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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA23-852

Filed 2 April 2024

Cumberland County, No. 21 JT 244

IN THE MATTER OF H.A.M.

Appeal by Respondent-Mother from order entered 5 May 2023 by Judge Toni S. King in Cumberland County District Court. Heard in the Court of Appeals 6 March 2024.

Hooks Law, P.C., by Laura G. Hooks, for Respondent-Appellant Mother.

No brief filed on behalf of Petitioner-Appellee.

COLLINS, Judge.

Respondent-Mother appeals from an order terminating her parental rights to her child, Halle,¹ on the basis of willful abandonment. Mother argues that the trial court's findings were inadequate to support its conclusion that Mother had willfully abandoned Halle, and that the trial court abused its discretion by concluding that

¹ A pseudonym is used to protect the identity of the juvenile involved in this case. See N.C. R. App. P. 42.

terminating Mother's parental rights was in Halle's best interests. We affirm the trial court's order.

I. Background

Halle was born in December 2018. In 2019, Mother and the Putative Father became homeless and agreed to give primary custody of Halle to Petitioner, the Putative Father's godsister. A child custody consent order was filed in May 2020, granting primary custody of Halle to Petitioner, and granting supervised visitation to Mother and the Putative Father every other weekend and at other times as mutually agreed upon.

Mother subsequently moved to Woodbridge, Virginia, where she has maintained residence throughout the pendency of this action. After moving to Virginia, Mother visited Halle once around December of 2022, for Halle's fourth birthday party. Otherwise, Mother did not participate in any audio or video calls with Petitioner or Halle but did use Instagram to send Petitioner emojis, compliments, and well-wishes regarding Halle.

In August 2021, Petitioner initiated a private action to terminate Mother's parental rights to Halle for the purpose of adopting Halle. Following hearings on 4 and 5 April 2023, the trial court entered an order on 5 May 2023 concluding that Mother had willfully abandoned Halle and that it was in Halle's best interests to terminate Mother's parental rights. Mother timely filed Notice of Appeal.

II. Discussion

A. Standard of Review

“Our Juvenile Code provides for a two-step process for termination of parental rights proceedings consisting of 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) (citation omitted). “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 698, 700 (2019) (citing N.C. Gen. Stat. § 7B-1109(f)). We review a trial court’s adjudication of grounds to terminate parental rights “to determine whether the findings are supported by clear, cogent[,] and convincing evidence and the findings support the conclusions of law.” *In re E.H.P.*, 372 N.C. 388, 392, 831 S.E.2d 49, 52 (2019) (quotation marks and citations omitted). “A trial court’s finding of fact that is supported by clear, cogent, and convincing evidence is deemed conclusive even if the record contains evidence that would support a contrary finding.” *In re B.O.A.*, 372 N.C. 372, 379, 831 S.E.2d 305, 310 (2019) (citation omitted). Unchallenged findings of fact are “deemed supported by competent evidence and are binding on appeal.” *In re T.N.H.*, 372 N.C. 403, 407, 831 S.E.2d 54, 58 (2019) (citations omitted). “The trial court’s conclusions of law are reviewable de novo on appeal.” *In re C.B.C.*, 373 N.C. 16, 19, 832 S.E.2d 692, 695 (2019) (citation omitted).

If the trial court concludes that there are grounds to terminate parental rights,

“the court proceeds to the dispositional stage, at which the court must consider whether it is in the best interests of the juvenile to terminate parental rights.” *In re D.L.W.*, 368 N.C. 835, 842, 788 S.E.2d 162, 167 (2016) (citations omitted). We review the trial court’s dispositional findings of fact to determine whether they are supported by competent evidence. *In re K.N.K.*, 374 N.C. 50, 57, 839 S.E.2d 735, 740 (2020) (citations omitted). Unchallenged dispositional findings are binding on appeal. *In re Z.L.W.*, 372 N.C. 432, 437, 831 S.E.2d 62, 65 (2019) (citation omitted). A trial court’s best interests determination “is reviewed solely for abuse of discretion.” *In re A.U.D.*, 373 N.C. at 6, 832 S.E.2d at 700 (citation omitted).

B. Grounds for Termination

Mother argues that the trial court’s findings “are inadequate to support a conclusion of [her] willful intent” to abandon Halle.

