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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA 23-1011

Filed 17 September 2024

Burke County, Nos. 13 CVD 552, 15 CVD 988

KRISTEN CAMPBELL (WARREN), Plaintiff,

v.

BRIAN WARREN AND TIMOTHY DAVIS, Defendants,

v.

CRYSTAL DEAL, Third Party Intervenor.

Appeal by Third Party Intervenor from order entered 1 March 2023 by Judge Wesley W. Barkley in Burke County District Court. Heard in the Court of Appeals 13 August 2024.

Christopher H. Rumfelt for Plaintiff-Appellee Mother.

No brief filed for Defendants-Appellees Fathers.

Garland F. Byers, Jr., for Third Party Intervenor.

GRIFFIN, Judge.

Third Party Intervenor Crystal Deal appeals from the District Court's order granting Plaintiff Kristen Campbell and Defendant Brian Warren's Motion to

Dismiss for lack of jurisdiction. Deal contends the trial court erred by granting Plaintiff and Defendant Warren's motion because Burke County District Court had the necessary subject-matter jurisdiction to hear her motion. We agree. Deal also appeals the District Court's order dismissing her Motion for Contempt. We do not address Deal's second argument because we reverse the trial court's order and remand for further proceedings.

I. Factual and Procedural Background

Deal is the mother of Plaintiff and the grandmother of Plaintiff's two children, Kate and Mary¹. In May 2013, Plaintiff instituted an action in Burke County District Court for custody of Kate, the child of Plaintiff and Defendant Davis. In January 2015, Plaintiff initiated an action for custody of Mary, the daughter of Plaintiff and Defendant Warren, in McDowell County. That same month, Deal moved to intervene and filed a Third Party Complaint in the McDowell County action involving Mary, seeking primary physical custody.

In February 2015, Deal moved to intervene and filed a Third Party Complaint in Burke County against Plaintiff and Defendant Davis, seeking primary legal and physical custody of Kate. In 2015, Deal successfully moved to intervene in both proceedings. Attempting to consolidate the two custody actions, Deal moved to change venue, seeking transfer of the McDowell County case to Burke County. Judge

¹ Pseudonyms are used to protect the juveniles' identity and for ease of reading. See N.C. R. App. P. 42(b).

Randy C. Pool granted Deal's motion and ordered the transfer of the McDowell County case to Burke County for disposition.

Following the transfer, on 22 January 2019, Judge Amy Sigmon Walker entered an order giving Deal visitation rights to both children. Thereafter, upon a petition for an emergency order by Plaintiff, Deal's visitation rights were suspended pending a hearing on the petition.

In April 2021, the McDowell County DSS filed juvenile petitions alleging that Kate and Mary were neglected juveniles and obtained non-secure custody of the children. On 23 June 2021, due to the pending Juvenile Action in McDowell County, a Notice of Stay of Child Custody Issue (the "Burke County Stay") was filed in both actions involving Kate and Mary in Burke County, restricting the Burke County court from entering any order as to the custody of Kate and Mary. In November 2021, an Adjudication and Dispositional Order was entered by the juvenile court. The Adjudication Order granted sole legal and physical custody of Mary to Plaintiff and Defendant Warren and sole legal and physical custody of Kate to Plaintiff. The Adjudication Order made no mention of visitation rights for Deal, nor was she a party to this action.

On 5 October 2022, Deal filed a Motion for Contempt and Joinder of Files in Burke County, alleging that Plaintiff and Defendant Warren were in contempt for failing to abide by the terms of the 22 January 2019 Burke County Order (the "Burke County Order"). In response, Plaintiff and Defendant Warren filed a Motion to

Dismiss, Motion for Sanctions and Attorney's Fees, and a Motion for Gatekeeping Order. Judge Wes Barkley granted Plaintiff and Defendant Warren's Motion to Dismiss, denied their Motion for Sanctions, and dismissed Deal's Motion for Contempt.

On 1 March 2023, the Burke County District Court entered an order finding that, under Section 7B of the North Carolina General Statutes, the McDowell County Juvenile Court retained jurisdiction over the children. Thus, because the Burke County Order was currently stayed, the only valid and enforceable order was the Adjudication Order entered by the McDowell County Juvenile Court, thereby depriving Burke County District Court of subject-matter jurisdiction over Kate and Mary. Deal timely appealed from the 1 March 2023 order granting Plaintiff and Defendant Warren's Motion to Dismiss and denying Deal's Motion for Contempt.

II. Analysis

Deal contends the Burke County District Court erred by concluding it did not have jurisdiction to rule on her 5 October 2022 Motion for Contempt and Joinder. Specifically, Deal argues the Adjudication Order entered on 16 November 2021 by the McDowell County Juvenile Court terminated its jurisdiction over the minor children, lifted the Burke County Stay, and provided Burke County with subject-matter jurisdiction over the minor children. We agree.

