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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA24-239

Filed 3 December 2024

Onslow County, No. 21 CVD 2404

JESSIE M. EDMONDSON, Plaintiff,

v.

JACOB DANIEL EDMONDSON, Defendant.

Appeal by Mother from judgment entered 15 August 2023 by Judge William Shanahan in Onslow County District Court. Heard in the Court of Appeals 10 September 2024.

The Armstrong Law Firm, P.A., by L. Lamar Armstrong, III, for plaintiff-appellant mother.

No brief filed for defendant-appellee father.

MURPHY, Judge.

We vacate and remand the trial court's custody order, as the trial court failed to make detailed findings of fact to support its best interest determination and failed to resolve numerous issues raised by the evidence.

BACKGROUND

On or about 1 October 2016, Mother and Father married. In December 2017, Julio¹ was born to Mother and Father. Mother and Father lived together as husband and wife until around or about 22 June 2021, when the pair separated.

On 14 July 2021, Mother filed a complaint seeking, *inter alia*, divorce from Father, sole custody of Julio, and child support. In her complaint, Mother alleged that Father had become physically violent and abusive towards her, culminating in a domestic violence protective order against him, and regularly consumed alcohol to excess, leading to charges of DWI and reckless driving. On 14 September 2021, Father filed an answer and counterclaim seeking, *inter alia*, joint legal and shared physical custody of Julio and an order that both parties pay for the maintenance and support of Julio.

On 13 January 2022, the trial court ordered that “Father shall not consume any alcohol when the minor child is in his care.” Throughout the pendency of the case, Father failed to comply with this order and was “repeatedly . . . observed in public drinking alcoholic beverages when the minor child was in his custody and . . . was observed driving with the child after he consumed alcohol.”

On or about 31 January 2023, Mother and Father were legally divorced. On 27 and 28 July 2023, the trial court conducted a hearing on permanent child custody and permanent child support. On 15 August 2023, the trial court entered judgment

¹ We use a pseudonym to protect the juvenile’s identity and for ease of reading.

awarding joint legal custody of Julio to Mother and Father, with Mother having primary custody and Father having secondary custody, and ordered Father to pay monthly child support to Mother in the amount of \$1,050.00. The trial court further ordered

[t]hat[,] while the minor child is in [Father's] custody[,] [Father] . . . [shall] not . . . operate a motor vehicle if he consumes any alcohol at all. Violation of this provision shall be punishable by contempt and shall constitute a basis for suspending and/or modifying [Father's] visitation with the minor child.

Mother appealed.

ANALYSIS

On appeal, Mother argues that the trial court abused its discretion in awarding the parties joint legal custody without “provid[ing] any rational measure to protect [Julio] from Father’s alcohol abuse, drunk driving, and anger issues.” “An abuse of discretion results only where a decision is manifestly unsupported by reason or so arbitrary that it could not have been the result of a reasoned decision.” *Clark v. Sanger Clinic*, 175 N.C. App. 76, 84 (2005) (internal marks and citation omitted).

Alternatively, Mother argues that the trial court failed to make sufficient findings of fact in making its best interest of the child determination to support the judgment. We agree.

In a child custody case, the trial court’s findings of fact are conclusive on appeal if supported by substantial evidence, even if there is sufficient evidence to support contrary findings. Substantial evidence is such relevant evidence as

a reasonable mind might accept as adequate to support a conclusion. Unchallenged findings of fact are binding on appeal. The trial court's conclusions of law must be supported by adequate findings of fact

Carpenter v. Carpenter, 225 N.C. App. 269, 270 (2013) (quoting *Peters v. Pennington*, 210 N.C. App. 1, 13 (2011)). We review whether the trial court's findings of fact support its conclusions of law de novo. *Id.*

Pursuant to N.C.G.S. § 50-13.2(a),

[a]n order for custody of a minor child . . . shall award the custody of such child to such person, agency, organization or institution as will best promote the interest and welfare of the child. In making the determination, the court *shall consider all relevant factors* including *acts of domestic violence between the parties, the safety of the child*, and the safety of either party from domestic violence by the other party.

N.C.G.S. § 50-13.2(a) (2023) (emphasis added).

