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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA16-205

Filed: 20 September 2016

Forsyth County, No. 13 JT 46

IN THE MATTER OF: J.F.G., Jr.

Appeal by respondent from order entered 19 October 2015 by Judge Laurie Hutchins in Forsyth County District Court. Heard in the Court of Appeals 24 August 2016.

Assistant County Attorney Theresa A. Boucher for petitioner-appellee Forsyth County Department of Social Services.

Administrative Office of the Courts, by GAL Appellate Counsel Matthew D. Wunsche, for guardian ad litem.

Peter Wood for respondent-father.

ZACHARY, Judge.

Respondent-father appeals from the trial court's order terminating his parental rights to his son, J.F.G., Jr., ("Jimmy").¹ For the following reasons, we affirm.

¹ A pseudonym is used to protect the identity of the juvenile and for ease of reading.

Respondent has an extensive history with the Forsyth County Department of Social Services (“DSS”) due to repeated concerns of neglect involving inappropriate supervision of Jimmy. On multiple occasions respondent left Jimmy home alone while he went out with women and engaged in drug use.

On 19 February 2013, DSS took Jimmy into nonsecure custody after respondent left five-year-old Jimmy at home alone and did not return until the next day. Jimmy was allowed to return to respondent’s care as a trial placement in March 2013 after respondent completed a parenting class and enrolled in substance abuse treatment. Jimmy was adjudicated a neglected and dependent juvenile on 19 April 2013.

DSS received two more reports in August and October 2013 alleging inappropriate supervision due to respondent leaving Jimmy home alone while he went out with a woman and engaged in drug use. DSS again took nonsecure custody of Jimmy in October 2013 and placed him with his paternal aunt. Jimmy was returned to respondent’s care in November 2013 after respondent demonstrated an understanding of appropriate parenting skills.

On 28 January 2014, DSS received an additional report alleging respondent again left Jimmy home alone unsupervised. Respondent initially denied the allegations, but later admitted he left Jimmy home alone while he met with a woman, drank, and used crack cocaine. DSS took nonsecure custody of Jimmy and again

placed him with his paternal aunt, where he has remained since February 2014. The trial court adjudicated Jimmy to be a neglected juvenile for the second time on 5 March 2014.

On 16 September 2014, the trial court entered an order changing the permanent plan to adoption. DSS filed a petition to terminate respondent's parental rights on 22 October 2014 alleging the ground of neglect. After a hearing, the trial court entered an order on 19 October 2015 terminating respondent's parental rights to Jimmy. Respondent timely appealed.

I. Standard of Review

A termination of parental rights proceeding is conducted in two stages: adjudication and disposition. *In re S.F.*, 198 N.C. App. 611, 614, 682 S.E.2d 712, 715 (2009). During the adjudicatory stage, "the petitioner has the burden of establishing by clear and convincing evidence that at least one of the statutory grounds listed in N.C. Gen. Stat. § 7B-1111 exists." *In re Anderson*, 151 N.C. App. 94, 97, 564 S.E.2d 599, 602 (2002). "If the trial court determines that a ground for termination exists, the court moves to the disposition stage, where it must determine whether termination is in the best interest of the child." *In re S.T.P.*, 202 N.C. App. 468, 473, 689 S.E.2d 223, 227 (2010). "The court's determination of the juvenile's best interest will not be disturbed absent a showing of an abuse of discretion." *In re E.M.*, 202 N.C. App. 761, 764, 692 S.E.2d 629, 630, *cert. denied*, 364 N.C. 325, 700 S.E.2d 749 (2010).

“We review the trial court’s decision to terminate parental rights for abuse of discretion.” *In re Anderson*, 151 N.C. App. at 98, 564 S.E.2d at 602. “Abuse of discretion results where the court’s ruling is manifestly unsupported by reason or is so arbitrary that it could not have been the result of a reasoned decision.” *In re A.K.D.*, 227 N.C. App. 58, 60, 745 S.E.2d 7, 9 (2013) (citation omitted).

II. Best Interest of the Child

In this case, respondent does not dispute that a ground for termination exists. Respondent only challenges the dispositional portion of the order in which the court determined that termination of respondent’s parental rights was in Jimmy’s best interest.

In determining whether termination of a parent’s parental rights is in the best interest of the child, the trial court must consider the following factors:

- (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.

N.C. Gen. Stat. § 7B-1110(a) (2015). Although the trial court must consider all six factors, it need only make written findings regarding factors that were relevant to its decision. *Id.*

Here, the trial court found that:

75. [Jimmy] is 8 years old. His care has been monitored by [DSS] since the child was 5 years old.

76. The likelihood of Adoption for [Jimmy] is very good.

77. The permanent plan adopted by the Juvenile Court for [Jimmy] is Adoption. The termination of the parental rights of [respondent] will aid in the permanent plan of Adoption.

78. There is a bond between [Jimmy] and [respondent]. That bond is weak. [Jimmy] feels unsafe in [respondent's] care.

79. Currently [Jimmy] lives in a safe, stable and appropriate environment. All of his needs are being met by his paternal aunt and uncle. [Jimmy] has been observed in his current relative home. He appears to be happy and thriving. [Jimmy] shows close attachment to his aunt and uncle. The paternal aunt and uncle are interested in adopting [Jimmy] should he become free for adoption. The aunt has indicated that she will allow continuing contact between [Jimmy] and [respondent] if she is allowed to adopt the child.

80. [Jimmy] has been diagnosed with Post Traumatic Stress Disorder. [Respondent] does not understand how his behavior has contributed to his son's diagnosis.

81. It is in the best interest of [Jimmy] that the parental rights of [respondent] be terminated.

Respondent does not specifically challenge any of these findings and they are therefore binding on appeal. *See In re M.A.I.B.K.*, 184 N.C. App. 218, 222, 645 S.E.2d 881, 884 (2007). Respondent contends that the trial court abused its discretion in terminating his parental rights because it did not adequately consider his bond with Jimmy and the benefit of their continued relationship and should have considered guardianship rather than termination.

However, Finding of Fact No. 78 demonstrates that the trial court did in fact consider respondent's bond with Jimmy and determined the bond to be weak, finding that Jimmy felt unsafe in respondent's care. The trial court also found that respondent does not understand how his behavior has negatively affected Jimmy's mental health, as well as the fact that the paternal aunt indicated that she would permit continued contact between respondent and Jimmy if the court allowed her to adopt Jimmy. The trial court's findings indicate that the court considered Jimmy's age, the desire of the aunt and uncle to adopt Jimmy, the attachment between Jimmy and his aunt and uncle compared to the weak bond between Jimmy and respondent, the likelihood of adoption, and the consistency of adoption with the permanent plan. These findings demonstrate that the trial court properly considered all of the requisite statutory factors and reached a reasoned decision based upon these factors. Thus, the trial court did not abuse its discretion in determining that termination of

IN RE: J.F.G., JR.

Opinion of the Court

respondent's parental rights was in Jimmy's best interest. Accordingly, the trial court's order is affirmed.

AFFIRMED.

Judges BRYANT and TYSON concur.

Report per Rule 30(e).