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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA18-49

Filed: 17 July 2018

Guilford County, Nos. 14-JT-320, 321

IN THE MATTER OF: G.N.R-U. & H.J.H-U.

Appeal by Respondent-Mother from order entered 18 October 2017 by Judge Tonia A. Cutchin in Guilford County District Court. Heard in the Court of Appeals 5 June 2018.

Mercedes O. Chut, P.A., by Mercedes O. Chut, for petitioner-appellee Guilford County Department of Health and Human Services.

Peter Wood for respondent-appellant mother.

Administrative Office of the Courts, by GAL Appellate Counsel Matthew D. Wunsche, for guardian ad litem.

MURPHY, Judge.

Respondent-Mother, Nadine,¹ appeals from the trial court's order terminating the parental rights of her children, Gertrude and Henrietta. Nadine challenges the finding that the children's likelihood of adoption was high and argues that the trial

¹ Pseudonyms are used throughout this opinion to protect the identity of juveniles and for the ease of reading. See N.C. R. App. P. 3.1(b).

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court abused its discretion by terminating her parental rights because the children have a strong bond with her. After careful review, we conclude that the finding of a high likelihood of adoption is supported by clear and convincing evidence and conclude that the trial court did not abuse its discretion in terminating Nadine's parental rights.

BACKGROUND

Gertrude and Henrietta have been in the custody of the Guilford County Department of Health and Human Services ("DHHS") since 2014. The children were removed from Nadine's custody due to instances of domestic violence, people in the home using illicit substances, a lack of food in the home, and the home's uncleanliness. On 12 November 2014, the children were adjudicated neglected and dependent. Nadine entered into a case plan with a goal of reunification. Nadine was required to obtain and maintain appropriate housing, go to parenting classes, complete a parenting assessment, and pay child support. Nadine was also to attend domestic violence classes on a voluntary basis but declined to do so. In addition, Nadine failed to disclose her alcohol abuse to DHHS. DHHS only learned about Nadine's substance abuse issue when she sought medical treatment for an incident related to alcohol abuse in October of 2016. Despite this, the children's permanent plan continued to be reunification with adoption as a secondary concurrent option. Nadine was granted unsupervised visitation with Gertrude and Henrietta in 2016

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with the requirement that no other persons were to be present during her visits with the children. However, on one occasion, Nadine let an unauthorized male who did not have a valid driver's license take the children to a pool and supervise them. Due to this incident, and the fact that Nadine was not making adequate progress with her case plan within a reasonable period of time, the trial court changed the children's primary permanent plan to adoption.

DHHS filed a petition to terminate Nadine's parental rights on 17 October 2016. The hearing took place in September of 2017. The trial court found the following three statutory grounds to terminate Nadine's parental rights in accordance with N.C.G.S. § 7B-1111:

- (1) The parent has abused or neglected the juvenile. . . .
- (2) The parent has willfully left the juvenile in foster care or placement outside the home for more than 12 months without showing to the satisfaction of the court that reasonable progress under the circumstances has been made in correcting those conditions which led to the removal of the juvenile. . . .
- (3) The juvenile has been placed in the custody of a county department of social services . . . and the parent, for a continuous period of six months next preceding the filing of the petition or motion, has willfully failed for such period to pay a reasonable portion of the cost of care for the juvenile although physically and financially able to do so.

N.C.G.S. § 7B-1111(a)(1)-(3) (2017). The trial court found that "[t]here is no doubt that the mother loves her children and that there is a strong bond between her and her children," but still found that it was in the best interests of the children to have

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Nadine's parental rights terminated. Nadine's parental rights to Gertrude and Henrietta were terminated on 18 October 2017. Nadine timely appealed.

ANALYSIS

"The standard of review in termination of parental rights cases is whether the findings of fact are supported by clear . . . and convincing evidence and whether these findings, in turn, support the conclusions of law." *In re Shepard*, 162 N.C. App. 215, 221, 591 S.E.2d 1, 6 (2004) (citation omitted). "We then consider, based on the grounds found for termination, whether the trial court abused its discretion in finding termination to be in the best interest of the child." *Id.* at 222, 591 S.E.2d at 6. "A trial court may be reversed for abuse of discretion only upon a showing that its actions are manifestly unsupported by reason. . . . [Or] upon a showing that [the trial court's decision] 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).

Nadine "does not dispute that the trial court properly found grounds to terminate her parental rights." Rather, Nadine only challenges whether the children's likelihood of adoption is high and argues that it was an abuse of discretion for the trial court to terminate her parental rights when she had a strong bond with them.

Nadine challenges part of Finding of Fact 39:

B. The likelihood of [Gertrude's and Henrietta's] adoption is high.

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Nadine relies on *In re J.A.O.*, 166 N.C. App. 222, 601 S.E.2d 226 (2004), in support of her argument that Henrietta and Gertrude would benefit from a continued relationship with her due to their likelihood of adoption. However, we find the facts of *J.A.O.* to be inapposite to this case. In *J.A.O.*, the termination of parental rights was found to not be in the best interests of the child where the child was a troubled teenager with multiple severe psychological issues that made him unlikely to be adopted. *Id.* at 228, 601 S.E.2d at 230.

However, unlike in *J.A.O.*, evidence was presented at trial which showed that Gertrude's and Henrietta's likelihood of adoption was high. When asked about the likelihood of adoption at trial, the children's guardian *ad litem* stated:

I think the likelihood of adoption is high. Though the current foster parent . . . is not interested in adoption, these are two wonderful young ladies. They are healthy, they are smart, they are sweet, great senses of humor, and adorable, so I think the likelihood of adoption for them is high.

Nadine's attorney cross-examined the children's guardian *ad litem* but did not ask any questions about the likelihood of adoption. In addition, the guardian *ad litem*'s report to the trial court stated that the children's likelihood of adoption was high. Nadine's attorney had multiple opportunities to challenge this evidence at trial but did not do so. We conclude that the challenged finding is supported by clear and convincing evidence.

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Nadine further argues that the trial court did not properly consider the bond between her and the children in determining the best interests of her children. “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.G.S. § 7B-1110(a) (2017). These interests include:

- (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.G.S. § 7B-1110(a)(1)-(6).

Nadine’s argument is identical to one made by the respondent in *In re C.L.C.*, 171 N.C. App. 438, 615 S.E.2d 704 (2005), *aff’d in part, review dismissed in part*, 360 N.C. 475, 628 S.E.2d 760 (2006). There, we stated that “[t]he trial court was, however, entitled to give greater weight to other facts that it found,” and we found no abuse of discretion by the trial court. *Id.* at 449, 615 S.E.2d at 709-10.

In the case *sub judice*, the trial court found that “the mother loves her children and that there is a strong bond between her and her children.” However, the trial court’s other relevant findings included that Nadine “has not shown suitable progress towards providing a safe and secure home for her children.” The decision of whether

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termination of parental rights is in the best interests of the child is within the discretion of the trial court. *In re S.C.R.*, 198 N.C. App. 525, 536, 679 S.E.2d 905, 911 (2009). We conclude that the trial court properly considered the relevant factors in determining the best interests of the children and did not abuse its discretion in terminating Nadine's parental rights.

CONCLUSION

We conclude that the finding related to the children's high likelihood of adoption is supported by clear and convincing evidence. In addition, we conclude that the trial court did not abuse its discretion in terminating Nadine's parental rights when taking into consideration the best interests of the children which included the children's strong bond with their mother.

AFFIRMED.

Judges CALABRIA and ARROWOOD concur.

Report per Rule 30(e).