Although a custody order need not, and should not, include findings as to each piece of evidence presented at trial, it must resolve the material, disputed issues raised by the evidence.

A custody order is fatally defective where it fails to make detailed findings of fact from which an appellate court can determine that the order is in the best interest of the child, and custody orders are routinely vacated where the “findings of fact” consist of mere conclusory statements that the party being awarded custody is a fit and proper person to have custody and that it will be in the best interest of the child to award custody to that person. A custody order will also be vacated where the findings of fact are too meager to support the award.

Carpenter, 225 N.C. App. at 273 (cleaned up).

Here, the trial court made the following findings relevant to its best interest determination:

7. That [Mother] and [Father] are both fit and proper persons to have the care, custody and control of said minor child[,] and it is in the child's best interest and will promote his general health and welfare if his custody is granted primarily to [Mother] with [Father] having secondary custody and liberal visitation privileges.

8. That the minor child has lived primarily with [Mother] since the parties separated and [Mother] has provided appropriately for all of the child's physical, educational, emotional and spiritual needs. That the child appears to be healthy, happy and well-adjusted in [Mother's] primary care.

9. . . . That [Mother] is self-employed and she has the flexibility to attend to all of the child's needs.

10. That [Father] has remarried and currently resides with his wife and her two children in a rental home located in Jacksonville, NC. That [Father] and his new wife are expecting another child in early 2024.

11. That an [o]rder was entered by [the trial] [c]ourt on [13 January] 2022 wherein [Father] was ordered not to consume any alcohol when the minor child was in his care. That [Father] has not complied with this [c]ourt[] [o]rder and has repeatedly been observed in public drinking alcoholic beverages when the minor child was in his custody and on occasion [Father] was observed driving with the child after he consumed alcohol.

12. That [Father] is an able bodied person, gainfully employed . . . and is, therefore, sufficiently capable of providing \$1,050.00 per month for the use, benefit and support of the minor child.

13. That [Mother] is an able bodied person, gainfully self-employed . . . and is, therefore[,] sufficiently capable of

contributing to the support and maintenance of the minor child.

The trial court thereafter concluded “[t]hat it is in the best interest, health, and welfare of the minor child, . . . that the parties have joint legal custody, with [Mother] having primary custody and [Father] having secondary custody and liberal visitation rights.”

In her complaint, Mother alleged that Father had become physically violent and abusive towards her as a result of his excessive alcohol consumption. “Under [N.C.G.S.] § 50-13.2(a), a relevant factor in making a custody determination is acts of domestic violence between the parties.” *Hall v. Hall*, 188 N.C. App. 527, 533 (2008). Mother alleged that a Domestic Violence Protection Order was put in place as a result of Father’s physical assault of Mother that occurred on or about 21 June 2021. Mother further alleged that Father’s excessive alcohol consumption resulted in criminal charges being brought against him, that Mother and Father could not live in peace and harmony because Father “consumed alcohol to excess so as to render [Mother’s] condition intolerable and her life burdensome[,]” and that it is in Julio’s best interest and will promote his general health and welfare that his custody be granted to Mother. We have previously held that “[o]ne area of dispute which may bear directly upon the child’s welfare is the extent of consumption of alcoholic beverages by each party.” *Carpenter*, 225 N.C. App. at 274. Father’s answer and counterclaim denied the substance of these allegations and alleged that Father had

“at all times attempted to provide a good home for [Mother] and [Julio][,]” thereby leaving material, disputed issues as to Father’s alcoholism and the home environment provided for Julio by each of his parents at the time of Mother’s complaint.

During the child custody hearing, Mother testified that her “chief concern about [Julio’s] visitation with [Father]” was “[Julio’s] safety when it comes to [Father’s] drinking alcohol and [his] temper, anger[,]” and that these concerns were also present during their marriage. She further testified that, during the time that Mother, Father, and Julio resided together, Father would drink “at least every day . . . and heavily on the weekends[]” and would “drive when he was intoxicated with [Julio] in the car[.]” Two private investigators further testified that they had observed Father consume alcoholic beverages on numerous occasions during the pendency of the case and observed Father drive Julio after consuming alcohol. Father testified that, at the time of the hearing, he “very rarely” drank, but admitted that on some of the occasions that the private investigators had observed, he drank beer and rum. At the close of evidence, Mother asked that the trial court order Father to utilize Soberlink to ensure that Father complied with the trial court’s order.

