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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA16-1286

Filed: 18 July 2017

Gaston County, Nos. 14 JT 105-07

IN THE MATTER OF: J.D.H., N.E.H., R.R.S., Jr.

Appeal by respondent-mother from order entered 16 September 2016 by Judge James A. Jackson in Gaston County District Court. Heard in the Court of Appeals 29 June 2017.

Elizabeth Myrick Boone for petitioner-appellee Gaston County Department of Social Services.

Edward Eldred, Attorney at Law, PLLC, by Edward Eldred, for respondent-appellant mother.

Manning, Fulton & Skinner, P.A., by Michael S. Harrell, for guardian ad litem.

ARROWOOD, Judge.

Respondent-mother appeals from the trial court's order terminating her parental rights to her minor children J.D.H. ("Joe"), N.E.H. ("Nick"), and R.R.S., Jr. ("Rocky").¹ She contends that the trial court abused its discretion by concluding that

¹ The parties have stipulated to these pseudonyms for the minor children pursuant to N.C. R. App. P. 3.1(b).

Opinion of the Court

termination was in Joe's best interests. Based on the reasons stated herein, we affirm the order of the trial court.

I. Background

Gaston County Department of Social Services ("DSS") became involved with this family in October 2013 after receiving a report that three-year-old Joe was outside unsupervised. DSS began to provide in-home services to the family. On 29 March 2014, a social worker visited the home and observed the children, who were three years, two years, and four months old, playing in the living room unsupervised for approximately thirty minutes. The social worker contacted law enforcement, and respondent-mother subsequently answered the door when officers arrived.

Respondent-mother entered into a safety plan and agreed to have her own mother supervise the children at all times. However, on 31 March 2014, respondent-mother drove the children to daycare without her mother present. On 4 April 2014, DSS received a report that Joe had extensive bruising on his arms, right leg, upper left thigh, and lower back. DSS filed a juvenile petition alleging that the children were neglected and dependent and obtained nonsecure custody of the children

On 21 August 2014, the parties entered into a Mediation Agreement. Respondent-mother agreed to enter into a case plan requiring her to, *inter alia*, resolve any substance abuse issues, obtain a mental health assessment and comply with any recommendations, complete parenting classes, obtain stable employment

Opinion of the Court

and housing, and stay in regular contact with DSS. On 22 September 2014, the trial court entered a consent order in which the children were adjudicated neglected and dependent. Respondent-mother was ordered to continue to comply with her case plan.

On 30 September 2015, the trial court entered an order which found that respondent-mother failed to obtain stable housing or employment, failed to complete recommended mental health and substance abuse treatments, failed to complete parenting classes, and only attended four of the nine previous scheduled visits with the children. The trial court changed the children's permanent plan to adoption.

On 18 November 2015, DSS filed a petition to terminate respondent-mother's parental rights to the children on the grounds of neglect and failure to make reasonable progress. *See* N.C. Gen. Stat. § 7B-1111(a)(1)-(2) (2015). The petition was heard on 15 and 17 June 2016. On 16 September 2016, the trial court entered an order terminating respondent-mother's parental rights based upon both grounds alleged in the petition. The court further concluded that termination was in the children's best interests. Respondent-mother filed timely notice of appeal on 11 October 2016.

II. Discussion

Respondent-mother argues that the trial court erred by concluding that termination was in Joe's best interests. We disagree.

Opinion of the Court

As an initial matter, we note respondent-mother concedes that the trial court did not abuse its discretion by concluding that termination of her parental rights was in the best interests of Nick and Rocky. Accordingly, we address respondent-mother's argument only with respect to Joe.

“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.” N.C. Gen. Stat. § 7B-1110(a) (2015). “We review the trial court's decision to terminate parental rights for abuse of discretion.” *In re Anderson*, 151 N.C. App. 94, 98, 564 S.E.2d 599, 602 (2002).

A trial court may be reversed for abuse of discretion only upon a showing that its actions are manifestly unsupported by reason. A ruling committed to a trial court's discretion is to be accorded great deference and will be upset only upon a showing that it was 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) (internal citation omitted).

In deciding whether terminating parental rights is in a juvenile's best interests, the trial court must consider the following criteria and make findings regarding any that are relevant:

- (1) The age of the juvenile.
- (2) The likelihood of adoption of the juvenile.

Opinion of the Court

- (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(a). In this case, the trial court made findings with respect to each of these statutory factors.

Respondent-mother challenges the following two findings regarding Joe:

6. The juvenile [Joe] has been diagnosed with Oppositional Defiant Disorder and receives therapy. There is no evidence that this condition will be a barrier to his adoption. . . .

. . . .

15. The likelihood of adoption of the juveniles is high.

However, both of these findings are supported by testimony from DSS Social Worker Julie Murphy. Murphy testified that Joe had been diagnosed with Oppositional Defiant Disorder, but that “[h]e receives medication that - and the structure from his foster home helps to manage that behavior for that diagnosis.” When asked if the diagnosis would impact Joe’s adoptability, Murphy stated, “No.” In addition, Murphy testified that the likelihood of adoption for all three children was “[v]ery, very likely” and that DSS had “identified a potential family to adopt [Joe].” Thus, contrary to

Opinion of the Court

respondent-mother's argument, the trial court's findings are fully supported by the evidence and are binding on appeal. *See In re Montgomery*, 311 N.C. 101, 110-11, 316 S.E.2d 246, 252-53 (1984).

Respondent-mother contends the trial court abused its discretion by concluding that termination would be in Joe's best interests because "[t]here was no clear course leading to Joe's adoption," such that the trial court's order would render Joe a "legal orphan." In making this argument, respondent-mother relies upon *In re J.A.O.*, 166 N.C. App. 222, 601 S.E.2d 226 (2004). In *J.A.O.*, the juvenile was fourteen years old at the time of the termination proceeding, had severe medical and behavior disorders, had been in foster care since he was eighteen months old, and had been in nineteen different treatment centers. *Id.* at 227-28, 601 S.E.2d at 230. While recognizing there was a small possibility that the juvenile could be adopted, this Court stated it was "unconvinced that the remote chance of adoption in this case justifies the momentous step of terminating respondent's parental rights." *Id.* at 228, 601 S.E.2d at 230. Accordingly, the Court held that the trial court abused its discretion by concluding that termination of the mother's parental rights was in the best interest of the juvenile. *Id.*

The present case is easily distinguished from *J.A.O.* Joe is only four years old, and, as noted above, his behavioral disorder is under control and does not present an obstacle to adoption. The court also found that his behavior improved after he was

Opinion of the Court

placed separately from his brother. Moreover, Joe's likelihood of adoption is high, and there is a family that has expressed interest in adopting him. Contrary to respondent-mother's argument, there is no evidence that termination would result in Joe becoming a "legal orphan." Respondent-mother has failed to demonstrate the trial court abused its discretion by concluding that termination was in Joe's best interests. Accordingly, the trial court's 16 September 2016 termination order is affirmed.

AFFIRMED.

Chief Judge McGEE and Judge STROUD concur.

Report per Rule 30(e).