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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA23-539

Filed 19 March 2024

Cabarrus County, No. 21 JT 189

IN THE MATTER OF: A.Z.M.M.

Appeal by Respondent-Mother from Order entered 9 February 2023 by Judge Michael G. Knox in Cabarrus County District Court. Heard in the Court of Appeals 20 February 2024.

Richard Croutharmel for respondent-appellant mother.

Hartsell & Williams, P.A., by E. Garrison White for petitioner-appellee Cabarrus County DHS.

Hedrick, Gardner, Kincheloe & Garofalo, by M. Duane Jones for Guardian Ad Litem.

PER CURIAM.

Respondent (“Mother”) is the mother of minor child A.Z.M.M. (“Andy”)¹. She asks that the 2023 order terminating her parental rights to Andy be vacated for lack of subject matter jurisdiction. We affirm.

¹ Pseudonym is used to protect the juvenile’s identity and for ease of reading.

I. Background

By order entered on 15 March 2023, the trial court entered an order terminating Mother’s parental rights to her son Andy. This matter commenced seventeen (17) months earlier, when the Cabarrus County Department of Human Services (“DHS”) received a report that Andy’s parents were driving intoxicated and nearly had an accident while Andy was inside of their car. Subsequently, DHS determined that the parents’ substance abuse issues were endangering Andy to the point that it was necessary to place him in nonsecure custody and file a juvenile petition. Mother appeals.

II. Analysis

Mother’s only argument on appeal is that the trial court lacked subject-matter jurisdiction to enter its order terminating her parental rights to Andy. Specifically, she contends DHS’s petition initiating this matter was fatally defective because the commission of the notary who verified the petition had expired. We review Mother’s argument *de novo*. See *In re M.R.J.*, 378 N.C. 648, 654, 862 S.E.2d 639, 643 (2021).

Our Supreme Court has held that where a juvenile petition is filed but lacks proper verification, the trial court lacks jurisdiction to consider the petition; any orders entered by the trial court in the matter is void ab initio. *In re T.P.R.*, 360 N.C. 588, 599, 636 S.E.2d 787, 794–95 (2006).

The record, here, shows the juvenile petition was notarized on 26 October 2021 *but also that* the notary’s commission expired seven months earlier on 31 March 2021.

We note, however, that DHS and the Guardian ad Litem assigned to Andy (collectively, the “Movants”) moved for our Court to take judicial notice of the fact that the notary was, indeed, properly commissioned on the date he notarized the petition. Mother did not object to the motion for judicial notice and filed no response. The motion includes a certified copy of the Certificate of Appointment as a Notary Public for the notary filed with the Cabarrus County Register of Deeds Book 2019, Page 113. This certificate shows the notary’s term was effective 1 April 2019 to 31 March 2024. The Movants contend that the notary’s representation on the petition that his commission expired on 31 March 2021 was a clerical error.

We have the authority to take judicial notice of facts under Rule 201 of our Rules of Evidence. *See State v. Surratt*, 241 N.C. App. 380, 385, 773 S.E.2d 327, 331 (2015). Under N.C. Gen. Stat. § 8C-1, Rule 201(d), entitled “When mandatory,” “[a] court shall take judicial notice if requested by a party and supplied with the necessary information.” Our Court has held that it is proper to take judicial notice of documents not included in the record but recorded in a county’s register of deeds. *See, e.g., In re Hackley*, 212 N.C. App. 596, 601–02, 713 S.E.2d 199, 123 (2011).

In this matter, we take judicial notice of the document filed with the Cabarrus County Register of Deeds showing that the notary’s commission had, in fact, not expired when he notarized the juvenile petition in this case. Accordingly, we conclude that the trial court had jurisdiction to enter its order terminating Mother’s rights.

IN RE: A.Z.M.M.

Opinion of the Court

AFFIRMED.

Panel consisting of Chief Judge DILLON and Judges STROUD and STADING.

Report per Rule 30(e).