The trial court found that Father continued to consume—and drive after consuming—alcohol while Julio was in his custody, in direct violation of its order. This finding resolved the material, disputed issues raised by the evidence as to whether Father continued to drink during the pendency of the case and whether

Father violated the trial court's order by drinking with Julio in his care and by driving Julio after drinking, but "[does] not shed any light upon the rationale for the trial court's ultimate conclusion of what is in [Julio's] best interest[]" and "fail[s] to resolve the primary issues raised by the evidence which bear directly upon the child's welfare." *Id.* at 273, 278.

In *Hunt v. Hunt*, 112 N.C. App. 722 (1993), we held that

[t]he determination of what will best promote the interest and welfare of the child, that is, what is in the best interest of the child, is a conclusion of law, and this conclusion must be supported by findings of fact as to the *characteristics* of the parties competing for custody. These findings may concern the physical, mental, or financial fitness or any other factors brought out by the evidence and relevant to the issue of the welfare of the child. These findings cannot, however, be mere conclusions.

Id. at 728 (emphasis added) (cleaned up). In *Hunt*,

the trial court made some findings of fact as to the unfitness of [the] defendant, and based on those findings concluded as a matter of law that it is in the best interest of the minor children that they be placed in the primary care, custody and control of the plaintiff. The trial court's order, however, failed to make any findings of fact regarding the *fitness* of [the] plaintiff. It does not necessarily follow that because [the] defendant is not a fit person to have custody of the children, that [the] plaintiff is fit. Accordingly, the conclusion that it would be in the children's best interest for [the] plaintiff to have custody is unsupported by sufficient findings of fact and the custody order must be reversed.

Id. at 728-29 (emphasis added).

By contrast, in *Eddington v. Lamb*, 260 N.C. App. 526 (2018), we held that the trial court's unchallenged findings of fact were

adequate for meaningful appellate review and were sufficient to support the trial court's determination of what physical custody award would serve Ayden's best interests. The findings compared the parents' home environments, mental and behavioral fitness, work schedules as it relates to their abilities to care for Ayden, and past decision-making with respect to Ayden's care.

Id. at 534.

In contrast to its findings that Mother has provided for all of Julio's needs in her primary custody and care; that Julio appears happy, healthy, and well-adjusted in her care; and that the flexibility of Mother's career allows her to attend to all of Julio's needs, the trial court made only a conclusory statement that Father is a "fit and proper person[] to have the care, custody and control of [Julio] and it is in the child's best interest . . . if . . . [Father] [have] secondary custody and liberal visitation privileges." "A conclusory recitation of the best interests standard, without supporting findings of fact, is not sufficient." *In re B.C.T.*, 265 N.C. App. 176, 188 (2019) (marks omitted). "We have previously noted that the trial court need not use 'magic words' in its findings of fact or conclusions of law, if the evidence and findings overall make the trial court's basis for its order clear." *Id.* Here, we have an order with "magic words" but no findings of fact to support the conclusions of law. "As in *Carpenter*, the findings of fact do not explain *why*" the trial court's custody award is in the best interests of Julio. *Hinson v. Hinson*, 268 N.C. App. 187, 196 (2019)

(emphasis in original). “This lack of resolution mandates remand for additional findings of fact.” *Id.*

“[A] custody order is fatally defective where it fails to make detailed findings of fact from which an appellate court can determine that the order is in the best interest of the child” *Carpenter*, 225 N.C. App. at 273. The trial court’s findings of fact do not explain why its custody award is in Julio’s best interest.

CONCLUSION

The trial court failed to resolve issues raised by the evidence and failed to make findings of fact sufficient to demonstrate why the award in the custody order is in Julio’s best interest. *See Hinson*, 268 N.C. App. at 197. On remand, “[t]he trial court shall adjudicate and resolve conflicts in the evidence and make additional findings of fact to support the conclusions and legal issues in its decree. Whether to take additional evidence upon remand rests within the trial court’s discretion.” *Id.*

VACATED AND REMANDED.

Judges ARROWOOD and GRIFFIN concur.

Report per Rule 30(e).