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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA23-165

Filed 3 October 2023

Guilford County, Nos. 16 JT 353-54

IN THE MATTER OF: J.S. & M.S.

Appeal by Respondent-Mother from order entered 9 November 2022 by Judge Tonia A. Cutchin in Guilford County District Court. Heard in the Court of Appeals 6 September 2023.

Mercedes O. Chut for Petitioner-Appellee Guilford County Department of Health and Human Services.

Jason R. Page for Respondent-Appellant Mother.

S. Wesley Tripp III for guardian ad litem.

GRIFFIN, Judge.

Respondent Mother appeals from an adjudication and disposition order entered 9 November 2022 terminating her parental rights. She challenges several findings of fact and conclusions of law in her assertion that the termination of her parental rights was not in the best interest of her children. We hold that the trial court did not err in terminating her parental rights.

I. Factual and Procedural Background

Respondent Mother has two minor children, James and Molly, and two older children.¹ James was 7 and Molly was 8 when they entered DHHS custody. DHHS became involved when James “reported several instances of discipline by [Respondent Mother] that caused pain, bruising, and cuts.”

On 1 August 2016, Respondent Mother signed a case plan with DHHS. This case plan required Respondent Mother to make improvements in several areas including: emotional/mental health, substance abuse, housing/environmental/basic physical needs, parenting skills, and employment. Over the years, Respondent Mother received sporadic treatment for mental health. During her case plan, Respondent Mother changed jobs several times and never provided paystubs or reported her employment to DHHS. Respondent Mother did not adequately address the substance abuse portion of her case plan and did not comply with any substance abuse treatment after being diagnosed with Cannabis Use Disorder.

On 30 July 2021, DHHS filed a petition to terminate Respondent Mother’s parental rights as to James and Molly. Termination hearings were held on 14 June 2022, 15 June 2022, and 17 June 2022. On 9 November 2022, an order was entered terminating Respondent Mother’s parental rights after the trial court found she had made no progress on her mental or emotional health. Respondent Mother timely appeals.

¹ We use pseudonyms for ease of reading and to protect the identity of the juveniles. See N.C. R. App. P. 42(b).

II. Standard of Review

Respondent Mother challenges the trial court's termination of her parental rights at the dispositional level. "If [the district court] determines that one or more grounds listed in section 7B-1111 are present, the court proceeds to the dispositional stage, at which the court must consider whether it is in the best interests of the juvenile to terminate parental rights." *Matter of D.L.W.*, 368 N.C. 835, 842, 788 S.E.2d 162, 167 (2016) (citation omitted).

In this stage, N.C. Gen. Stat. § 7B-1110 is applied:

(a) After an adjudication that one or more grounds for terminating a parent's rights exist, the court shall determine whether terminating the parent's rights is in the juvenile's best interest. The court may consider any evidence, including hearsay evidence as defined in G.S. 8C-1, Rule 801, that the court finds to be relevant, reliable, and necessary to determine the best interests of the juvenile. In each case, the court shall consider the following criteria and make written findings regarding the following that are relevant:

- (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 (2021).

Additionally, “[t]he district court’s assessment of a juvenile’s best interest at the dispositional stage is reviewed only for abuse of discretion.” *Matter of A.R.A.*, 373 N.C. 190, 199, 835 S.E.2d 417, 423 (2019) (citation omitted). “An ‘[a]buse 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.” *Matter of S.D.C.*, 373 N.C. 285, 290, 837 S.E.2d 854, 858 (2020) (citation omitted).

“The trial court’s dispositional findings of fact are reviewed under a “competent evidence” standard.” *Matter of M.A.*, 374 N.C. 865, 876, 844 S.E.2d 916, 924 (2020) (citation omitted). Furthermore, “[i]t is clear that a trial court must *consider* all of the factors in section 7B-1110(a).” *Matter of A.U.D.*, 373 N.C. 3, 10, 832 S.E.2d 698, 702 (2019). “The statute does not, however, explicitly require written findings as to each factor.” *Id.*

III. Analysis

Respondent Mother argues the trial court erred by not placing sufficient weight on the children’s wishes given their respective ages and that “[b]ecause there is not a likelihood of adoption, termination will not aid in the permanent plan.” She further argues the trial court erred in finding the bond between her and the children was weak and there was not sufficient evidence to support the fact that a strong bond existed between the children and their current placement. She also asserts the trial court erred in not allowing evidence regarding other family members as a relevant

consideration under N.C. Gen. Stat. § 7B-1110(a)(6). We disagree.

In the present case, the trial court made the following findings of fact under N.C. Gen. Stat. § 7B-1110.

A. [James] [] is 12 years of age and [Molly] [] is 14 years of age. Both juveniles have a high likelihood of adoption.

B. Adoption is the permanent plan for the Juveniles. Termination of parental rights for both [Respondent Mother and the father] is necessary to achieve the Juveniles' permanent plan.

C. There is no doubt that the parents love their children, and that at some point there was a bond between the parents and the children. However, [Respondent Mother's] visitation was suspended on November 2, 2019 because she failed to comply with the [c]ourt's order. [The father] [h]as not visited the Juveniles since June of 2018. The lack of visitation by [Respondent Mother and the father] has modified the bond that existed between them and the Juveniles prior to the Juvenile[s] entering custody of [DHHS]. At best, the bond between the Juveniles and both [parents] is now weak.

