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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA 19-764

Filed: 16 June 2020

Alamance County, No. 18 JA 10

IN THE MATTER OF:

T.R.B. III

Appeal by respondent from orders entered 31 May 2019 by Judge Steven H. Messick in Alamance County District Court. Heard in the Court of Appeals 26 May 2020.

*Rebekah W. Davis for appellant-respondent mother.*

*Alamance County Dept. of Social Services, by Jamie L. Hamlett, and Guardian ad Litem, by Greg Crumpler, for juvenile.*

YOUNG, Judge.

This appeal arises out of a Permanency Planning and Review Order and a Guardianship Short Order. The trial court did not abuse its discretion in its visitation order, and therefore, we affirm the decision of the lower court.

I. Factual and Procedural History

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On or about 17 June 2015, Mother's three older children were adjudicated as neglected based on the family having an extensive child protective service history, unsafe and unsanitary living conditions, domestic violence, failure to meet basic minimal needs, inappropriate medical care, and Mother's struggles with anger issues, budgeting, and other issues. On 23 January 2018, Alamance County Department of Social Services ("DSS") filed a petition alleging Tim<sup>1</sup> (who was born on 21 January 2018) as neglected and dependent. On 13 June 2018, the trial court entered a Juvenile Adjudication Disposition Order which concluded that Tim was neglected and dependent, placed Tim in DSS' custody, ordered Mother to take part in various activities and services, and granted Mother visitation on Mondays from 10:00 a.m. to 12:00 p.m. with "high" level of supervision.

In a Juvenile Order filed 18 December 2018, the visitation plan was changed to visitations on Mondays from 10:00 a.m. to 12:00 p.m. with a "medium" level of supervision. In a Juvenile Order filed 21 March 2019, the visitation plan was changed to visitations on Mondays from 9:00 a.m. to 12:00 p.m., the first hour of visitation would take place in Mother's home and supervised by her parent aide, and Mother was to have unsupervised visitation at DSS following her parent aide training. On 8 May 2019, a Permanency Plan Hearing took place.

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<sup>1</sup> We are using a pseudonym is used to protect the juvenile's identity.

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At the hearing, Pamela Mediano (“Mediano”), a social worker with DSS, testified that Mother would bring snacks, microwavable meals, diapers, and wipes while visiting with Tim; that she interreacted with him during visits; and that there were “no problems” during the visits. However, Mediano further testified that the ability to “do things in that room is not real life,” and that she had concerns about Mother being able to protect Tim in a “community setting.” Mediano recommended that Mother have bi-weekly visitations on Monday from 10:00 a.m. to 12:00 p.m., with “low” supervision and monitored by placement providers at a mutually agreed upon location, and that the foster parents be authorized to supervise visitation.

Patti Gordon, the Guardian Ad Litem advocate (“GAL”), testified that she is still concerned about Mother’s ability to meet Tim’s needs. She recommended that Mother be allowed a minimum of two hours of visitation bi-weekly, and that the visits take place at a location agreed upon by the parties.

Following the hearing the trial court entered a Juvenile Order which granted legal custody of Tim to the foster parents, established a primary plan of guardianship, and included a visitation schedule under which Mother would have bi-weekly visitations on Mondays from 10:00 a.m. to 12:00 p.m., the level of supervision was to be “low” and monitored by placement providers at a mutually agreed upon location, the parties could mutually agree to additional visitation with the same level of

supervision, and that the foster parents were authorized to supervise visitation. Mother filed timely written notice of appeal.

II. Standard of Review

“All dispositional orders of the trial court after abuse, neglect and dependency hearings must contain findings of fact based upon the credible evidence presented at the hearing.” *In re Weiler*, 158 N.C. App. 473, 477, 581 S.E.2d 134, 137 (2003). “The district court has broad discretion to fashion a disposition from the prescribed alternatives in N.C. Gen. Stat. § 7B-903(a), based upon the best interests of the child. . . . We review a dispositional order only for abuse of discretion.” *In re B.W.*, 190 N.C. App. 328, 336, 665 S.E.2d 462, 467(2008)(citing *In re Pittman*, 149 N.C. App. 756, 766, 561 S.E.2d 560, 567, *disc. review denied*, 356 N.C. 163, 568 S.E.2d 608 (2002), cert. denied, 538 U.S. 982, 155 L. Ed. 2d 673 (2003). “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.” *State v. Hennis*, 323 N.C. 279, 285, 372 S.E.2d 523, 527 (1988). “The trial court’s conclusions of law are reviewable *de novo* on appeal.” *In re J.S.L.*, 177 N.C. App. 151, 154, 628 S.E.2d 387, 389 (2006) (citations and internal quotation marks omitted).

III. Visitation Order

Mother contends that the trial court abused its discretion in ordering bi-weekly supervised visitation between the juvenile and Mother because it was arbitrary and unsupported by evidence. We disagree.

N.C. Gen. Stat. § 7B-905.1(a) (2019) provides that an order that continues a juvenile's placement outside the home shall provide for appropriate visitation "as may be in the best interests of the juvenile consistent with the juvenile's health and safety."

DSS notes and asserts Mother does not assign error to any findings of fact. "Where no exception is taken to a finding of fact by the trial court, the finding is presumed to be supported by competent evidence and is binding on appeal." *Koufman v. Koufman*, 330 N.C. 93, 98, 408 S.E.2d 729, 781 (1991). The trial court found: (a) Mother still needs counseling for her trauma, grief and anger; (b) Mother was a "no show" for her therapy session on 14 March 2019; (c) Mother was only partially compliant with the part of her case plan requiring her to attend treatment/therapy appointments; (d) Mother was only partially compliant with the part of her case plan requiring her to demonstrate an understanding of her mental health issues; (e) Mother was non-compliant with the part of her case plan requiring her to demonstrate the ability to insure that the medical needs of the Juvenile were met; (f) Mother was non-compliant with the part of her case plan which required her to provide a safe, stable, and appropriate home environment; (g) she had failed to

comply with the recommendation for a psychological assessment completed in 2015; (h) Mother had only been partially compliant with the part of her case plan requiring her to participate in anger management clinical group as her therapist did not feel a group setting would be helpful to her; (i) significant concerns continue to exist regarding Mother's ability to safely and appropriately "parent independently"; (j) she requires support and cannot independently handle novel situations, and as Tim ages and matures his needs will become more complex and Mother will "struggle and need considerable support"; (k) Mother has difficulty multitasking; (l) although Mother "does well with visitation in a controlled setting for limited periods of time," she "does not have the ability to meet the significant needs of the juvenile for an extended period of time in an uncontrolled setting; (m) Mother has only recently begun to address her post-traumatic stress "which is necessary for her to address in order for her to move forward"; and (n) Mother has not obtained a recommended neurological evaluation which "is necessary to assist Mother with working to remediate issues of concern."

All of the above findings were supported by competent record evidence, specifically the DSS Permanency Plan Report, the GAL Permanency Planning Hearing Court Report, as well as Mediano and Gordon's testimony. Additionally, the visitation plan is in accordance with the social worker and Guardian Ad Litem recommendations, and the court found the order to be in the best interest of the child.

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Mother failed to show that the trial court's decision was manifestly unsupported by reason, or that the visitation order was so arbitrary that it could not have been the result of a reasoned decision. Therefore, we hold that the trial court did not abuse its discretion.

AFFIRMED.

Judges BRYANT and TYSON concur.

Report per Rule 30(e).