Whether a trial court has subject-matter jurisdiction is a question of law, reviewed de novo on appeal. *McKoy v. McKoy*, 202 N.C. App. 509, 511, 689 S.E.2d

590, 592 (2010). Subject-matter jurisdiction is “a court’s power to hear a specific type of action, and is conferred upon the courts by either the North Carolina Constitution or by statute.” *Chavez v. Wadlington*, 261 N.C. App. 541, 544, 821 S.E.2d 289, 292 (2018) (quoting *Yurek v. Shaffer*, 198 N.C. App. 67, 75, 678 S.E.2d 738, 744 (2009)). Where a court lacks subject-matter jurisdiction over an action, a judgment entered is void. *Hart v. Thomasville Motors, Inc.*, 244 N.C. 84, 90, 92 S.E.2d 673, 678 (1956).

Here, the Adjudication Order entered on 16 November 2021 terminated the McDowell County Juvenile Court’s jurisdiction and returned jurisdiction to Burke County. Therefore, we hold the Burke County District Court erred as a matter of law when it determined that it did not have subject-matter jurisdiction over the minor children.

When the McDowell County Juvenile Court filed petitions alleging that Kate and Mary were neglected juveniles, it exercised its exclusive jurisdiction under section 7B-200(a) of the North Carolina General Statutes, which states that “[t]he court has exclusive jurisdiction over any case involving a juvenile who is alleged to be abused, neglected, or dependent.” N.C. Gen. Stat. § 7B-200(a) (2023). “When the court obtains jurisdiction over a juvenile, jurisdiction *shall continue until terminated by order of the court* or until the juvenile reaches the age of 18 years or is otherwise emancipated, whichever occurs first.” N.C. Gen. Stat. § 7B-201(a) (2023) (emphasis added). Section 7B-201(b) further prescribes the procedure courts follow after jurisdiction terminates:

When the court's jurisdiction terminates, whether automatically or by court order, the court thereafter shall not modify or enforce any order previously entered in the case, including any juvenile court order relating to the custody, placement, or guardianship of the juvenile. The legal status of the juvenile and the custodial rights of the parties shall revert to the status they were before the juvenile petition was filed, unless applicable law or a valid court order in another civil action provides otherwise.

N.C. Gen. Stat. § 7B-201(b) (2023).

Here, the juvenile court appropriately exercised exclusive jurisdiction over the children when McDowell County DSS filed the juvenile petition. *See* N.C. Gen. Stat. § 7B-200(a) (2023) (“The [juvenile] court has exclusive, original jurisdiction over any case involving a juvenile who is alleged to be abused, neglected, or dependent.”). The court maintained exclusive jurisdiction over Kate and Mary unless and until jurisdiction was “terminated by order of the court” or by operation of law. N.C. Gen. Stat. § 7B-201(a). Further, under section 7B-200(c)(1), the Burke County action involving the minor children was automatically stayed unless “the court in the juvenile proceeding enters an order dissolving the stay.” N.C. Gen. Stat. § 7B-200(c)(1) (2023). On 16 November 2021, the juvenile court entered an Adjudication Order, which read in part:

7. That there has been a substantial change in the circumstances that affect the welfare of the minor children since any prior child custody Order termination as is referenced in the finding of facts section of the adjudication order set forth herein and it is in the best interests to modify any prior child custody determination in the manner as set forth in the decretal section herein.

4. That the Juvenile [Mary] shall be in the joint legal and physical custody of the respondent mother, Kristin Warren, and her respondent father, Brian Warren.

5. That the respondent father Brian Warren shall be allowed to move in to the residence with the respondent mother and the juveniles after he completes one family counseling session with [Kate]. After he completes three sessions with [Kate] he shall no longer be supervised with [Kate].

6. That the juvenile [Kate] shall be in the primary legal and physical custody of the respondent mother, Kristen Davis.

7. That Timothy Davis, the respondent father of the juvenile [Kate], shall have a minimum of one hour supervised weekly visitation with [Kate] and as arranged and supervised by the respondent mother and/or her designee.

8. That the McDowell County Department of Social Services shall be relieved of further involvement in this matter.

9. That the Guardian ad Litem shall be relieved of further involvement in this matter.

Although the Adjudication Order specifically relieved DSS and the guardian ad litem of their involvement, the juvenile court did not explicitly terminate its jurisdiction. Although not entirely clear from the language used in the Adjudication Order, we hold that under section 7B-201(a), the Adjudication Order terminated the McDowell County court's jurisdiction over the matter.