A trial court may terminate parental rights upon a finding that the parent has “willfully abandoned the juvenile for at least six consecutive months immediately preceding the filing of the petition or motion” seeking to terminate parental rights. N.C. Gen. Stat. § 7B-1111(a)(7) (2023). “Abandonment implies conduct on the part of the parent which manifests a willful determination to forego all parental duties and relinquish all parental claims to the child.” *In re Young*, 346 N.C. 244, 251, 485 S.E.2d 612, 617 (1997) (citation omitted). “If a parent withholds that parent’s presence, . . . love, . . . care, [and] the opportunity to display filial affection, and willfully neglects to lend support and maintenance, such parent relinquishes all

parental claims and abandons the child.” *In re S.R.*, 384 N.C. 516, 526, 886 S.E.2d 166, 175 (2023) (citation omitted).

Here, the relevant statutory six-month period began in March 2021 and extended to August 2021. The trial court made the following unchallenged findings regarding Mother’s conduct within that time period:

35. That the Respondent mother and Putative fathers have failed to provide any gifts, financial support, cards for the Juvenile for at least 6 months prior to filing of the petition.

. . . .

39. Neither the Respondent mother nor the Putative fathers have attended medical appointments or sought any information regarding the well-being of the Juvenile at least six months immediately prior to the filing of the action.

Furthermore, the trial court made the following unchallenged findings regarding Mother’s conduct that did not specifically reference a time period:

32. Neither the Respondent mother nor the Putative father ever filed any modification of custody or complaint in efforts to remove the Juvenile or have the Juvenile placed back in their care or custody. Nor did they file any form of contempt against the Petitioner for failure to allow them to visit according to the court order.

33. The Respondent mother did see the Juvenile at her 4th birthday party and brought gifts and stayed the entire time in 2022. That the Respondent mother did follow the child’s Instagram account that was created by the Petitioner after the Juvenile was placed with the Petitioner. However Respondent mother only responded with reactions of heart faced emojis, occasional Happy Birthday [Halle], Happy Thanksgiving, and/or Merry Christmas [Halle]. Respondent mother also visited on the Juvenile’s first and second birthdays.

34. Petitioner would invite the Respondent mother to make video calls; however it appears that the only missed calls or video calls were those made by the Petitioner to the Respondent mother.

These unchallenged, and thus binding, findings show that, during the relevant six-month period, Mother did not visit with Halle,² did not send gifts, cards, or financial support to Halle, did not attend any medical appointments with Halle, and did not inquire about Halle's medical well-being. Furthermore, Mother never sought to modify Halle's custody arrangement. *See In re B.R.L.*, 379 N.C. 15, 20 n.5, 863 S.E.2d 763, 768-69 n.5 (2021) (“[A] parent’s failure to file [a motion to increase visitation] is routinely found to be evidence supporting a finding that the willful abandonment ground has been proven.” (citations omitted)).

These findings support the conclusion that Mother withheld her love, care, and the opportunity to display filial affection, and that Mother willfully neglected to lend support and maintenance during the six months immediately preceding the filing of the petition seeking to terminate Mother's parental rights to Halle.³ Accordingly, the trial court's findings support its conclusion that Mother willfully abandoned Halle. *See In re S.R.*, 384 N.C. at 526, 886 S.E.2d at 175.

² The undisputed evidence at trial was that Mother did not visit with Halle outside of Halle's first, second, and fourth birthday parties, each of which fell outside the relevant six-month period. Although the trial court did not issue a finding expressly stating this, no findings or evidence suggest that any visits occurred within the relevant six-month period.

³ Mother challenges several findings of fact, arguing that the findings “were not wholly supported by clear and convincing evidence.” However, we need not address Mother's arguments as the unchallenged findings of fact independently support the trial court's conclusion.

Mother argues that her conduct outside the relevant six-month period demonstrates that she “sincerely and intentionally improved her life for Halle rather than sincerely and intentionally abandoning Halle.” Specifically, Mother notes that she attended Halle’s fourth birthday party and played with Halle in 2022, that she has been inquiring about Halle’s well-being since January 2023, and that she has improved her life circumstances since placing Halle with Petitioner.

While “the ‘determinative’ period for adjudicating willful abandonment is the six consecutive months preceding the filing of the petition[,]” the trial court may “consider a parent’s conduct outside the six-month window in evaluating a parent’s credibility and intentions” within the relevant six-month period. *In re B.R.L.*, 379 N.C. at 18, 863 S.E.2d at 767 (citations omitted).

