

Family law attorney Janet Reed comments on North Carolina Court of Appeals case involving parental rights termination

Disputes involving parental rights are difficult. The North Carolina Court of Appeals decided a case where the petitioners were the grandparents.

JACKSONVILLE, NORTH CAROLINA, UNITED STATES, May 14, 2019 /EINPresswire.com/ -- In the Matter of K.L.C. case is an unpublished case from the North Carolina Court of Appeals. The trial court's decision to terminate parental rights was overturned on appeal because the petitioners, the paternal grandparents of the minor child, lacked standing.

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Additional Information
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Attorney [Janet Pittman Reed](#), based in North Carolina, has published a comment that reviews this case. The complete article will be published on her Blog at <https://janetreedesq.blogspot.com/>

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the failure to attach a copy of the adoption petition, or to incorporate the adoption petition into the record by other means, deprived the trial court of jurisdiction”

Janet Pittman Reed, lawyer in North Carolina

“Due to Respondent-mother’s substance abuse, on 20 January 2015, the juvenile court adjudicated Karl as neglected and placed him in the legal and physical custody of his father. Karl came to live with Petitioners following his father’s death on 27 July 2017.” The paternal grandparents subsequently filed a petition to terminate Respondent-mother’s parental rights on September 26, 2017. “The trial court held a hearing on the termination petition on 30 April 2018. In an ‘Order Terminating Parental Rights’

entered 22 June 2018, the court adjudicated the existence of grounds to terminate Respondent-mother’s parental rights for (1) willfully abandoning Karl pursuant to N.C. Gen. Stat. § 7B-1111(a)(7), and (2) failing to provide him with substantial support or consistent care pursuant to N.C. Gen. Stat. § 7B-1111(a)(5).2 The trial court further determined that terminating Respondent-mother’s parental rights was in Karl’s best interest.”

On appeal, Respondent-mother argued that the paternal grandparents lacked standing to file a petition to terminate parental rights. “‘Standing to file a petition or motion to terminate parental rights is conferred by N.C. Gen. Stat. § 7B-1103.’ In re N.G.H., 237 N.C. App. 236, 237, 765 S.E.2d 550, 551 (2014). Section 7B-1104 of the Juvenile Code requires the pleading to include, inter alia, ‘[t]he name and address of the petitioner or movant and facts sufficient to identify the petitioner or movant as one authorized by [section] 7B-1103 to file a petition or motion’ to terminate the respondent’s parental rights. N.C. Gen. Stat. § 7B-1104(2). Of particular significance here, this Court has held that the petition must also ‘include any document or order through which the petitioner claims standing that will enable the court to determine whether it has subject matter jurisdiction.’ In re N.G.H., 237 N.C. App. at 237, 765 S.E.2d at 551. ‘Where there is no proper

petition, . . . the trial court has no jurisdiction to enter an order for termination of parental rights.”

Here, the paternal grandparents sought standing by asserting that they filed a petition to adopt the minor child, but failed to attach adoption petition to the termination petition. “In her written answer, Respondent-mother admitted ‘based on information and belief’ that Petitioners had filed a petition to adopt Karl, but denied that they ‘filed a valid petition to adopt because . . . Petitioners lack standing to file [a] petition to adopt, pursuant to N.C.G.S. §48-2-301 and §48-3-201’ Section 48-2-301 of our General Statutes allows a prospective adoptive parent to file a petition for adoption under Chapter 48 ‘only if [the] minor has been placed with the prospective adoptive parent pursuant to Part 2 of Article 3 of this Chapter unless the requirement of placement is waived by the court for cause.’”

While Respondent-mother’s counsel agreed at trial that such a waiver was subsequently obtained, counsel argued that it did not cure the defect in standing because the waiver was not obtained at the time the termination petition was filed. The Court of Appeals “held that their failure to attach a copy of the adoption petition to their termination petition—or to incorporate the adoption petition into the record by other means—deprived the trial court of jurisdiction.”

Although there was unsworn representation by the petitioner’s counsel at trial, there was nothing in the trial record to establish that the adoption petition requirement had been met. Therefore, the petitioners lacked standing and trial court’s order terminating parent rights was vacated.

The case is In the Matter of K.L.C., No. COA18-1003.

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