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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA22-979

Filed 05 September 2023

Alamance County, Nos. 21 JT 45, 21 JT 104

IN THE MATTER OF: Z.H.T. and D.M.T.

Appeal by respondent-mother from order entered 16 August 2022 by Judge Ricky W. Champion in Alamance County District Court. Heard in the Court of Appeals 18 July 2023.

Jamie L. Hamlett for Petitioner-Appellee Alamance County Department of Social Services.

Vitrano Law Offices, PLLC, by Sean P. Vitrano, for Respondent-Appellant-Mother.

Robinson Bradshaw, by Erica M. Hicks, for Guardian ad Litem-Appellee.

CARPENTER, Judge.

Respondent-Mother appeals from the 16 August 2022 order (the “Order”) terminating her parental rights with respect to her two minor children, Z.H.T. (“Zed”)¹ and D.M.T. (“Dena”) (collectively, the “juveniles”). Respondent-Mother’s appointed appellate counsel filed a no-merit brief pursuant to Rule 3.1(e) of the North

¹ Pseudonyms are used to protect the identities of the minor children.

Carolina Rules of Appellate Procedure. After careful consideration of the issues raised in the no-merit brief in light of our independent review of the record, we affirm the Order.

I. Factual and Procedural Background

Respondent-Mother has four children; her two youngest—Zed, born in April 2019, and Dena, born in August 2021—are the subjects of this appeal. Respondent-Mother’s two older children live with their respective biological fathers. In February 2021, the Alamance County Department of Social Services (“DSS”) received a report alleging, *inter alia*, that Respondent-Mother: lived in unsafe and unsanitary conditions; experienced mental health issues, including a recent hospitalization for depression and suicidal ideations; and improperly cared for Zed. In April 2021, DSS received another report, indicating: Respondent-Mother had been taken to the hospital for mental health issues; Respondent-Mother and the maternal grandmother, who resided in the home with Zed, had substance abuse issues; and Zed was left unsupervised in the home while the maternal grandmother slept. On 16 April 2021, DSS obtained nonsecure custody of Zed, who was almost two years old.

On 19 April 2021, DSS filed a petition alleging that Zed was a neglected and dependent juvenile. Adjudication and disposition hearings were held on 16 June 2021. On 16 July 2021, the trial court entered an adjudication and disposition order, adjudicating Zed to be a neglected and dependent juvenile and continuing Zed’s custody with DSS.

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In August 2021, DSS received a report regarding Respondent-Mother's recent hospitalization for mental health concerns and substance use. The report alleged Respondent-Mother abused illicit substances and drank alcohol throughout her pregnancy with Dena. Respondent-Mother could not provide safe and appropriate housing for the infant or herself. Additionally, Respondent-Mother failed to make progress on her case plan for Zed and had only visited Zed twice since she entered foster care. On 2 September 2021, DSS filed a juvenile petition alleging Dena—who was then five days old and a patient admitted in UNC Hospital's neonatal intensive care unit—was a neglected and dependent juvenile. On the same date, DSS obtained nonsecure custody of Dena.

On 3 November 2021, the trial court conducted a hearing on DSS's petition regarding Dena. On 30 November 2021, the trial court entered an order, adjudicating Dena to be a neglected and dependent juvenile and continuing her custody with DSS.

Following a permanency planning hearing on 2 March 2022, the trial court found Respondent-Mother was not making adequate progress on her case plans for Zed and Dena. Although Respondent-Mother maintained a home and completed parenting classes, she failed to engage in mental health and substance use services and failed to obtain employment or otherwise receive income to support herself and the juveniles. Furthermore, Respondent-Mother also experienced domestic violence with her live-in boyfriend and made multiple calls to 911 regarding mental health, substance abuse, and domestic violence concerns. Due to Respondent-Mother's lack

of progress, the trial court modified the primary plan for the juveniles to adoption with a secondary plan of reunification.

On 20 April 2022, DSS filed a motion to terminate Respondent-Mother's parental rights. DSS alleged five grounds existed under N.C. Gen. Stat. § 7B-1111(a) to terminate Respondent-Mother's parental rights as to the juveniles: (1) N.C. Gen. Stat. § 7B-1111(a)(1) (neglect); (2) N.C. Gen. Stat. § 7B-1111(a)(2) (willfully leaving the juvenile outside the home and failing to make reasonable progress) as to Zed only; (3) N.C. Gen. Stat. § 7B-1111(a)(3) (willful failure to pay a reasonable portion of the cost of care); (4) N.C. Gen. Stat. § 7B-1111(a)(6) (dependency); and (5) N.C. Gen. Stat. § 7B-1111(a)(7) (willful abandonment).

On 20 and 21 July 2022, the termination hearing was held before the Honorable Ricky W. Champion. On 16 August 2022, the trial court entered its written Order and adjudicated the existence of all grounds for termination alleged by DSS. The trial court then concluded that termination of Respondent-Mother's parental rights was in the best interests of the juveniles. Respondent-Mother timely appealed from the Order.

II. Jurisdiction

This Court has jurisdiction to address Respondent-Mother's appeal from the Order pursuant to N.C. Gen. Stat. § 7A-27(b)(2) (2021) and N.C. Gen. Stat. § 7B-1001(a)(7) (2021).