D. On or about April 29, 2022, [James] [] was placed in a traditional foster home . . . and there is a strong bond between the current placement and [James].

E. On or about April 29, 2022, [Molly] [] was placed in a traditional foster home . . . and there is a strong bond between the current placement and [Molly].

F. The Juveniles have been in [DHHS] custody for 71 months.

G. Both [DHHS] and the Guardian Ad Litem have recommended that the parental rights of [Respondent Mother and the father] to the Juveniles, James [] and Molly [], be terminated.

H. The [c]ourt has considered the testimony of [Respondent Mother's sister]. The [c]ourt recognizes that the Juveniles have relatives and that terminating the [parents'] parental rights may jeopardize those relative connections. Any benefit in maintaining the Juveniles' family relations is far outweighed by the benefit of terminating the [parents'] parental rights and pursuing the permanent plan of adoption.

I. The [c]ourt recognizes that the Juvenile, [Molly], has told the [guardian ad litem] that she does not want to be adopted and wants to live with [Respondent Mother]. [Molly] is over the age of consent to adoption and would have to consent to adoption. Nonetheless, reunification with [Molly] and [Respondent Mother] would be detrimental to [Molly] and not in [Molly's] best interest. Termination of the [parents'] parental rights is in [Molly's] best interest even if she continues to hold the opinion she does not want to be adopted.

Respondent Mother asserts that “the trial court did not place sufficient weight on the children’s wishes given their respective ages.” She cites *Mintz v. Mintz* in support of her argument, suggesting that, due to the children’s age, the trial court should give greater weight to the children’s preferences. *Mintz v. Mintz*, 64 N.C. App. 338, 340–41, 307 S.E.2d 391, 393–94 (1983). However, *Mintz* refers to a divorce proceeding, rather than a termination of parental rights. *Id.* at 338, 307 S.E.2d at 392. Additionally, “it remain[s] the duty of the trial judge to determine ‘the weight to be accorded the child’s preference, to find and conclude what is in the best interest of the child, and to decide what promotes the welfare of the child.’” *Matter of A.J.T.*, 374 N.C. 504, 510, 843 S.E.2d 192, 196 (2020) (citation omitted). The Supreme Court

in *A.J.T.* was clear the trial court is in the best position to determine the child's preferences relevant to their age. *Id.*

Respondent Mother further states the trial court erred in finding the children appear to have a high likelihood of adoption under N.C. Gen. Stat. § 7B-1110(a)(2). She adds that "both children expressed a desire to be placed with a family member" and "[t]here is no evidence that either child will consent to adoption." Despite this contention, testimony from the children's guardian ad litem, Shahri Adjoodani, suggests otherwise. Ms. Adjoodani specifically testified that:

I do think they have a high likelihood of – a high likelihood of being adopted. They have no barriers that I am aware of, mental or physical, and they are both really good kids.

Furthermore, she testified that the "bond seems to be good. They seem to be comfortable together" when questioned about the relationship between the children and their current foster parents. Based on this testimony, competent evidence exists to conclude that the likelihood of adoption is high, and the trial court did not abuse its discretion.

Respondent Mother asserts that "[b]ecause there is not a likelihood of adoption, termination will not aid in the permanent plan." In support of this contention, she argues that the destruction of the family relationship is more important than the achievement of a permanent plan.

However, our Supreme Court has stated "the trial court need not find a likelihood of adoption in order to terminate parental rights." *In re C.B.*, 375 N.C. 556,

561, 850 S.E.2d 324, 328 (2020) (citation omitted). Regardless of whether adoption is likely, it's within the trial court's discretion to terminate parental rights. *See Matter of H.A.J.*, 377 N.C. 43, 61, 855 S.E.2d 464, 476 (2021).

Respondent Mother also asserts the bond between her and her children is close. However, Ms. Adjoodani testified that James “does not mention” Respondent Mother and she considers their bond weak. Even assuming the bond between Respondent Mother and the children was strong, “the bond between parent and child is just one of the factors to be considered under N.C.G.S. § 7B-1110(a), and the trial court is permitted to give greater weight to other factors.” *Matter of N.B.*, 379 N.C. 441, 450, 866 S.E.2d 427, 433 (2021) (quoting *In re Z.L.W.*, 372 N.C. 432, 437, 831 S.E.2d 62, 66 (2019)). Accordingly, the trial court did not abuse its discretion in its assessment of the bond between Respondent-Mother and the children.

Lastly, Respondent Mother states the trial court erred in finding there is a strong bond between the children and their current placement, and erred in holding the benefit of terminating Respondent Mother's parental rights far outweighs the benefits of the children maintaining relationships with extended family members. Contrary to this contention, Ms. Adjoodani testified the children seemed “happy” with their current placements and that both children were doing “really well.” Regarding the bond between the children and other family members, that consideration is not a factor explicitly required in N.C. Gen. Stat § 7B-1110. Accordingly, the trial court did not err when it sustained an objection based on relevance, when Respondent Mother's

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attorney attempted to admit evidence of other family members.

In summary, the trial court did not abuse its discretion in finding that the termination of Respondent Mother's parental rights was in the best interest of James and Molly.

IV. Conclusion

For the aforementioned reasons, we affirm the trial court's order terminating Respondent Mother's parental rights.

AFFIRMED.

Judges WOOD and STADING concur.

Report per Rule 30(e).