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IN THE COURT OF APPEALS OF NORTH CAROLINA

2021-NCCOA-109

No. COA20-794

Filed 6 April 2021

Buncombe County, No. 18-JA-227

IN THE MATTER OF: B.M.P.

Appeal by Respondent-Appellant Mother and Respondent-Appellant Father from an order entered 8 June 2020 by Judge Ward D. Scott in Buncombe County District Court. Heard in the Court of Appeals 10 March 2021.

Edward Eldred for the Respondent-Appellant Mother.

Garron T. Michael for the Respondent-Appellant Father.

No brief filed for the Petitioner-Appellee Buncombe County Department of Social Services.

Office of the Guardian ad Litem, by GAL Appellate Counsel Michael N. Tousey, for the Guardian ad Litem.

JACKSON, Judge.

¶ 1

Respondent-Mother and Respondent-Father appeal from the trial court's order adjudicating their minor child, Bev,¹ neglected. The trial found sufficient evidence to

¹ A pseudonym is used for ease of reading and to protect the privacy of the juvenile. See N.C. R. App. P. 42(b).

adjudicate the minor child neglected and that it was in Bev's best interest and proper legal grounds existed pursuant to N.C. Gen. Stat. § 7B-905.1 to limit each Respondent to one hour per week visitation to be supervised by the Buncombe County Department of Social Services ("DSS"). After an independent and careful review, we affirm.

I. Factual and Procedural Background

¶ 2 On 12 July 2018, DSS received a Child Protective Services ("CPS") report that Bev was living in circumstances that were injurious to her welfare. Respondent-Mother had five other children who were not in her custody at the time of Bev's birth and Respondent-Father had been verbally aggressive with the staff at the hospital where Bev was born. Respondents had relinquished their parental rights to one of their other children on 20 September 2016, who had been adjudicated neglected. Another one of their older children was in DSS custody at the time. Respondent-Mother's other three children had been placed in the custody of their biological father in April 2011.

¶ 3 On 21 August 2018, DSS filed a petition alleging that Bev was neglected. The trial court entered an order granting DSS nonsecure custody the same day.

¶ 4 The adjudication hearing occurred on 3 March 2020. After hearing two days of testimony, the trial court adjudicated Bev neglected in open court on 4 March 2020. The matter proceeded to disposition the following day. The trial court ordered that

Bev be placed by DSS in foster care or another placement and that Respondents have one hour of supervised visitation with Bev per week. The trial court's adjudication and disposition order set the case for an initial permanency planning and review hearing on 13 April 2020.

¶ 5 Respondents timely appealed.

II. Jurisdiction

¶ 6 An appeal of right from an order entered in the district court upon an initial order of disposition and the adjudication order upon which that order is based properly lies directly with this Court. N.C. Gen. Stat. §§ 7A-27(b)(2), 7B-1001(a3) (2019); N.C. R. App. P. 3.1(b). Respondent-Mother and Respondent-Father timely appealed the district court's order on 22 June 2020 and 24 June 2020, respectively.

III. Standard of Review

¶ 7 "This Court reviews the trial court's dispositional orders of visitation for an abuse of discretion." *In re C.M.*, 183 N.C. App. 207, 215, 644 S.E.2d 588, 595 (2007). "An abuse of discretion is established only upon a showing that a court's actions are manifestly unsupported by reason, or so arbitrary that it could not have been the result of a reasoned decision." *In re Z.T.W.*, 238 N.C. App. 365, 370, 767 S.E.2d 660, 664-65 (2014) (internal marks and citation omitted).

IV. Analysis

¶ 8 Respondent-Father's counsel filed a no-merit brief pursuant to Rule 3.1(e) of

the North Carolina Rules of Appellate Procedure in which he states that he “has conducted a conscientious and thorough review of the record on appeal” after which “he has concluded that the record contains no issue of merit on which to base an argument for relief.” Rule 3.1(e) requires an independent review of any issues contained in a no-merit brief in order to “further the significant interest of ensuring that orders depriving parents of their fundamental right to parenthood are given meaningful appellate review.” *In re L.E.M.*, 372 N.C. 396, 402, 831 S.E.2d 341, 345 (2019). In his twenty-three page brief, counsel identified one issue that could arguably support an appeal but stated why counsel believed the issue lacked merit. In compliance with Rule 3.1(e) and previous opinions by this Court, counsel advised Respondent-Father in writing on 2 December 2020 of his right to file written arguments with the Court, and has provided him with a copy of the documents pertinent to his appeal, including the transcript, record on appeal, and counsel’s brief. Respondent-Father has not submitted written arguments to this Court.

Respondent-Mother’s counsel also filed a no-merit brief pursuant to Rule 3.1(e) of the North Carolina Rules of Appellate Procedure in which he states that he “conducted a conscientious and thorough review of the record on appeal” after which he was “unable to identify any issue of merit on which to base an argument for relief.” In a twenty-page brief, counsel identified three issues that could arguably support an appeal but stated why counsel believed these issues each lacked merit. Counsel

advised Respondent-Mother in writing on 2 December 2020 of her right to file written arguments with the Court, and has provided her with a copy of the documents pertinent to her appeal, including the transcript, record on appeal, and counsel's brief. Respondent-Mother sent a letter to the Court dated 4 December 2020 attempting to bring forth new testimony, or a change to her previous testimony, but raising no other arguments in support of her appeal.

III. Conclusion

¶ 10 We have carefully and independently reviewed the issues identified by counsel in their no-merit briefs as well as the entire record and transcript in accordance with Rule 3.1(e) and *In re L.E.M.* Having undertaken and completed this review, we are satisfied that the trial court's 8 June 2020 order is supported by clear, cogent, and convincing evidence and based on proper legal grounds in determining that the minor was neglected and that it was in the best interest of the minor and proper legal grounds existed pursuant to N.C. Gen. Stat. § 7B-905.1 to limit each Respondent to one hour per week visitation supervised by DSS. For these reasons, we affirm the trial court's 8 June 2020 order.

AFFIRMED.

Judges ZACHARY and WOOD concur.

Report per Rule 30(e).