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IN THE COURT OF APPEALS OF NORTH CAROLINA

2022-NCCOA-538

No. COA22-177

Filed 2 August 2022

Forsyth County, No. 19 JT 107

IN THE MATTER OF: J.T.

Appeal by Respondent from order entered 29 November 2021 by Judge Theodore Kazakos in Forsyth County District Court. Heard in the Court of Appeals 13 July 2022.

Deputy County Attorney Theresa A. Boucher for Petitioner Forsyth County Department of Social Services.

Kimberly Connor Benton for Respondent.

GRIFFIN, Judge.

¶ 1 Respondent appeals from the trial court's order terminating his parental rights to J.T. ("Jasmine").[1] We hold that the trial court did not abuse its discretion in determining it was in Jasmine's best interest to terminate Respondent's parental

[1] We use a pseudonym to protect the identity of the juvenile and for ease of reading. *See* N.C. R. App. P. 42(b).

rights. We affirm the trial court's order.

I. Factual and Procedural History

¶ 2 On 16 May 2019, a nonsecure custody order was entered, placing Jasmine in the custody of Forsyth County Department of Social Services ("FCDSS"). Jasmine was subsequently removed from her parents' home and placed in foster care. On 17 December 2019, Jasmine was adjudicated neglected. In its adjudication order, the trial court required Respondent to complete various tasks to achieve reunification with Jasmine.

¶ 3 On 14 May 2021, FCDSS filed a petition to terminate Respondent's parental rights. The preliminary hearing on the termination petition was held on 29 September 2021. Respondent was incarcerated and failed to attend the termination hearing.

¶ 4 On 29 November 2021, the trial court entered an order terminating Respondent's parental rights. In its order, the trial court concluded that "[g]rounds exist[ed] pursuant to N.C.G.S. 7B-1111(a)(1), (2), and (7) to terminate the parental rights of [Respondent] to the child, [Jasmine,]" and that "[i]t is in the best interest of [Jasmine] that the parental rights of [Respondent] be terminated." Respondent timely appeals.

II. Analysis

¶ 5 On appeal, Respondent challenges two of the trial court's dispositional findings

and argues that "[t]he court committed reversible error by finding it was in Jasmine's best interests for [Respondent's] parental rights to be terminated." We disagree.

A. Findings of Fact #27 and #34

¶ 6 "The trial court's dispositional findings are binding . . . if they are supported by any competent evidence or if not specifically contested on appeal." *Matter of S.M.*, 380 N.C. 788, 2022-NCSC-42, ¶ 10 (2022) (citations and internal quotations omitted). "Competent evidence is evidence that a reasonable mind might accept as adequate to support the finding." *Lund v. Lund*, 244 N.C. App. 279, 287, 779 S.E.2d 175, 181 (2015) (citations omitted).

¶ 7 Respondent challenges part of Finding of Fact #27 stating that "he has taken no steps to foster a loving relationship with [Jasmine,]" and part of Finding of Fact #34 stating "[t]here is no bond between [Jasmine] and her father[.]" The trial court's other findings are unchallenged and thus binding on appeal. *S.M.*, 2022-NCSC-42, ¶ 10 (citations omitted).

¶ 8 Here, there was competent evidence to support both challenged findings. At trial, the DSS social worker testified that Respondent: had not fully complied with his court-ordered requirements to reunify with Jasmine; failed to maintain contact with the DSS worker regarding Jasmine's well-being; when he did contact the social worker, he did not ask any questions about Jasmine; and has not visited nor contacted Jasmine since October 2019. When asked about the bond between Jasmine and

Respondent, the DSS social worker responded, "From my perspective, she does not currently have a bond with her father. She doesn't talk about him or bring him up at all." Further, Jasmine's guardian ad litem, when asked whether Jasmine ever discussed Respondent with her, testified:

> Briefly. He -- when he was -- well, came to one hearing, he was in the Forsyth County Jail, and they brought him over. And then she had the -- the three visits. She really didn't have too much contact with her father before the case. He was in prison -- federal prison for seven years, and she had no contact with him. She states that she was mad that he got arrested again and put back in prison. You know, she feels like he's – hasn't made an effort at all to be her -- his -- her father.

Based on the testimony from the DSS worker and Jasmine's GAL, a reasonable mind would accept this as adequate to support the trial court's findings that Respondent "has taken no steps to foster a loving relationship with [Jasmine]" and that "[t]here is no bond between [Jasmine] and [Respondent.]" *See Lund*, 244 N.C. App. at 287, 779 S.E.2d at 181. We conclude that Findings of Fact #27 and #34 are supported by competent evidence.

B. Termination and Best Interest of the Child

¶ 9 This Court will overturn a trial court's determination that terminating a parent's rights is in the best interest of the child only if the trial court abused its discretion. *In re Z.L.W.*, 372 N.C. 432, 435, 831 S.E.2d 62, 64 (2019) (citations

omitted). "Abuse of discretion results where the court's ruling is manifestly unsupported by reason or is so arbitrary that it could not have been the result of a reasoned decision." *Id.* (citation omitted).

