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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA24-768

Filed 2 April 2025

Mecklenburg County, No. 20 JT 363

IN THE MATTER OF: R.A.C.

Appeal by Respondent-Mother from order entered 1 April 2024 by Judge Aretha V. Blake in Mecklenburg County District Court. Heard in the Court of Appeals 17 March 2025.

Parent Defender Wendy C. Sotolongo, by Assistant Parent Defender Jacky L. Brammer, for respondent-appellant mother.

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

Mecklenburg County Attorney's Office, by Senior Associate Attorney Kristina A. Graham, for petitioner-appellee Mecklenburg County Youth and Family Services.

STADING, Judge.

Respondent-Mother (“Mother”) appeals from an order terminating her parental rights to her minor child, R.A.C. (“Ray”).¹ Mother argues the trial court abused its discretion in concluding termination was in Ray’s best interests. We disagree and affirm the trial court’s order.

¹ See N.C. R. App. P. 42(b) (a pseudonym is used to protect the identity of the minor child).

I. Background

Ray was born prematurely at twenty-six weeks gestation in April 2020. On 12 August 2020, Mecklenburg County Youth and Family Services (“YFS”) received a report after Ray was admitted to the emergency room for being “unresponsive, stiff, and ‘not acting right.’” Medical providers diagnosed Ray with extensive injuries, including a skull fracture, right front epidural hematoma, subdural hematoma, healing femur fracture, and “other areas of hemorrhage consistent with trauma.” Ray required surgery to relieve intracranial pressure. He was placed in an intensive care unit with a breathing machine, and prescribed seizure medication. Mother provided inconsistent explanations about the source and cause of Ray’s injuries, shifting blame between her mother and Ray’s father.

On 28 August 2020, YFS filed a juvenile petition alleging Ray was an abused, neglected, and dependent juvenile, and it obtained nonsecure custody. In the initial nonsecure custody hearing order, the trial court suspended visitation due to concerns over the extent and severity of Ray’s injuries. The order noted that either parent was permitted to move for reconsideration. At the next nonsecure custody hearing, recognizing the importance of “consistent contact,” the trial court’s order permitted one hour in-person supervised visitation between Mother and Ray. It also established virtual visitation to two times per week with instructions for “YFS to make efforts to

increase virtual visits[.]” Although Mother could have visited Ray in-person and virtually, she refused to meet with YFS to facilitate this visitation.

On 19 March 2021, Ray was adjudicated as an abused, neglected, and dependent juvenile. The trial court’s order included findings indicating evidence of repeated non-accidental abuse. It also found Mother had demonstrated significant instability and inconsistent engagement with mental health treatment and parenting resources. At multiple subsequent permanency planning hearings, the trial court noted that Mother had neither made adequate progress nor actively participated in nor cooperated with the plan. On 27 January 2022, YFS moved to terminate the rights of both parents to Ray on grounds of abuse, neglect, willful failure to make reasonable progress, and dependency. Finally, before the final permanency planning hearing on 23 November 2022, Mother had made “positive steps in getting her own needs addressed.”

On multiple hearing dates, beginning 11 January 2023 through 28 June 2023, the trial court conducted the termination of parental rights hearing. At the adjudication phase, the trial court found Mother had consistently failed to address the conditions necessitating Ray’s removal, continued to exhibit denial about the severity and non-accidental nature of Ray’s injuries, and had failed to meaningfully engage in provided services. Following the multiple hearings, the trial court finally entered an order nine months later on 1 April 2024, terminating Mother’s parental

rights on these grounds, determining it was in Ray’s best interests. Mother entered her notice of appeal.

II. Jurisdiction

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

III. Analysis

Mother asserts the trial court’s order is “fundamentally flawed and incomplete” absent dispositional findings about the impact of visitation restrictions on her ability to bond with Ray. She posits that the trial court abused its discretion, and its order must therefore be vacated.

Mother frames her argument as a challenge to the Juvenile Code’s Article 11 termination proceedings, but the visitation restrictions were imposed by a prior permanency planning order entered under Article 9. Since Mother solely appeals from the trial court’s termination order, entered on 1 April 2024, any challenge to the permanency planning order is not properly before us. *See Atchley Grading Co. v. W. Cabarrus Church*, 148 N.C. App. 211, 212, 557 S.E.2d 188, 188 (2001) (“On appeal, plaintiff presents three arguments all relating to the 26 April 2000 order. . . . We note that plaintiff only gave notice of appeal from the 20 October 2000 order Any

arguments pertaining to the underlying 26 April 2000 order are not properly before this Court.”); *see also Gause v. New Hanover Reg’l Med. Ctr.*, 251 N.C. App. 413, 424, 795 S.E.2d 411, 419 (2016) (citation omitted and alterations in original) (“[T]he appellant must appeal from each part of the judgment or order appealed from which appellant desires the appellate court to consider”); *see also* N.C. R. App. P. 3, 3.1.

