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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA23-469

Filed 21 November 2023

New Hanover County, No. 19 JT 182

IN THE MATTER OF: T.P.

Appeal by Respondent-Mother from order entered 16 March 2021 by Judge J. H. Corpening, II in New Hanover County District Court. Heard in the Court of Appeals 1 November 2023.

BJK Legal, by Benjamin J. Kull, for Respondent-Appellant Mother.

Jane Thompson, for Petitioner-Appellee New Hanover County Department of Social Services.

Administrative Office of the Courts, by Associate Counsel Matthew D. Wunsche, for Other-Appellee Gurdian Ad Litem.

CARPENTER, Judge.

Ta’Lavonne Pollard-Williams (“Respondent-Mother”) appeals from the trial court’s 16 March 2021 order (the “Order”) following the third permanency-planning hearing concerning Respondent-Mother’s four-year-old daughter, Trinity.¹ The

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

Order ceased reunification efforts with Respondent-Mother, and Respondent-Mother argues the trial court: (1) abused its discretion by keeping Trinity with her foster parents, rather than placing Trinity with her grandmother; and (2) erred because the Order lacks the requisite findings under subsection 7B-906.2(b). After careful review, we affirm the Order.

I. Factual & Procedural Background

Record evidence tended to show the following. The key parties in this case are Trinity,² Respondent-Mother, and Trinity's maternal grandmother ("Grandmother"). Grandmother is the legal guardian of Trinity's sister, who is also Respondent-Mother's daughter.

On 24 July 2019, New Hanover County Department of Social Services ("DSS") filed a juvenile petition alleging Trinity to be neglected and dependent, and the trial court granted nonsecure custody of Trinity to DSS because Grandmother "did not comply with the temporary placement provider terms." On 28 August 2019, during the adjudicatory stage of Trinity's abuse, neglect, and dependency ("Abuse and Neglect") proceeding, the trial court adjudicated Trinity neglected and ordered she remain in DSS custody.

During the dispositional stage of Trinity's Abuse and Neglect proceeding, the trial court held three permanency-planning hearings. After the first hearing, the

² In July of 2019, Trinity was three months old.

primary plan was reunification with Respondent-Mother, and the secondary plan was custody with a court-approved caretaker. After the second hearing, the primary plan was guardianship with a relative, and the secondary plan was reunification with Respondent-Mother. After the third hearing, the primary plan was adoption, and the secondary plan was guardianship with a relative. In other words, the Order, issued after the third permanency-planning hearing, opted against reunification with Respondent-Mother or granting guardianship to a relative, like Grandmother. Rather, the court chose a plan of adoption by the foster parents.

In the Order, the trial court found the following, all of which was supported by testimony: Respondent-Mother had severe mental issues, and she was addicted to PCP. A social worker sent Respondent-Mother “for drug screens[,] and every drug screen [came] back positive for PCP.” Respondent-Mother’s most recent drug screen was “positive for PCP and Cocaine.” Respondent-Mother was “not engaging in substance abuse management, mental health treatment, or participation in empowerment classes.” Respondent-Mother was arrested for alleged breaking and entering, and she admitted that she was “selling cocaine.” Respondent-Mother also pleaded guilty to felony drug charges and was on probation because of these charges. Further, Respondent-Mother remained unemployed.

Grandmother and Respondent-Mother have a tumultuous relationship. Nonetheless, Grandmother frequently left Trinity and her sister unsupervised with Respondent-Mother, who Grandmother claimed was unable to care for them.

Grandmother was a “trigger” for Respondent-Mother, and the two “would act like strangers in a room together with two children.”

On the other hand, Trinity “ha[d] been with [her] foster family since she was three to four months old and has a strong bond with the foster family.” A social worker recommended “that the permanent plan changes to adoption with a secondary plan of guardianship with a relative.” Trinity “is shown love at the [foster parents’] home, no substance abuse takes place in the home, and she has been placed in this home for a long period of time.”

The trial court found DSS made reasonable efforts to achieve reunification by maintaining monthly, face-to-face contact with Trinity and Respondent-Mother, facilitating Child and Family Team meetings, maintaining contact with Respondent-Mother, contacting service providers for Respondent-Mother, requesting drug screens from Respondent-Mother, and supervising visits between Respondent-Mother and Trinity.

The trial court ultimately concluded, however, that neither reunification nor placement with a relative, including Grandmother, was in Trinity’s best interest. Rather, the trial court found it was in Trinity’s best interest to remain with her foster parents. The trial court acknowledged the preference of keeping Trinity with a family member, but the best interest of Trinity was “paramount.” Thus, the Order eliminated reunification from Trinity’s permanent plan.

On 17 March 2021, Respondent-Mother filed a notice to preserve her right to

appeal the Order under N.C. Gen. Stat. § 7B-1001(a)(5), (a2) (2021). On 30 March 2021, DSS filed a petition to terminate Respondent-Mother’s parental rights concerning Trinity. On 14 November 2022, after a termination-of-parental-rights (“TPR”) proceeding, the trial court terminated Respondent-Mother’s parental rights concerning Trinity. On 8 December 2022, Respondent-Mother filed notice of appeal from the TPR proceeding. On 27 February 2023, Respondent-Mother filed a petition for writ of certiorari concerning the Order. On 3 April 2023, this Court granted her petition for writ of certiorari, allowing review of the Order.