III. Standards of Review

“Our Juvenile Code provides for a two-step process for termination of parental rights proceedings consisting of an adjudicatory stage and a dispositional stage.” *In re Z.A.M.*, 374 N.C. 88, 94, 839 S.E.2d 792, 796 (2020) (citations omitted). This Court reviews “a trial court’s adjudication of grounds to terminate parental rights to determine whether the findings are supported by clear, cogent[,] and convincing evidence and the findings support the conclusions of law.” *In re A.L.*, 378 N.C. 396, 400, 862 S.E.2d 163, 166 (2021) (citations and quotation marks omitted). We review the “trial court’s assessment of a juvenile’s best interest at the dispositional stage” for abuse of discretion. *In re Z.A.M.*, 374 N.C. at 95, 839 S.E.2d at 797. “[A]n adjudication of any single ground in [N.C. Gen. Stat.] § 7B-1111(a) is sufficient to support a termination of parental rights.” *In re E.H.P.*, 372 N.C. 388, 395, 831 S.E.2d 49, 53 (2019) (citations omitted).

IV. Analysis

Appellate counsel for Respondent-Mother filed a no-merit brief pursuant to Rule 3.1(e) of the North Carolina Rules of Appellate Procedure after concluding “the record contains no issues of merit on which to base an argument for relief.” As required under Rule 3.1(e), counsel provided Respondent-Mother with a copy of his no-merit brief, the transcript, and the printed record on appeal and advised Respondent-Mother that she may file written arguments on her own behalf. *See* N.C. R. App. P. 3.1(e). Respondent-Mother did not avail herself of this opportunity.

When a no-merit brief is filed pursuant to Rule 3.1(e) of the North Carolina

Rules of Appellate Procedure, this Court must “conduct an independent review of the issues set out in the no-merit brief filed by respondent’s counsel.” *In re L.E.M.*, 372 N.C. 396, 402, 831 S.E.2d 341, 345 (2019).

In this case, appellate counsel’s no-merit brief identified the following issues for our independent review: (1) whether the trial court erred in concluding that grounds existed to terminate Respondent-Mother’s parental rights under N.C. Gen. Stat. § 7B-1111(a)(1) and N.C. Gen. Stat. § 7B-1111(a)(3); and (2) whether the trial court abused its discretion in determining that termination of Respondent-Mother’s parental rights was in the juveniles’ best interests. Counsel also explained why he believed each issue lacks merit and does not raise any issue as to the remaining termination grounds found by the trial court.

A. Grounds for Termination of Parental Rights

In considering the first issue, we note that when a “trial court finds multiple grounds on which to base a termination of parental rights, and [our Court] determines there is at least one ground to support a conclusion that parental rights should be terminated, it is unnecessary [for this Court] to address the remaining grounds.” *In re P.L.P.*, 173 N.C. App. 1, 8, 618 S.E.2d 241, 246 (2005) (citations and quotation marks omitted), *aff’d*, 360 N.C. 360, 625 S.E.2d 779 (2006). Further, an appellant’s failure to challenge a conclusion of law on appeal “constitutes an acceptance of the conclusion and a waiver of the right to challenge said conclusion as unsupported by the facts.” *In re J.A.A.*, 175 N.C. App. 66, 74, 623 S.E.2d 45, 50 (2005) (citation

omitted).

Here, the trial court found five grounds existed—one ground being specific to Zed—warranting the termination of Respondent-Mother’s parental rights as to the juveniles. On appeal, counsel requested this Court review only two of the five grounds for termination. Because there are three grounds for termination which are not challenged on appeal or subject to our review, these three conclusions of law are binding on appeal. *See id.* at 74, 623 S.E.2d at 50. Thus, we need not address whether there is sufficient evidence to support the termination under N.C. Gen. Stat. § 7B-1111(a)(1) or N.C. Gen. Stat. § 7B-1111(a)(3). *See In re P.L.P.*, 173 N.C. App. at 8, 618 S.E.2d at 246; *In re E.H.P.*, 372 N.C. at 395, 831 S.E.2d at 53.

B. Best Interests of the Juveniles

We next consider whether the trial court abused its discretion in concluding termination was in the best interests of the juveniles—the second issue raised by counsel in his brief for Respondent-Mother. At the dispositional stage, the trial court determines whether termination of parental rights is in the best interests of the juvenile. N.C. Gen. Stat. § 7B-1110(a) (2021). The trial court must consider the following criteria and make written findings regarding the relevant criteria:

- (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.

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- (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)(1)–(6).

In the Order, the trial court determined that termination of Respondent-Mother's parental rights as to Zed and Dena was in the best interests of the juveniles and made findings of fact tending to show: (1) Zed is three years old and Dena is ten months old; (2) there is a high likelihood of adoption of the juveniles; (3) the termination of parental rights will aid in the accomplishment of the primary permanent plan of adoption; (4) Zed and Dena have not had contact with Respondent-Mother in over a year; (5) the bond between the juveniles and Respondent-Mother is weak due to extended periods of time without contact or visitation; (6) the juveniles have a strong bond with their current caretakers; (7) Zed has significant needs that will not likely be met by Respondent-Mother; and (8) Dena was born exposed to illicit substances, which significantly and negatively impacted her health.

We conclude the trial court properly considered the factors set out in N.C. Gen. Stat. § 7B-1110(a). Therefore, the trial court did not abuse its discretion by concluding that termination of parental rights was in the best interests of the juveniles. *See In re Z.A.M.*, 374 N.C. at 95, 839 S.E.2d at 797.

V. Conclusion

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After careful consideration of the issues presented in the no-merit brief in light of our independent review of the record, we are satisfied the trial court's unchallenged findings support its uncontested conclusions of law that grounds existed to terminate the parental rights of Respondent-Mother as to Zed and Dena. Moreover, we discern no abuse of discretion in the trial court's determination that termination was in the best interests of the juveniles.

AFFIRMED.

Judges WOOD and RIGGS concur.

Report per Rule 30(e).