Deal argues that *McMillan v. McMillan*, 267 N.C. App. 537, 833 S.E.2d 692 (2019), and *Rodriguez v. Rodriguez*, 211 N.C. App. 267, 710 S.E.2d 235 (2011), suggest

we must reverse the 1 March 2023 Order. In *McMillan*, the juvenile order expressly stated it was terminating its jurisdiction in the Neglect Proceeding, ended the involvement of both DSS and the guardian ad litem, and expressly returned legal custody of the child to the parents. *McMillan*, 211 N.C. App. at 546, 833 S.E.2d at 698. There, we concluded the adjudication order terminated the juvenile court's jurisdiction and reinvested subject-matter jurisdiction with the court adjudicating a prior civil custody action. *Id.* Upon termination of the juvenile court's jurisdiction, "the legal status of the juvenile and the custodial rights of the parties reverted to the status they were before the juvenile petition was filed." *Id.*

Similarly, in *Rodriguez*, we held that jurisdiction of the juvenile court terminated when the juvenile order "placed the children in both the physical and legal custody of [the] defendant, ended involvement of both DSS and the guardian ad litem program, and included no provisions requiring ongoing supervision or court involvement." *Rodriguez*, 211 N.C. App. at 273, 710 S.E.2d at 240. There, we concluded that the termination of the juvenile court's jurisdiction was sufficient to reinvest the trial court adjudicating a prior civil custody proceeding with subject-matter jurisdiction to consider the plaintiff's custody claim. *Id.*

As in both *McMillan* and *Rodriguez*, the Adjudication Order in this case shows the juvenile court's intention to end its involvement in the matter. The Adjudication Order relieved DSS and the guardian ad litem of any further involvement, returned the minor children to their pre-petition status, and did not include any provision

requiring ongoing court involvement.

We acknowledge that we have previously held that merely relieving DSS of further responsibility does not necessarily terminate jurisdiction of the juvenile court. *In re Baby Boy Searce*, 81 N.C. App. 531, 542, 345 S.E.2d 404, 411 (1986); *In re S.T.P.*, 202 N.C. App. 468, 473, 689 S.E.2d 223, 227 (2010). However, we conclude these cases are distinguishable from the one before us. In *In re Baby Boy Searce*, the trial court found that the best interests of the child would be served by awarding legal custody to the child's foster parents, with the father having limited visitation privileges. *In re Baby Boy Searce*, 81 N.C. App. at 536, 345 S.E.2d at 407. Thus, after DSS's involvement, the mother was not returned to her pre-petition legal status as the mother of the child. *Id.* at 542, 345 S.E.2d at 411. Moreover, the father's visitation with the child was continually monitored by the Durham Community Guidance Clinic for Children and Youth in Durham. *Id.* In *In re S.T.P.*, neither the mother nor the father were returned to their pre-petition custodial rights as the grandmother continued to be the legal guardian of the child. *In re S.T.P.*, 202 N.C. App. at 472, 689 S.E.2d at 227.

Here, the Adjudication Order returned the minor children to the custody of Plaintiff. See N.C. Gen. Stat. § 7B-201(b) ("When the court's jurisdiction terminates, whether automatically or by court order . . . [t]he legal status of the juvenile and the custodial rights of the parties shall revert to the status they were before the juvenile petition was filed."). Additionally, unlike in *In re Baby Boy Searce*, where the father

was to be continually monitored by a court ordered organization, here, the Adjudication Order only mentions that Defendant Davis is to have one hour of supervised visitation as arranged by *the mother and or designee*, and not by any organization ordered by the court.

We recognize that the Adjudication Order states that Defendant Warren can move in with Plaintiff and Kate upon his completion of one family counseling session and will no longer require supervised visits upon his completion of three sessions. However, the Adjudication Order does not provide for oversight or monitoring of this requirement. To that point, the Adjudication Order does not indicate any further involvement from the juvenile court. Because the Adjudication Order effectively terminated the court's involvement and returned the children to the custody of Plaintiff, we conclude that under our prior holdings in *McMillan* and *Rodriguez*, the Adjudication Order terminated the jurisdiction of the juvenile court pursuant to section 7B-201(a).

As the Adjudication order terminated the McDowell County Juvenile Court's jurisdiction, the stay on Burke County's jurisdiction lifted. Because the stay lifted, Deal properly filed her motion in the Burke County civil custody proceeding. *See Rodriguez*, 211 N.C. App. at 273, 710 S.E.2d at 240 (explaining the court adjudicating a civil custody claim had jurisdiction to hear a party's motion following the juvenile court's termination of jurisdiction). However, because the Burke County court concluded it did not have jurisdiction to hear Deal's motion, it did not rule on it. Thus,

having concluded the McDowell County Adjudication Order terminated the juvenile court's jurisdiction and reinvested Burke County with the necessary jurisdiction to rule on Deal's motion, we reverse the 1 March 2023 order and remand for further proceedings.

III. Conclusion

For the aforementioned reasons, we reverse the Burke County Order and remand for further proceedings.

REVERSED AND REMANDED.

Judges STROUD and GORE concur.

Report per Rule 30(e).