

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority. Citation is disfavored, but may be permitted in accordance with the provisions of Rule 30(e)(3) of the North Carolina Rules of Appellate Procedure.

IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA23-499

Filed 19 December 2023

Davidson County, No. 21JA5

IN THE MATTER OF:

G.R.N.

Appeal by respondent-mother from order entered 30 December 2022 by Judge Rosalind Baker in Davidson County District Court. Heard in the Court of Appeals 29 November 2023.

Peter Wood for respondent-appellant mother.

Sheri A. Woodyard for petitioner-appellee Davidson County Department of Social Services.

Troutman Pepper Hamilton Sanders LLP, by Joshua D. Davey, for appellee Guardian Ad Litem

No brief filed by Meredith Harris for respondent-appellee father.

No brief filed for appellee paternal grandparents and placement providers.

GORE, Judge.

On 8 January 2021, the Davidson County Department of Social Services

(“DSS”) filed a verified juvenile petition alleging “Gary”¹ is a dependent and neglected juvenile. The trial court awarded DSS non-secure custody of Gary on 11 January 2021. Following a hearing on 17 March 2021, the trial court adjudicated Gary to be a neglected juvenile.

On 23 April 2021, the trial court entered an order continuing DSS’s temporary legal and physical custody of Gary. Gary was ultimately moved to the home of his paternal grandparents on 22 September 2021. On 19 November 2021, Gary was placed in a trial placement with respondent-mother, which continued until 24 February 2021. The trial court’s Review Order dated 5 April 2021 revoked Gary’s home placement with respondent-mother, finding that respondent-mother displayed troubling behaviors during the trial placement and had “not been honest” with the court. Thereafter, the trial court placed Gary back in the custody of his paternal grandparents.

Following a permanency planning hearing on 7 December 2022, the trial court entered a Permanency Planning Order on 30 December 2022, in which the court awarded guardianship of Gary to his paternal grandparents and set visitation schedules for respondent-parents. The trial court made numerous findings of fact, including findings on respondent-mother’s “history of being in unhealthy relationships that involve domestic violence,” and the court’s “great concern with

¹ A pseudonym. See N.C.R. App. P. 42(b).

ongoing domestic violence and the respondent/mother's home because that was one of the reasons for the initial removal when the petition was filed and for the end of the trial home placement." The trial court ordered respondent-mother to continue supervised visits with Gary for one (1) day a week for up to two (2) hours and allowed Gary's father to continue unsupervised visits up to six (6) hours.

Counsel for DSS served respondent-mother with the Permanency Planning Order on 20 January 2023, and respondent-mother timely filed written notice of appeal to this Court on 13 February 2023. Respondent-father did not appeal from the trial court's Order and is not a party to this appeal.

Respondent-mother presents one issue for this Court's review: whether the trial court abused its discretion when setting visitation. Respondent-mother argues the trial court arbitrarily set the terms of visitation for respondent-parents, by granting mother supervised visits and father unsupervised visits, when only mother had exercised her visitation rights and worked on her case plan. Respondent-mother's argument lacks merit.

We review the trial court's decision on visitation for an abuse of discretion. *In re A.J.L.H.*, 384 N.C. 45, 57 (2023). "Under this standard, we defer to the trial court's decision unless it is manifestly unsupported by reason or one so arbitrary that it could not have been the result of a reasoned decision." *Id.* (quotation marks and citation omitted). We will not "substitute [our] own judgment for that of the trial court[.] *Id.* Further, "[t]he trial court's findings of fact are conclusive on appeal when supported

by any competent evidence, even if the evidence could sustain contrary findings.” *In re J.H.*, 244 N.C. App. 255, 268 (2015) (quotation marks and citation omitted).

In this case, the trial court’s 30 December 2022 permanency planning order contains over ninety (90) findings of fact as to respondent-mother, Gary, and respondent-father. The trial court made numerous findings of fact, supported by competent evidence in the record, detailing respondent-mother’s issues with domestic violence and caring for Gary’s needs. The court specifically found that respondent-mother did not recognize the dangers of domestic violence, that she did not consistently report to work or pay her rent, and that despite “completing the tasks on her case plan, she has not demonstrated changes in her thoughts, behaviors, and abilities to provide a safe and stable home for [Gary].”

The court did not make the same factual findings regarding respondent-father and was not presented with similar evidence concerning the threat or risk posed by Gary’s father to Gary’s best interests or safety. The trial court may, in its discretion, set different terms of visitation on each of the respondents relative to its supported findings. *See Isom v. Duncan*, 279 N.C. App. 171, 197 (2021) (determining that the trial court did not abuse its discretion by awarding sole custody to the father and denying visitation with the mother where “the findings of fact support the trial court’s conclusion of law that it is not in . . . [the juvenile’s] best interest to have visitation with [the] Mother.”). While respondent-mother may disagree with the trial court’s ruling, disagreement alone does not render the ruling arbitrary or manifestly

unsupported by reason.

Contrary to respondent-mother's position on appeal, the terms of visitation in this case were logical and consistent with the trial court's findings of fact and conclusions of law. The trial court repeatedly emphasized instances of danger and domestic violence in respondent-mother's home resulting from her own judgment and deliberate choices — regardless of her completion of the case plan. For the foregoing reasons, we discern no abuse of discretion in the trial court's judgment. Accordingly, we affirm the trial court's 30 December 2022 Permanency Planning Order.

AFFIRMED.

Judges DILLON and MURPHY concur.

Report per Rule 30(e).