II. Jurisdiction

This Court has jurisdiction under N.C. Gen. Stat. § 7B-1001(a)(8), (a2) (2021).

III. Issues

On appeal, Respondent-Mother’s “first four arguments . . . all concern the same underlying point: . . . there was no valid reason to indefinitely delay permanence for Trinity by foregoing guardianship with Grandm[other]” Respondent-Mother’s final argument is that the Order lacks the “findings required by N.C. Gen. Stat. § 7B-906.2(b).” In sum, Respondent-Mother’s arguments present two issues: (1) whether the trial court abused its discretion by issuing the Order, keeping Trinity with her foster parents and not placing Trinity with Grandmother; and (2) whether the Order includes the requisite findings under subsection 7B-906.2(b).

IV. Analysis

At bottom, this appeal concerns the termination of Respondent-Mother’s

parental rights regarding Trinity. Rather than directly challenging the TPR proceeding, however, Respondent-Mother challenges the Order, entered during the Abuse and Neglect proceeding. Respondent-Mother asserts that we should reverse the Order, thus requiring us to also vacate the order terminating her parental rights. *See* N.C. Gen. Stat. § 7B-1001(a2) (“If the order eliminating reunification is vacated or reversed, the order terminating parental rights shall be vacated.”).

A. Relevant Law & Procedure

The challenged Order stems from an Abuse and Neglect proceeding. Through subsection 7B-1001(a2), however, Respondent-Mother ultimately asks us to vacate the termination order, which stems from a TPR proceeding. Because this appeal involves both proceedings, we will orient our analysis by first explaining how these proceedings function in our courts.

1. Abuse and Neglect Proceedings

We have a two-step process for Abuse and Neglect proceedings: an adjudicatory stage and a dispositional stage. *In re K.W.*, 272 N.C. App. 487, 491, 846 S.E.2d 584, 589 (2020). At the adjudicatory stage, the trial court must discern whether a child is abused, neglected, or dependent. *Id.* at 491, 846 S.E.2d at 589. If the court adjudicates a child abused, neglected, or dependent, it must do so by considering “clear and convincing evidence,” then move to the dispositional stage. *Id.* at 491, 846 S.E.2d at 589. At the dispositional stage, “the trial court, in its discretion, determines the child’s placement based on the best interests of the child.” *Id.* at 491, 846 S.E.2d

at 589.

“Following the initial disposition hearing and order, the trial court continues to conduct review or permanency planning hearings.” *In re M.T.*, 285 N.C. App. 305, 320, 877 S.E.2d 732, 744 (2022). “At permanency planning hearings, the trial court must adopt one or more of the listed statutory permanent plans including . . . reunification, adoption, and guardianship.” *Id.* at 320, 877 S.E.2d at 744 (citing N.C. Gen. Stat. § 7B-906.2(a)). “This concurrent planning ‘shall continue until a permanent plan is or has been achieved.’” *Id.* at 320, 877 S.E.2d at 744 (quoting N.C. Gen. Stat. § 7B-906.2(a1)).

2. TPR Proceedings

We also have a two-step process for TPR proceedings: an adjudicatory stage and a dispositional stage. *In re Z.A.M.*, 374 N.C. 88, 94, 839 S.E.2d 792, 796–97 (2020). “At the adjudicatory stage, the petitioner bears the burden of proving by ‘clear, cogent, and convincing evidence’ the existence of one or more grounds for termination under section 7B-1111(a) of the General Statutes.” *In re A.U.D.*, 373 N.C. 3, 5–6, 832 S.E.2d 700 (2019) (quoting N.C. Gen. Stat. § 7B-1109(f)). Linking with the above-mentioned Abuse and Neglect proceedings, one of the grounds for termination under subsection 7B-1111(a) is when “[t]he parent has abused or neglected the juvenile.” N.C. Gen. Stat. § 7B-1111(a)(1) (2021).

If a trial court finds ground to terminate under section 7B-1111, it proceeds to the dispositional stage. *In re A.U.D.*, 373 N.C. at 6, 832 S.E.2d 700. At the

dispositional stage, the trial court “determine[s] whether terminating the parent’s rights is in the juvenile’s best interest.” N.C. Gen. Stat. § 7B-1110(a) (2021). If the trial court determines terminating the parent’s rights is in the best interest of the child, the court terminates the parent’s rights. But unlike in Abuse and Neglect proceedings, the court takes no further action. *See* N.C. Gen. Stat. § 7B-1112 (2021).

B. Whether the Trial Court Abused Its Discretion

Against this backdrop, we now address the first issue in this case: whether the trial court abused its discretion during the Abuse and Neglect proceeding by issuing the Order, thus keeping Trinity with her foster parents, rather than Grandmother.