“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 (2020). At the adjudicatory stage:

The petitioner bears the burden . . . of proving by clear, cogent, and convincing evidence that one or more grounds for termination exist under section 7B-1111(a) of the North Carolina General Statutes. If the trial court adjudicates one or more grounds for termination, 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.

Id. at 94, 839 S.E.2d at 797 (citations and quotation marks omitted).

To assess a juvenile’s best interest, trial courts must consider the factors enumerated in N.C. Gen. Stat. § 7B-1110 (2023):

(a) After an adjudication that one or more grounds for terminating a parent’s rights exist, the court shall determine whether terminating the parent’s rights is in the juvenile’s best interest. . . . In each case, the court shall consider the following criteria and make written findings regarding the following that are relevant:

- (1) The age of the juvenile.
- (2) The likelihood of adoption of the juvenile.

(3) Whether the termination of parental rights will aid in the accomplishment of the permanent plan for the juvenile.

(4) The bond between the juvenile and the parent.

(5) The quality of the relationship between the juvenile and the proposed adoptive parent, guardian, custodian, or other permanent placement.

(6) Any relevant consideration.

N.C. Gen. Stat. § 7B-1110(a). “Although the trial court must consider each of the factors in N.C. [Gen. Stat.] § 7B-1110(a), written findings of fact are required only ‘if there is conflicting evidence concerning the factor, such that it is placed in issue by virtue of the evidence presented before the district court.’” *In re N.C.E.*, 379 N.C. 283, 287, 864 S.E.2d 293, 297 (2021) (citations omitted); *see also In re A.R.A.*, 373 N.C. 190, 199, 835 S.E.2d 417, 424 (2019) (alterations in original) (“It is clear that a [district] court must *consider* all of the factors in section 7B-1110(a). . . . The statute does not, however, explicitly require written findings as to each factor.”); *see also In re E.F.*, 375 N.C. 88, 91, 846 S.E.2d 630, 633 (2020) (citation omitted).

The trial court’s best interest determination at the dispositional phase is reviewed for abuse of discretion. *In re A.R.A.*, 373 N.C. at 199, 835 S.E.2d at 423. An abuse of discretion occurs when a decision is “manifestly unsupported by reason” or “so arbitrary that it could not have been the result of a reasoned decision.” *Id.* (citations omitted). “The trial court’s dispositional findings of fact are reviewed under a ‘competent evidence’ standard.” *In re N.C.E.*, 379 N.C. at 287, 864 S.E.2d at 297

(citation omitted). That said, “[w]e are . . . bound by all uncontested dispositional findings.” *Id.*

In its termination order, the trial court made the following findings under N.C. Gen. Stat. § 7B-1110(a)(1)–(6):

(4) The juvenile is three years old.

(5) The permanent plan for the juvenile is adoption. The parents having their parental rights is the only barrier to adoption.

(6) Terminating the respondent parents’ parental rights will aid in the accomplishment of the permanent plan of adoption. Neither the family nor any other prospective adoptive home can adopt the juvenile unless the respondent parents consent to an adoption or their parental rights are terminated. The respondent mother has made insufficient progress on alleviating the removal conditions. . . . Given that, significant barriers to reunification remain. Therefore, the best option available for the juvenile is for [Ray] to be adopted which requires that the parental rights of the respondent parents be terminated.

. . . .

(8) The bond between the juvenile and his mother is not strong. She has had only virtual visits with the juvenile. The mother loves [Ray] and tries to engage with him during her visitation with him, but he does not respond.

(9) The child has been placed with the same foster family (licensed by YFS) since he was discharged from the hospital following his removal in August 2020. The foster mother has a strong relationship with the juvenile. [Ray] is excelling and thriving in her care. The child turns to her with smiles, hugs, and actively engages with her. [Ray] refers to the foster mother as “Momma.” He seeks her out when hungry or when he wants to play. He seems safe and

comfortable in the foster placement. [Ray] enjoys interacting with the other foster child in the home. He has no unmet needs.

(10) [Ray] received vision, occupational, physical and speech therapy. He has at least three appointments per week and has ongoing needs resulting from the injuries that brought him into custody. The foster parent has been diligently meeting the juvenile's needs. The child has made significant progress from a medical standpoint since he was released from the hospital. The foster parent has demonstrated that she could meet the juvenile's needs. The parents are not attuned to the child's needs.

