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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA16-783

Filed: 21 February 2017

Wake County, Nos. 14 JT 48-49

IN THE MATTER OF: O.J.W. & A.X.B.

Appeal by respondent from order entered 21 April 2016 by Judge Monica M. Bousman in Wake County District Court. Heard in the Court of Appeals 30 January 2017.

Wake County Attorney's Office, by Senior Deputy Wake County Attorney Roger A. Askew, for Wake County Human Services, petitioner-appellee.

Alston & Bird LLP, by Matthew P. McGuire, for guardian ad litem.

David A. Perez for respondent-appellant.

ZACHARY, Judge.

Respondent-mother appeals from an order terminating her parental rights to her sons “Oliver,” born in 2012, and “Adam,” born in 2010.¹ The sole question presented is whether the trial court abused its discretion in determining that it was in the best interest of the juveniles to terminate respondent-mother’s parental rights. For the reasons discussed herein, we affirm the order.

¹ Pseudonyms are used to protect the juveniles’ identities and for ease of reading.

On 12 March 2014, Wake County Human Services (“WCHS”) filed a juvenile petition alleging that Oliver and Adam, along with their younger sister, were neglected juveniles.² On 8 May 2014, the court filed an order adjudicating them neglected juveniles and directing that they remain in the custody of WCHS. On 13 August 2015, WCHS filed a motion to terminate the parental rights of respondent-mother as well as the parental rights of the fathers of Oliver and Adam. The court held a hearing on 24 February 2016 and filed an order on 21 April 2016 terminating the parental rights of respondent-mother to both children on grounds of neglect and failure to make reasonable progress in correcting the conditions that led to the removal of the children.

The findings of fact in the termination order are not challenged by respondent-mother. The trial court found that the children were taken into foster care on 12 March 2014 after WCHS had received seven child protective services reports regarding the children’s welfare between 15 August 2011 and 26 February 2014. Respondent-mother was arrested on felony charges on 5 March 2014. The children were living from place to place with various relatives and friends and were not receiving appropriate medical care and immunizations. In order to regain custody of the children, respondent-mother was required, *inter alia*, to comply with the visitation agreement, to obtain and maintain housing and employment, to refrain

² The younger sister is not a subject of this appeal.

from use of illegal or impairing substances, to submit to random drug screens, to complete a substance abuse assessment and follow all recommendations, to complete a psychological evaluation and follow all recommendations, to complete parenting classes and demonstrate the skills learned, and to maintain regular contact with the WCHS protective services agent. Respondent-mother thereafter failed to complete substance abuse treatment, to refrain from using illegal substances, to find housing appropriate for herself and the children, to prove that she obtained employment or sufficient income to provide financially for herself and the children, to take advantage of assistance offered to help her find employment, to demonstrate the ability to parent the children, and to maintain regular contact with the social worker.

The court found the existence of two grounds for termination of respondent-mother's parental rights: neglect of the children and willfully leaving the children in foster care for more than twelve months without making reasonable progress in correcting the conditions that led to their removal. Neither of these grounds is challenged on appeal. Respondent-mother instead challenges the dispositional portion of the order in which the court determined that termination of her parental rights was in the best interest of the juveniles.

Every proceeding to terminate parental rights involves two distinct stages, the adjudication stage and the disposition stage. *In re D.H.*, 232 N.C. App. 217, 219, 753 S.E.2d 732, 734 (2014) (citation omitted). At "the adjudication stage, the trial court

must determine whether there exists one or more grounds for termination of parental rights under N.C. Gen. Stat. § 7B-1111(a).” *Id.* Once the trial court establishes that at least one ground for termination exists, the court proceeds to the dispositional stage and determines “whether terminating the parent’s rights is in the juvenile’s best interest.” N.C. Gen. Stat. § 7B-1110(a) (2015). In determining whether termination of parental rights is in the best interest of a juvenile, the court must consider the age of the juvenile, the likelihood of adoption of the juvenile, the bond between the juvenile and the natural parent, the quality of the relationship between the juvenile and the proposed permanent placement, and “[a]ny [other] relevant consideration.” *Id.* The court is required to make written findings of fact only regarding those factors that are relevant and have an impact upon the court’s decision. *In re D.H.*, 232 N.C. App. at 221-22, 753 S.E.2d at 735. A factor is relevant if there is conflicting evidence concerning the factor such that it is placed in issue. *In re H.D.*, ___ N.C. App. ___, ___, 768 S.E.2d 860, 866 (2015). We review the trial court’s decision at the dispositional stage for an abuse of discretion, *In re E.M.*, 202 N.C. App. 761, 764, 692 S.E.2d 629, 630 (2010), which occurs only when the court’s ruling is “manifestly unsupported by reason” or “so arbitrary that it could not have been the result of a reasoned decision.” *White v. White*, 312 N.C. 770, 777, 324 S.E.2d 829, 833 (1985).

Respondent-mother contends that the court erred by failing to make a finding of fact that Adam's biological father signed a notice of relinquishment for adoption on 24 February 2016. She submits that this was a "relevant consideration" under N.C. Gen. Stat. § 7B-1110(a)(6) in determining the best interest of the children because Adam's father could revoke the relinquishment within seven days pursuant to N.C. Gen. Stat. § 48-3-608 (2015). As a result of the uncertainty about whether revocation of the relinquishment may occur, it could not be determined at the time of the hearing on 24 February 2016 that adoption of Adam was probable. Respondent-mother argues that terminating the parental rights of one of a child's parents without terminating the rights of the other parent is not in the best interest of the child.

Respondent-mother's contention fails for several reasons. First, revocation of a consent to adoption requires affirmative action by the parent, i.e., the giving of written notice of revocation within seven days after the consent is given. N.C. Gen. Stat. § 48-3-608(a). The record does not contain any document signed by the biological father purporting to revoke his consent to Adam's adoption. Any concern that consent might be revoked became moot after passage of the seven-day period without revocation of consent occurring. Second, a putative father's consent to adoption is not required if the father, *inter alia*, has not acknowledged paternity or otherwise attempted action to legitimate the child or assert paternal rights to the child. N.C. Gen. Stat. § 48-3-601(2)(b) (2015). Adam's biological father has not acknowledged

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paternity or sought to be a father to him in any respect. Third, it does not appear that the consent of Adam's father to adoption had any impact upon the court's determination that it is in the best interest of both boys that respondent-mother's parental rights be terminated. The court's findings reflect that the children do not have a bond with respondent-mother, that the children are adoptable and the probability of adoption is strong, that the children are bonding with the foster parents, that the children identify the foster parents as their "family," that each child's needs are being met in the foster home, and that respondent-mother's conduct "has been such as to demonstrate that [she] will not promote the healthy and orderly, physical and emotional well-being of the children."

A court is entitled to give greater weight to certain factors over others in making its determination concerning the best interest of a child. *In re C.L.C.*, 171 N.C. App. 438, 448, 615 S.E.2d 704, 709-10 (2005), *aff'd per curiam in part, disc. review improvidently allowed in part*, 360 N.C. 475, 628 S.E.2d 760 (2006) (the parental bond is one factor the court may consider, but the court may determine that this factor is outweighed by other factors in making the determination of the child's best interest). We conclude that the court's determination is a reasoned decision. Accordingly, we hold that the court did not abuse its discretion in terminating the parental rights of respondent-mother.

We affirm the order.

IN RE: O.J.W. & A.X.B.

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AFFIRMED.

Judges CALABRIA and INMAN concur.

Report per Rule 30(e).