jurisdiction under the Uniform Child Custody Jurisdiction and Enforcement Act and therefore lacked authority to compel the respondent to sign a service agreement. *See id.* Here, however, the trial court acquired jurisdiction over the matter pursuant to three properly filed juvenile petitions. Our holding in *A.G.M.*, therefore, has no bearing on the instant case.

Contrary to findings of fact 29-32, Father contends that he was in substantial compliance with the Case Plan as of the Disposition Order hearing in November 2013, and that his circumstances had not significantly changed as of the Cessation Order hearing. We are not persuaded. First, we find it unnecessary to measure Father's



*Opinion of the Court*

progress at the Cessation Order hearing by comparing it to his progress at the time of disposition. Father has cited no authority for his proposition. Moreover, Father's contention that he was in substantial compliance with the Case Plan is belied by the unchallenged findings of fact, which show that he was deficient in at least three components of the plan.

Father also argues that the trial court's decision to cease reunification efforts was erroneous because (1) the trial court failed to place Father on notice of the requirements necessary for reunification; and (2) the trial court failed to give him sufficient time to correct the conditions that led to removal. We find no error.

First, Father appears to argue that he was not on notice of the requirements necessary for reunification because they were not contained in the decretal portion of the Disposition Order. However, Father cites no authority for the proposition. Moreover, the trial court found that Father entered into the Case Plan on 24 September 2013, a finding not challenged on appeal. The trial court's findings in its Disposition Order reference the Case Plan in meticulous detail. Indeed, Father relies on his alleged compliance with the Case Plan to challenge findings of fact 29-32. Father was clearly on notice of the requirements he needed to complete.

We similarly reject Father's assertion that the trial court failed to give him sufficient time to correct the conditions that led to removal of the Juveniles from his custody. Father's position appears to be that he only had a month to complete the

*Opinion of the Court*

Case Plan as the Disposition Order was entered in December 2013 and the Cessation Order hearing commenced in January 2014. However, this contention ignores the fact that Father entered into the Case Plan in September 2013. Furthermore, DSS filed its petition in August 2013 and began its investigation of the family several months prior. We are satisfied that Father had sufficient time to work toward correcting the conditions that led to removal prior to the cessation of reunification efforts. Therefore, the trial court was justified in ceasing reunification efforts.

III. Conclusion

We hold that the Cessation Order was supported by sufficient findings of fact. We therefore affirm the trial court's order. Additionally, because Father has not raised any arguments regarding the Termination Order, we affirm that order as well.

AFFIRMED.

Judges CALABRIA and INMAN concur.

Report per Rule 30(e).