“This Court reviews an order that ceases reunification efforts to determine whether the trial court made appropriate findings, whether the findings are based upon credible evidence, whether the findings of fact support the trial court’s conclusions, and whether the trial court abused its discretion with respect to disposition.” *In re C.M.*, 183 N.C. App. 207, 213, 644 S.E.2d 588, 594 (2007). We review a trial court’s ruling on the best interest of the child for abuse of discretion. *In re C.P.*, 252 N.C. App. 118, 122, 801 S.E.2d 647, 651 (2017). “It is settled that ‘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 E.S.*, 191 N.C. App. 568, 573, 663 S.E.2d 475, 478 (2008) (quoting *State v. T.D.R.*, 347 N.C. 489, 503, 495 S.E.2d 700, 708 (1998)).

Here, Respondent-Mother has severe drug and mental-health issues, cannot

maintain a job, was recently arrested for alleged breaking and entering, and recently pleaded guilty to felony drug charges. Therefore, declining to reunite Trinity with Respondent-Mother was a reasoned decision and not arbitrary. *See In re E.S.*, 191 N.C. App. at 573, 663 S.E.2d at 478. Respondent-Mother's argument, however, is that failing to place Trinity with Grandmother was arbitrary and thus an abuse of discretion.

First, we recognize that Grandmother is Trinity's sister's guardian, and the trial court could have placed Trinity with Grandmother. The legal system saw fit to allow Grandmother to care for Trinity's sister, but not Trinity. The best-interest-of-the-child question, however, is specific to the child in question—Trinity. And through DSS and her foster parents, Trinity is “shown love at the home, no substance abuse takes place in the home, and she has been placed in this home for a long period of time.” On the other hand, Grandmother and Respondent-Mother have a tumultuous relationship, and Grandmother frequently left Trinity and her sister unsupervised with Respondent-Mother, who has severe drug and mental-health issues.

Although placing Trinity with Grandmother was a possibility, we cannot say the trial court abused its discretion when it prioritized adoption by the foster parents over guardianship with Grandmother. Trinity's foster parents gave her consistency and a loving home without substance abuse.

Prioritizing adoption of Trinity by her foster parents was not “so arbitrary that it could not have been the result of a reasoned decision.” *See id.* at 573, 663 S.E.2d

at 478 (quoting *T.D.R.*, 347 N.C. at 503, 495 S.E.2d at 708). Therefore, the trial court did not abuse its discretion by doing so, rather than placing Trinity with Grandmother. *See id.* at 573, 663 S.E.2d at 478.

C. N.C. Gen. Stat. §7B-906.2(b)

In her final argument, Respondent-Mother asserts the trial court erred because the Order's findings failed to satisfy subsection 7B-906.2(b). *See* N.C. Gen. Stat. § 7B-906.2(b) (2021). When reviewing findings under subsection 7B-906.2(b), we look to see if the findings show "that the trial court considered the evidence in light of" the standard. *In re L.M.T.*, 367 N.C. 165, 167–68, 752 S.E.2d 453, 455 (2013). The trial court's findings, however, need not use "the precise language of the statute." *In re C.M.*, 273 N.C. App. 427, 431, 848 S.E.2d 749, 752 (2020).

Subsection 7B-906.2(b) states:

Reunification shall be a primary or secondary plan unless the court made written findings under G.S. 7B-901(c) or G.S. 7B-906.1(d)(3), the permanent plan is or has been achieved in accordance with subsection (a1) of this section, or the court makes written findings that reunification efforts clearly would be unsuccessful or would be inconsistent with the juvenile's health or safety. The finding that reunification efforts clearly would be unsuccessful or inconsistent with the juvenile's health or safety may be made at any permanency planning hearing, and if made, shall eliminate reunification as a plan.

N.C. Gen. Stat. § 7B-906.2(b).

Here again, after numerous permanency-planning and review hearings the record shows Respondent-Mother has severe, on-going drug and mental-health

issues, has not maintained a job, was recently arrested for alleged breaking and entering, and recently pleaded guilty to felony drug charges. As a result, the trial court found that placing Trinity with Respondent-Mother “would be contrary to her best interest and welfare due to the findings of neglect and the lack of progress by Respondent-Mother to address and remedy the reasons that brought the Juvenile into care.”

Although not verbatim, this finding sufficiently shows “reunification efforts clearly would be unsuccessful or would be inconsistent with the juvenile’s health or safety.” *See id.* The trial court “considered the evidence in light of” the standard established by subsection 7B-906.2(b). *See In re L.M.T.*, 367 N.C. 165, at 167–68, 752 S.E.2d at 455; N.C. Gen. Stat. § 7B-906.2(b). Therefore, the Order satisfies subsection 7B-906.2(b). *See In re L.M.T.*, 367 N.C. 165, at 167–68, 752 S.E.2d at 455.

V. Conclusion

We affirm the Order because the trial court did not abuse its discretion by prioritizing adoption by Trinity’s foster parents, rather than placing Trinity with Grandmother, and the trial court rendered sufficient findings under subsection 7B-906.2(b).

AFFIRMED.

Judges ARROWOOD and FLOOD concur.

Report per Rule 30(e).