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NO. COA11-1166  
NORTH CAROLINA COURT OF APPEALS

Filed: 7 February 2012

IN THE MATTER OF:

Transylvania County  
No. 09 JA 16

V.M.F.,  
A minor child.

Appeal by respondent-father from order entered 19 July 2011  
by Judge Peter Knight in Transylvania County District Court.  
Heard in the Court of Appeals 23 January 2012.

*Malcolm Young for Transylvania County Department of Social  
Services, petitioner-appellee.*

*GAL Appellate Counsel Pamela Newell for Guardian ad Litem.*

*Duncan B. McCormick for respondent-appellant.*

McCULLOUGH, Judge.

Respondent-father appeals from a permanency planning order  
which transferred custody of his minor child V.M.F. (hereinafter  
known by the stipulated pseudonym of "Veronica") to her maternal  
grandmother.

I. Background

On 2 August 2010, the Transylvania County Department of Social Services (hereinafter "petitioner") filed a juvenile petition alleging that Veronica was a neglected juvenile. Veronica was placed in the nonsecure custody of petitioner on the same date. The juvenile court subsequently adjudicated Veronica neglected and ordered that custody remain with petitioner. After a permanency planning review hearing on 18 April 2011, the juvenile court filed an order on 19 July 2011, changing the permanent plan to custody with a relative, ceasing reunification efforts with Veronica's parents, and awarding custody of Veronica to her maternal grandmother.

## II. Analysis

Respondent-father first contends the juvenile court erred by awarding custody to the maternal grandmother without verifying that she understood the legal significance of the placement. The Juvenile Code provides that when placing a juvenile in the custody of a person other than a parent, "the court shall verify that the person receiving custody . . . understands the legal significance of the placement . . . and will have adequate resources to care appropriately for the juvenile." N.C. Gen. Stat. § 7B-907(f) (2011). The juvenile court is not required to "make any specific findings in order to

make the verification." *In re J.E., B.E.*, 182 N.C. App. 612, 617, 643 S.E.2d 70, 73 (2007). Respondent-father argues that although specific findings are not required, the evidence and the court's limited findings of fact are insufficient to support a conclusion that the maternal grandmother understood the legal significance of having custody of the juvenile.

We conclude that the juvenile court did adequately make the verification required by the statute. The juvenile court's findings of fact show that Veronica has been residing with her maternal grandmother since February 2011, that the placement with her maternal grandmother has been without problems, that her maternal grandmother has been supervising visitations with Veronica's mother, and that the maternal grandmother has made appropriate child care arrangements for her grandchildren while she works as a registered nurse. The maternal grandmother, who also has legal custody of a deceased daughter's two children, testified that she understood she would be expected to continue supervision of visitations if she were granted custody of Veronica. She also testified that she was aware of her power to permit or restrict visitation by the parents. Finally, the trial judge commented that the maternal grandmother has done a good

job of caring for her grandchildren and providing a safe home for them.

Respondent-father next contends the juvenile court erred by declaring "no further reviews in this matter are required." A court may waive further review hearings if custody is restored to a parent or if the court finds by clear, cogent, and convincing evidence that, *inter alia*, the juvenile has resided with a relative or other person having custody of the juvenile for at least one year. N.C. Gen. Stat. § 7B-906(b), (b)(1) (2011). The court did not make this finding, and it is undisputed that Veronica had not resided with her maternal grandmother for at least one year when the juvenile court waived further review hearings. Petitioner and the guardian ad litem concede that the juvenile court erred and further agree that review hearings should be reinstituted. Accordingly, we reverse the portion of the order declaring that no further reviews are required.

Respondent-father also contends the juvenile court erred by ceasing reunification efforts. He argues the juvenile court erroneously believed, based upon testimony of a social worker, that this action was required in order to award custody to the maternal grandmother. Respondent-father, however, concedes in

his brief that the juvenile court never expressly stated that it had this belief, and we can find nothing in the record to support this argument. Respondent-father also argues the juvenile court was required by N.C. Gen. Stat. §§ 7B-507 and -907 to make certain findings of fact, which the juvenile court did not make in this case, when the juvenile court ceases reunification efforts. Respondent-father's reliance upon these statutes is misplaced because they apply when the child is not returned to the home at a permanency planning hearing. See N.C. Gen. Stat. §§ 7B-507(c), -907(b), (c) (2011) (findings must be made if "juvenile is not returned home"). In the case at bar, Veronica remained in the same home as her mother, albeit in the custody and residence of her maternal grandmother.

Respondent-father lastly contends the juvenile court erred by declining to address visitation based upon an incorrect belief that a Chapter 7B order could not supersede a Chapter 50B domestic violence protective order. The transcript shows that at the time of the hearing, a domestic violence protective order was in effect, which prohibited contact by respondent-father with Veronica's mother and her children. The transcript further shows that in response to respondent-father's request for visitation with the child, the juvenile court stated it could

not address the issue of visitation because a domestic violence protective order could not be superseded except by a motion in the cause brought pursuant to Chapter 50. The juvenile court also found in its written order that "in light of an existing domestic violence protective order, the Court does not address visitation for [respondent-father]."

We think the juvenile court acted under a misapprehension of the law when it ruled it was prohibited from considering the issue of visitation by operation of the domestic violence protective order. A juvenile court "has exclusive, original jurisdiction over any case involving a juvenile who is alleged to be abused, neglected, or dependent." N.C. Gen. Stat. § 7B-200(a) (2011). The juvenile court also has "jurisdiction over the parent or guardian of a juvenile who has been adjudicated abused, neglected, or dependent . . . ." N.C. Gen. Stat. § 7B-200(b). Once the juvenile court obtains jurisdiction over a juvenile, any child custody proceeding is automatically stayed and any civil court order regarding child custody issues which conflicts with a juvenile court order is superseded by the juvenile court order. N.C. Gen. Stat. § 7B-200(c).

Not only did the juvenile court have exclusive jurisdiction, it had an obligation to consider the issue of

visitation. When a juvenile court removes a child from a parent's home, it is required by statute to "provide for appropriate visitation as may be in the best interests of the juvenile and consistent with the juvenile's health and safety." N.C. Gen. Stat. § 7B-905(c) (2011). The court must address the issue of visitation "and either adopt a visitation plan or specifically determine that such a plan would be inappropriate in light of the specific facts under consideration." *In re K.C. & C.C.*, 199 N.C. App. 557, 562, 681 S.E.2d 559, 563 (2009). We therefore remand for the juvenile court to determine whether a visitation plan is appropriate, and if so, to adopt a plan.

### III. Conclusion

Based on the foregoing, the juvenile court made an adequate verification as required by the statute and it did not err in ceasing reunification efforts. However, we must reverse and remand in part because further review hearings are required and the juvenile court must address the issue of visitation.

Affirmed in part, reversed and remanded in part.

Chief Judge MARTIN and Judge BRYANT concur.

Report per Rule 30(e).