¶ 10 "Our Juvenile Code provides for a two-stage process for the termination of parental rights: the adjudicatory stage and the dispositional stage." *Id.* at 434, 831 S.E.2d at 64. At the adjudicatory stage, the petitioner must prove "by clear and convincing evidence" the existence of one or more grounds for termination under N.C. Gen. Stat. § 7B-1111(a). N.C. Gen. Stat. § 7B-1111(a), (b) (2021). After this adjudication, "the court shall determine whether terminating the parent's rights is in the juvenile's best interest." N.C. Gen. Stat. § 7B-1110(a) (2021). In making this determination, the court shall consider:

> (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.

Id.

¶ 11 The trial court made the following dispositional findings:

> 11. Since May 7, 2019, [Respondent] has continued to neglect his daughter, [Jasmine], by failing to comply with

the orders of the Juvenile Court and the recommendations of Forsyth County Department of Social Services which were specifically designed to facilitate reunification in a safe home.

12. [Respondent] has failed to complete a court ordered parenting education course, and demonstrate the skills learned during visitation or contact with [Jasmine].

13. [Respondent] has failed to complete a court ordered parenting capacity psychological assessment and follow the recommendations of that assessment.

14. [Respondent] has failed to maintain contact with [] [FCDSS] regarding the well-being of his daughter.

15. [Respondent] has failed to demonstrate the ability to meet the basic needs of [Jasmine].

16. Return of [Jasmine] to the care and custody of [Respondent] would result in a high likelihood of continued neglect.

17. [Respondent] . . . has willfully left the child 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 within 12 months in correcting those conditions which led to the removal of the child.

18. [Respondent] . . . has willfully abandoned the child for at least six consecutive months immediately preceding the filing of the petition to terminate parental rights.

19. [Respondent] was incarcerated when his daughter was placed in the custody of [] [FCDSS] in May 2019. He had been incarcerated since [Jasmine] was 2 years old and had never established a relationship with her. In September 2019, when [Jasmine] was 11 years old, [Respondent] was

released from prison and contacted [] [DSS] regarding his plan to raise his daughter.

20. [Respondent] attended 3 one hour supervised visits with [Jasmine] in October 2019. After October 2019, [Respondent] discontinued all contact with [Jasmine].

. . .

23. Between November 2019 and February 2020, the DSS social workers was unable to contact [Respondent]. He never called the FCDSS to inquire as to the wellbeing of his daughter and he had no contact with [Jasmine].

24. In February 2020, the DSS social worker learned that [Respondent] was again incarcerated. He has remained incarcerated to date. His expected release date from federal prison is currently in February 2022.

25. [Respondent] has had no contact with his child since October 2019. Since October 2019, [Respondent] has a willful determination to forego all parental duties and relinquish all parental claims to the child by his actions and inaction.

26. [Respondent] has failed to have any contact with the child including through cards, gifts, or letters.

27. While [Respondent] has expressed that he loves and cares about [Jasmine] when asked, he has taken no steps to foster a loving relationship with her.

. . .

31. [Jasmine] is 13 years old. [Jasmine] is thriving in her current foster home with the one on one attention provided to her. She has reported to her DSS social worker her desire to be adopted.

32. [Jasmine] lives in a foster home where she has a good relationship with her foster parent. She has expressed a

> desire to be adopted and is tired of waiting for her parents to work to reunite with her. The likelihood of adoption is high for this child.
>
> . . .
>
> 34. There is no bond between [Jasmine] and her father, [Respondent]. [Jasmine] does not talk with her DSS social worker or Guardian ad Litem about [Respondent].
>
> 35. The permanent plan adopted by the Juvenile Court for [Jasmine] is Adoption. The termination of parental rights of [Respondent] is the only method available to accomplish the permanent plan.

¶ 12 Here, the trial court made findings relating to the relevant factors under N.C. Gen. Stat. § 7B-1110(a). These findings are binding on this Court because the majority are unchallenged, and those challenged are supported by competent evidence. *See S.M.*, 2022-NCSC-42, ¶ 10 (citations omitted). The trial court's findings, taken together, are consistent with the court's determination that it is in Jasmine's best interest that Respondent's parental rights be terminated. We therefore cannot say that the trial court's determination was "manifestly unsupported by reason or is so arbitrary that it could not have been the result of a reasoned decision." *Z.L.W.*, 372 N.C. at 435, 831 S.E.2d at 64 (citation omitted).

III. Conclusion

¶ 13 We hold that the trial court did not abuse its discretion in determining that it was in Jasmine's best interest that Respondent's parental rights be terminated. We therefore affirm the trial court's order.

AFFIRMED.

Judges ZACHARY and WOOD concur.

Report per Rule 30(e).