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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA24-728

Filed 19 March 2025

Greene County, Nos. 22JA25, 26

IN THE MATTER OF:

B.M. & C.M.

Appeal by Respondent from order entered 28 March 2024 by Judge Annette W. Turik in Greene County District Court. Heard in the Court of Appeals 11 February 2025.

Attorney Gay P. Stanley for Petitioner–Appellee Greene County Department of Social Services.

Attorney Mary McCullers Reece, for Respondent–Appellant Father.

Attorney Michelle FormyDuval Lynch for Petitioner–Appellee Guardian ad Litem.

MURRY, Judge.

Respondent William McKeever (Father) appeals from the trial court’s order placing juveniles B.M. and C.M. (Bea and Callie)¹ in the legal guardianship of their maternal aunt and uncle, Chastity and Andrew Whittington. We affirm the trial

¹ Pseudonyms used for the minor children’s privacy and ease of reading.

court.

I. Background

Father and Katherine McKeever (Mother) share two biological children, Bea and Callie. On 2 December 2022, the Greene County Department of Social Services (DSS) filed petitions alleging that Mother and Father’s untreated mental illness and substance abuse issues caused them to neglect juveniles Bea and Callie. DSS placed both children in nonsecure custody on 9 January 2023. In a subsequent 13 February 2023 permanency planning hearing, the trial court adjudicated Bea and Callie as “[n]eglected juvenile[s]” under N.C.G.S. § 7B-101(15). While maintaining custody of Bea and Callie, DSS approved the juveniles’ maternal aunt and uncle, Chastity and Andrew Whittington, for kinship care placement under N.C.G.S. § 7B-903(a1). On 20 January 2023, the Whittingtons took Bea and Callie into their home and care. The trial court approved this placement first at the hearing on 13 February 2023 and again at two subsequent hearings in May 2023 and August 2023 “because all of the juvenile[s]’ needs [we]re being met in the[ir] current placement.”

On 12 February 2024, the trial court conducted a final permanency planning hearing in which it granted guardianship of Bea and Callie to the Whittingtons. Chastity Whittington testified at the hearing that the juveniles’ guardian *ad litem* (GAL) and social worker spoke to her and her husband about the legal distinction between guardianship and custody. She and her husband both preferred guardianship. The trial court then entered its order granting this guardianship of the

juveniles to Chastity and Andrew Whittington on 28 March 2024. Father filed untimely notice of appeal on 3 June 2024. In our discretion, we grant Father’s petition for writ of certiorari. *See* N.C. R. App. 21(a)(1) (“The writ of certiorari may be issued in appropriate circumstances . . . to . . . review . . . the . . . orders of trial tribunals when the right to . . . appeal has been lost by failure to take timely action . . .”).

II. Standard of Review

This Court reviews a trial court’s permanency planning order under an abuse-of-discretion standard. *See In re A.P.W.*, 378 N.C. 405, 410 (2021). A trial court abuses its discretion by making a “ruling . . . so arbitrary that it could not have been the result of a reasoned decision.” *In re N.G.*, 186 N.C. App. 1, 10–11 (2007) (quotation omitted). This Court reviews *de novo* “[t]he question of whether a trial court has followed the plain language of a statute . . . [as] a question of law.” *In re K.B.*, 386 N.C. 68, 72.

III. Analysis

Under N.C.G.S. § 7B-600, a trial court may appoint a guardian for juveniles if it finds that doing so “would be in [their] best interests.” N.C.G.S. § 7B-600(a) (2023). Before making this appointment, though, the trial court must verify that the appointee “understands the legal significance of the appointment and will have adequate resources to care appropriately for the juvenile[s].” *Id.* § 7B-600(c)². The

² We note that N.C.G.S. § 7B-906.1(j) contains substantially similar language and that our analysis applies to both statutes.

trial court is not required to make any specific findings to verify these requirements and may prove them by evidence received in court. *In re J.E.*, 182 N.C. App. 612, 617 (2007). As a practical matter, some evidence of the proposed guardian’s material resources is necessary to determine that the guardian has “adequate resources” to care for the juvenile. *In re P.A.*, 241 N.C. App. 53, 61 (2015).

On appeal, the sole issue is whether the record contains competent evidence to support the trial court’s verification of the proposed guardians’ understanding of the appointment’s legal significance. Father argues that the trial court did not hear sufficient evidence to verify that Chastity and Andrew Whittington understood this significance because Chastity Whittington’s 12 February 2024 testimony did not adequately delve into “the reasons for [her] stated preference[s].” Father argues that the trial court did not conduct colloquy or receive a guardianship agreement into evidence. But the trial court need not make specific findings to explore the extent of the guardians’ understanding as long as the guardians demonstrate in the record their understanding of the guardianship’s legal significance. Here, Chastity Whittington’s testimony at the 12 February 2024 hearing shows that she and her husband had discussed with the GAL the legal differences between guardianship and custody.

The GAL and DSS reports—both entered into evidence without objection—documented further information about the Whittingtons’ understanding of their proposed guardianship. The GAL report confirmed that, “[o]n [12 January 2024], th[e]

GAL spoke to . . . Chastity Whittington, who indicated that she and her husband would like to receive permanent guardianship of the girls” and that this “position . . . never changed.” The DSS report was then admitted with the amendment that guardianship was the recommended primary permanent plan. It also confirmed the “Whittingtons’ . . . will[ingness] to take care of [Bea] and [Callie] for as long as . . . need[ed].” We hold that this evidence competently supports the trial court’s finding that the Whittingtons understood the legal significance of their appointment as guardians for Bea and Callie. The trial court met the standard of N.C.G.S. § 7B-600(c). As a result, we affirm.

IV. Conclusion

For the reasons stated above, this Court concludes that the trial court did not abuse its discretion by finding that there was competent evidence to support its finding that the guardians understood the legal significance of their appointment. Accordingly, we affirm the trial court’s order.

AFFIRMED.

Judges CARPENTER and ZACHARY concur.

Report per Rule 30(e).