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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA24-752

Filed 5 March 2025

Henderson County, Nos. 20 JT 126, 127

IN THE MATTER OF: J.D.T.D., Z.H.D.

Appeal by Respondent-Mother from order entered 20 May 2024 by Judge Lora Baker in Henderson County District Court. Heard in the Court of Appeals 11 February 2025.

Attorney Peter Wood, for respondent-appellant mother.

Deputy County Attorney Sara Player, for petitioner-appellee Henderson County Department of Social Services.

Attorney Brittany T. McKinney, GAL Staff Attorney, for petitioner-appellee Guardian ad Litem.

STADING, Judge.

Respondent-Mother (“Mother”)¹ appeals from the trial court’s order terminating her parental rights to her minor children, J.D.T.D. (“John”) and Z.H.D. (“Zola”).² Mother’s sole argument on appeal is that the trial court committed error by

¹ The children’s father was a party to the underlying action whose parental rights were terminated, but he did not appeal the trial court’s order of termination.

² See N.C. R. App. P. 42(b) (pseudonyms are used to protect the identity of the minor children).

not making findings of fact about, nor considering, potential placement options with relatives before terminating her parental rights. After careful review, we conclude the trial court did not abuse its discretion. We therefore affirm the trial court's order.

I. Background

On 7 September 2022, Henderson County Department of Social Services ("DSS") filed a petition alleging John and Zola were neglected juveniles because they did not receive proper care, supervision, or discipline, and lived in an environment injurious to their welfare. The trial court took nonsecure custody of the children, placing them in foster care.

Throughout review and permanency planning hearings in 2022 and 2023, the trial court considered whether the children could be placed with relatives, including the paternal grandfather. That said, these relatives were not viable placement options because of criminal charges or drug-related activity. DSS investigated and reported that no relatives had been identified as potential placement providers for the children. For example, the children's paternal grandparents were not an option because they had been arrested and incarcerated for an incident in 2022 involving "drugs and drug paraphernalia." At each hearing, the trial court found DSS had made reasonable efforts toward reunification and had appropriately considered but ruled out any identified relative as a safe placement.

DSS eventually changed its primary plan to adoption and moved to terminate Mother's parental rights. At the 25 April 2024 termination hearing, the trial court

adjudicated grounds for termination of Mother’s paternal rights for neglect, willfully leaving the children in foster care for more than twelve months without making reasonable progress to correct the conditions that led to their removal, and willfully failing to pay for the cost of care although she was able to do so. *See* N.C. Gen. Stat. § 7B-1111(a)(1)–(3) (2023). At the dispositional stage, the trial court held that the termination of Mother’s parental rights to John and Zola was in their best interests. Mother appealed the trial court’s order.

II. Jurisdiction

Mother appeals the trial court’s order under N.C. Gen. Stat. §§ 7B-1001(a)(7) (“Any order that terminates parental rights or denies a petition or motion to terminate parental rights.”) and 7A-27(b)(2) (2023) (“From any final judgment of a district court in a civil action.”).

III. Analysis

Mother contends that the trial court erred at disposition by failing to consider relative placements and failing to make written findings about such placement before terminating her parental rights. We review a trial court’s best interests determination for abuse of discretion. *In re S.D.C.*, 373 N.C. 285, 290, 837 S.E.2d 854, 858 (2020). “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.’” *In re Z.A.M.*, 374 N.C. 88, 100, 839 S.E.2d 792, 800 (2020) (citation omitted).

“Article 9 of the Juvenile Code . . . provides that a juvenile receiving out-of-home care should be placed with a suitable relative when such a placement is available, ‘unless the court finds that the placement is contrary to the best interests of the juvenile.’” *In re N.C.E.*, 379 N.C. 283, 293, 864 S.E.2d 293, 301 (2021) (citation omitted). However, “Article 11’s dispositional statute, N.C. [Gen.] [Stat.] § 7B-1110, gives no priority to relative placements, focusing solely upon identifying the best interests of the child.” *Id.* at 293, 864 S.E.2d at 301. Although “the availability of an appropriate relative placement may be a ‘relevant consideration’ under N.C. [Gen. Stat.] § 7B-1110(a)(6) [(2023)],” the trial court retains the discretion to weigh the statutory factors and must identify what outcome best serves the child. *Id.* (internal citation omitted); *In re J.J.B.*, 374 N.C. 787, 795, 845 S.E.2d 1, 6 (2020). This sentiment was also expressed in *In re S.D.C.*:

Although the trial court is not expressly directed to consider the availability of a relative placement in the course of deciding a termination of parental rights proceeding, it *may* treat the availability of a relative placement as a “relevant consideration” in determining whether termination of a parent’s parental rights is in the child’s best interests

373 N.C. at 290, 837 S.E.2d at 858 (emphasis added) (citation omitted). And “in the event that the record does not contain any evidence tending to show the availability of a potential relative placement, the trial court need not consider or make findings of fact concerning that issue.” *Id.* at 291, 837 S.E.2d at 858.

At the appropriate stages of the proceedings, the trial court’s findings

demonstrate that DSS explored relatives for placement, deeming them inappropriate or unavailable. While Mother suggests DSS should have done more, the record supports the court's conclusion that none of these proposed relatives were feasible options. *See In re N.C.E.*, 379 N.C. at 293, 864 S.E.2d at 301 (“[A] juvenile receiving out-of-home care should be placed with a suitable relative when such a placement is available . . .”). During the Article 9 disposition and permanency planning hearings, the trial court “considered the release of the juveniles to a relative, guardian, custodian, or other responsible adult,” and was “unaware of such a relative.”

At disposition, the trial court must determine whether terminating a parent's rights is in the children's best interests by considering the six statutory factors in N.C. Gen. Stat. § 7B-1110(a). *In re Z.L.W.*, 372 N.C. 432, 436–37, 831 S.E.2d 62, 65 (2019). The trial court's unchallenged findings reflect that John and Zola had been in foster care for well over a year, had stability in their placement, and were likely to be adopted by their foster family. *See In re E.F.*, 375 N.C. 88, 91, 846 S.E.2d 630, 632 (2020). (internal citation omitted) (“The trial court's dispositional findings are binding on appeal if they are supported by any competent evidence. We are likewise bound by all uncontested dispositional findings.”). Consistent with precedent, the trial court properly focused on whether termination, followed by adoption, would best serve John and Zola's interests given their progress in foster care, their strong bond with their foster parents, and the lack of an acceptable relative alternative. *See In re N.C.E.*, 379 N.C. at 293, 864 S.E.2d at 301–02 (citation omitted) (“While the availability of an

appropriate relative placement may be a ‘relevant consideration’ under N.C. G[en]. S[tat]. § 7B-1110(a)(6), . . . it is left to the trial court’s discretion to weigh the various competing [statutory] factors . . . in arriving at its determination of the child’s best interests.”). Considering the foregoing, the trial court did not abuse its discretion. *See In re S.D.C.*, 373 N.C. at 290, 837 S.E.2d at 858 (citations omitted) (“An ‘[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.”).

IV. Conclusion

For the above reasons, the trial court was not required to re-investigate or place controlling emphasis on a relative placement at the termination phase. Based on the uncontested findings, the trial court did not abuse its discretion in concluding termination of Mother’s parental rights was in the best interests of John and Zola. Accordingly, we affirm the trial court’s order terminating Mother’s parental rights.

AFFIRMED.

Judges WOOD and GORE concur.

Report per Rule 30(e).