Here, the findings of fact show that the trial court considered Mother’s involvement with Halle outside the determinative six-month period:

33. The Respondent mother did see the Juvenile at her 4th birthday party and brought gifts and stayed the entire time in 2022. That the Respondent mother did follow the child’s Instagram account that was created by the Petitioner after the Juvenile was placed with the Petitioner. However Respondent mother only responded with reactions of heart faced emojis, occasional Happy Birthday [Halle], Happy Thanksgiving, and/or Merry Christmas [Halle]. Respondent mother also visited on the Juvenile’s first and second birthdays.

....

36. The Respondent mother’s single act of attending the Juvenile’s 4th birthday party and bringing gifts does not thwart the Respondent mother or the Putative fathers’

actions abandoning the Juvenile prior to the filing of the petition. Nor has it rectified any actions taken place immediately six months prior to the filing of the petition.

....

40. Since on or about January 2023, the Respondent mother did begin sending consistent contact inquiring about the Juvenile's well-being but still has not visited with the Juvenile since her 4th birthday. She has no idea why she has not done so.

These findings show that the trial court weighed Mother's conduct outside the relevant six-month period and determined that her actions were insufficient to support a conclusion that Mother had not willfully abandoned Halle.

C. Best Interests Determination

Mother argues that the trial court abused its discretion by concluding that terminating Mother's parental rights was in Halle's best interests.

A trial court's best interests determination "is reviewed solely for abuse of discretion." *In re A.U.D.*, 373 N.C. at 6, 832 S.E.2d at 700 (citation omitted). "[A]buse 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.* at 6-7, 832 S.E.2d at 700-01 (citations omitted).

In addition to making the findings required by N.C. Gen. Stat. § 7B-1110(a), the trial court also found:

A. The Juvenile is bonded to the Petitioner, and the Juvenile is not bonded to the Respondent mother or Putative fathers. The Juvenile does not know the Putative fathers or any male to be her father and that the Juvenile

calls the Petitioner mommy and only knows the Petitioner as her mom.

....

C. The Petitioner is married, and the Juvenile has been in the Petitioner's care and custody since she was about five months old. That the Juvenile is currently four years of age and is bonded to the Petitioner. The Petitioner wishes to adopt the Juvenile and the Petitioner's spouse is supportive of this.

D. The Petitioner has taken the Juvenile to all of her medical appointments as well as her dental appointments, and she has provided for the Juvenile's financial, emotional, and medical needs without the assistance from anyone.

E. The Petitioner is a store manager and has a structured schedule in her home for the Juvenile. The Petitioner has a two bedroom home with ample space for the Juvenile. The Juvenile has her own room that is appropriately furnished.

F. The Petitioner is able to provide financially for the Juvenile, and the Juvenile is also bonded to the Petitioner's spouse. The Juvenile has shared in family trips and activities with the Petitioner's spouse.

G. That the Respondent parents have a history of unstable housing as well as being unstable financially. That the Respondent father is currently incarcerated and has not made any alternative placement plans for the Juvenile. The Juvenile does not refer to the Respondent mother with any terms of endearment.

H. That the Petitioner has attempted to foster a relationship with Respondent mother and the Juvenile. While in the Petitioner's care and custody, the Juvenile has stability and is meeting all of her milestones with no health issues.

....

J. The Respondent mother does not know any personal information about the Juvenile such as her favorite foods,

color, or activities. The Respondent mother has not participated in any medical or educational needs of the Juvenile.

These unchallenged findings demonstrate that the trial court considered Halle's strong relationship with Petitioner's family and her relative lack of a relationship with Mother, that Petitioner has attended to Halle's needs and has the means to continue to provide for Halle, and that Halle is thriving in Petitioner's care. We cannot say that the trial court's conclusion that Halle's best interests are served by remaining in such a setting is manifestly unsupported by reason. Accordingly, the trial court did not abuse its discretion by determining that it was in Halle's best interests to terminate Mother's parental rights. *See id.*

III. Conclusion

For the foregoing reasons, the trial court's order terminating Mother's parental rights to Halle is affirmed.

AFFIRMED.

Judges TYSON and ARROWOOD concur.

Report per Rule 30(e).