(11) The likelihood of the juvenile being adopted is high.

(12) Terminating the respondent parents' parental rights is in juvenile's best interests.

Since Mother does not challenge these findings, we are bound by them. *See In re N.C.E.*, 379 N.C. at 287, 864 S.E.2d at 297. Upon review of these findings, the trial court considered: Ray's age; his likelihood of adoption; whether termination of Mother's parental rights would achieve Ray's permanent plan; the bond between Mother and Ray; the relationship between Ray and his foster family; Ray's medical needs; the ability of the foster family to manage Ray's medical needs; and Mother's inability to manage Ray's medical needs. *See* N.C. Gen. Stat. § 7B-1110(a)(1)–(6).

Mother maintains that at the termination hearing the trial court "received evidence [she] was having difficulty bonding with Ray because of the reality of ill-defined virtual contact with a [two-and-a-half] year old." As to the bond between Mother and Ray, the trial court "made a dispositional finding that [Mother] had a

minimal bond with Ray and saw him virtually[,] but Ray would not engage.” However, Mother contends that the trial court should have also made a dispositional finding “acknowledging the obvious hindrance the visitation restrictions had on her ability to bond” with Ray under N.C. Gen. Stat. § 7B-1110(a)(6).

Mother’s attempt to characterize her testimony as “conflicting evidence” misses the mark. *See In re N.C.E.*, 379 N.C. at 287, 864 S.E.2d at 297. At the termination hearing, Mother’s attorney asked her what she thought would be in Ray’s best interests. Despite previous foregone opportunities to have contact with her son, Mother expressed her desire to have “contact visits” with Ray to form a proper bond. {T4 p. 184} *See In re L.M.B.*, 284 N.C. App. 41, 51, 875 S.E.2d 544, 551 (2022) (“In a termination of parental rights hearing, trial judge determines the weight to be given the testimony and the reasonable inferences to be drawn therefrom. If a different inference may be drawn from the evidence, the trial judge alone determines the credibility of the witnesses and which inferences to draw and which to reject.”). Her testimony, however, does not pose an evidentiary conflict that would have required the trial court to produce a finding under N.C. Gen. Stat. § 1110(a)(6). *See In re N.C.E.*, 379 N.C. at 287, 864 S.E.2d at 297 (“Although the trial court must consider each of the factors in N.C. [Gen. Stat.] § 7B-1110(a), written findings of fact are required only ‘if there is conflicting evidence concerning the factor’”); *see also In re A.R.A.*, 373 N.C. at 199, 835 S.E.2d at 424 (alterations in original and citations omitted) (“[A] factor is ‘relevant’ if there is ‘conflicting evidence concerning’ the factor,

such that it is ‘placed in issue by virtue of the evidence presented before the [district] court[.]’”).

The record shows that Mother’s in-person visits were suspended for her longstanding failure to cooperate and make progress in her case plan. For example, the nonsecure custody order entered on 18 December 2020 allowed Mother to have one supervised in-person visit per week. But Mother still refused to meet with YFS to facilitate this visitation. And in a permanency planning order entered one year later, the trial court noted that Mother “has failed to visit with [Ray] since he entered YFS custody on August 28, 2020.” Similarly, in a permanency planning order entered a year later, the trial court noted that Mother still had not exercised any visitation with Ray since he entered YFS custody on 28 August 2020. And after each of these permanency planning hearings, the trial court found that Mother had neither made adequate progress nor actively participated in or cooperated with the plan.

Contrary to Mother’s urging, the trial court’s dispositional findings acknowledged that Mother only exercised “virtual visits” with Ray and that she loved him. The trial court’s dispositional findings also stated the bond between Ray and Mother was “not strong,” Ray did not respond to Mother during visitation, Mother made insufficient progress “on alleviating the removal conditions,” “and was ‘Mother not attuned to the child’s needs.’” *See In re Z.L.W.*, 372 N.C. at 437–38, 831 S.E.2d at 66 (upholding termination despite some parental bond when factors of permanency and stability favored termination). In light of the overwhelming record evidence and

proper statutory findings by the trial court, Mother's contention on appeal is unmeritorious. Accordingly, we hold the trial court properly entered the requisite findings under N.C. Gen. Stat. § 7B-1110(a) to arrive at its best interests determination.

IV. Conclusion

For the reasons above, we conclude that the trial court's determination was not manifestly unsupported by reason nor arbitrary. The trial court therefore did not abuse its discretion by terminating Mother's parental rights to Ray. The order appealed from is affirmed.

AFFIRMED.

Judges TYSON and FREEMAN concur.

Report per Rule 30(e).