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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA18-579

Filed: 20 November 2018

Yadkin County, No. 16 JT 27

IN THE MATTER OF: J.D.L.B., A MINOR JUVENILE.

Appeal by respondent-mother from order entered 23 February 2018 by Judge Robert J. Crumpton in Yadkin County District Court. Heard in the Court of Appeals 11 October 2018.

No brief filed by petitioner-appellee Yadkin County Human Services Agency.

J. Thomas Diepenbrock for respondent-appellant mother.

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

BRYANT, Judge.

Upon review of the record in accordance with the request of respondent-mother's no merit brief and finding no prejudicial error in the trial court's order to terminate respondent-mother's parental rights to J.D.L.B. ("Julia")¹. We affirm the order of the trial court.

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

On 29 July 2016, the Yadkin County Human Services Agency (“HSA”) obtained nonsecure custody of Julia and filed a petition alleging that she was neglected. HSA alleged that at the time of her birth in late June 2016, Julia tested positive for oxycodone, opiates, and marijuana, and had to be placed in a neonatal intensive care unit because of feeding and breathing difficulties. Respondent-mother admitted to HSA that she had experienced issues with pain pills for the past two years. Respondent-mother entered a safety assessment, agreeing to seek treatment for her substance abuse issues and agreeing to be unimpaired while providing care for Julia. Julia remained in the hospital until 5 July 2016 and was, thereafter, released into her parents’ care.

HSA further alleged that it attempted to locate the family during the weeks of 18 and 25 July 2016. On 26 July 2016, HSA received a report that Julia’s parents had engaged in domestic violence and had been impaired while caring for her. On 28 July 2016, respondent-mother asked her sister to care for Julia while she and Julia’s father entered a substance abuse treatment program. Respondent-mother’s sister observed the parents to be impaired and took them to a hospital. Respondent-mother’s sister kept Julia for the night, and HSA picked up Julia the next morning.

Following a hearing held on 25 August 2016, the trial court entered an adjudication and disposition order on 31 August 2016. The trial court found, *inter alia*, that Julia had been exposed to numerous acts and instances of substance abuse

and domestic violence involving her parents and that there was a substantial risk of harm from Julia living with her parents. The trial court concluded that Julia was a neglected child pursuant to N.C. Gen. Stat. § 7B-101 (2017). The trial court ordered respondent-mother to comply with an out-of-home family services agreement (“OHFSA”) which required: submitting to a substance abuse assessment and following recommendations; submitting to a psychological exam and following recommendations; successfully completing a parenting class; submitting to random drug screens requested by HSA and producing clean drug screens; securing stable and appropriate housing for Julia; securing stable employment; and consistently visiting with Julia. Legal custody was continued with HAS, and respondent-mother was allowed bi-weekly, one-hour supervised visitation contingent upon clean drug and alcohol screens if requested.

On 16 March 2017, the trial court entered a permanency planning order. The trial court found that respondent-mother had failed to complete any of the recommendations and requirements of her OHFSA. The trial court also found that towards the end of 2016, respondent-mother had been charged with numerous misdemeanors and had spent portions of November and December 2016 in jail. As of the date of the hearing, 9 March 2017, respondent-mother had failed to provide any support, financial or otherwise, for Julia.

The trial court entered a permanency planning order on 14 September 2017, finding that respondent-mother had not completed a substance abuse assessment and failed to comply with drug screenings requested by HSA since February 2017. Although she completed a psychological evaluation in January 2017, she had not acted on any recommendations from her psychological evaluation which included parenting classes, parent support groups, counseling, and substance abuse treatment.

On 22 November 2017, the trial court entered a permanency planning order. Respondent-mother had not made any more progress on her OHFSA since the previous permanency planning, and respondent-mother had not contacted HSA since June 2017. HSA continued to have custody of Julia and respondent-mother continued to have bi-weekly, one-hour supervised visitation contingent upon clean drug and alcohol screens if requested.

On 11 October 2017, HSA filed a motion to terminate respondent-mother's parental rights to Julia alleging: (1) neglect; (2) failure to make reasonable progress; (3) failure to pay a reasonable portion of the cost of care; and (7) abandonment. *See* N.C. Gen. Stat. § 7B-1111(a)(1)–(3) , (7) (2017). The termination hearing was held on 30 January 2018. On 23 February 2018, the trial court concluded that grounds existed to terminate respondent-mother's parental rights to Julia pursuant to N.C. Gen. Stat. § 7B-1111(a)(1)–(3) and (7). The trial court further determined that

terminating respondent-mother's parental rights was in Julia's best interests. *See* N.C. Gen. Stat. § 7B-1110(a) (2017). Respondent-mother filed timely notice of appeal from the termination order.

Pursuant to North Carolina Rules of Appellate Procedure 3.1(c), respondent-mother's counsel has filed a no-merit brief on her behalf. Counsel states that he "conducted a conscientious and thorough review of the record on appeal" and "concludes that the record contains no issue of merit on which to base an argument for relief[.]" Respondent-mother's counsel requests that this Court conduct an independent examination of the case for possible error. In accordance with Rule 3.1(d), counsel has demonstrated he advised respondent-mother of her right to file written arguments in support of her appeal and provided respondent-mother with the necessary materials to do so. Respondent-mother has not filed her own written arguments, and a reasonable time for her to do so has passed.

Because we held in *In re I.B.*, No. COA18-608 (N.C. Ct. App. Nov. 20, 2018), that just because "independent review is not required does not mean we cannot conduct one," we adopt the reasoning in *I.B.* and conduct an independent review of the record. *Id.* No. COA18-608, slip op. ____

After careful review, we are unable to find any prejudicial error by the trial court in its order terminating respondent-mother's parental rights. The trial court's uncontested findings of fact demonstrate that Julia was adjudicated neglected on 31

August 2016. Respondent-mother's case plan required her to, *inter alia*, submit to a substance abuse assessment, submit to a psychological exam, complete a parenting class, submit to random drug screens, secure stable and appropriate housing, secure stable employment and consistently visit Julia. The trial court found that the only requirement respondent-mother had completed was a psychological evaluation that was performed on 24 January 2017. The trial court further found that because respondent-mother had not addressed the issues of substance abuse, domestic violence, mental health, or lack of legitimate employment, "there exists a substantial likelihood of repetition of the same neglect that led to the minor child coming into care." Based on its findings, the trial court concluded that grounds existed pursuant to N.C. Gen. Stat. § 7B-1111(a)(1) to terminate respondent-mother's parental rights. Our review of the record reveals that the termination order includes sufficient findings of fact, supported by clear, cogent, and convincing evidence, to support this conclusion. *See In re Clark*, 159 N.C. App. 75, 78 n.3, 582 S.E.2d 657, 659 n.3 (2003) ("Where . . . an appellate court determines there is at least one ground to support a conclusion that parental rights should be terminated, it is unnecessary to address the remaining grounds." (citation omitted)). Furthermore, the trial court's findings reflect due consideration of the dispositional factors in N.C. Gen. Stat. § 7B-1110(a) and a valid exercise of its discretion in assessing the best interests of Julia.

IN RE: J.D.L.B.

Opinion of the Court

Accordingly, we affirm the trial court's order terminating respondent-mother's parental rights.

AFFIRMED.

Judges DIETZ and INMAN concur.

Report per Rule 30(e).