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IN THE
COURT OF APPEALS OF INDIANA

IN THE MATTER OF M.S.N and J.J.N.,	)	
L.R,	)	
Appellant-Respondent,	)	
vs.	)	No. 55A01-0904-JV-176
L.D and D.D.,	)	
Appellees-Petitioners,	)	
and	)	
J.N.,	)	
Respondent.	)	

APPEAL FROM THE MORGAN CIRCUIT COURT
The Honorable Matthew Hanson, Judge
Cause No. 55C01-0610-JP-211
55C01-0610-JP-212

July 23, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

ROBB, Judge

Case Summary and Issues

L.R. ("Mother") appeals the trial court's order awarding custody of her two minor children, M.N. and J.N. (collectively, "the children"), to L.D. and D.D. (collectively "Grandparents"). For our review, Mother raises a single issue, which we restate as whether the trial court abused its discretion in awarding custody of the children to Grandparents. Concluding the trial court did not abuse its discretion, we affirm.

Facts and Procedural History

The children were each born out of wedlock to Mother and J.N. ("Father"). Paternity was established on November 15, 2007, and Mother was awarded custody of the children. L.D. and D.D. are the paternal grandmother and step-grandfather, respectively, of the children. Shortly after the birth of J.N., Mother left the children with Grandparents. M.N. was approximately sixteen months old at the time. From 2003 through 2007, Grandparents were the primary, full-time caregivers for the children for approximately seventy-five percent of the time. During that period, Mother would periodically visit with the children or take the children for time periods ranging from a few hours to a few days. The children currently reside with Mother at the home of her mother and step-father. During the children's lifetimes, Mother has lived in six to eight different places and, at the time of the hearing, was planning to move from her parents' home to another town with her boyfriend.

On August 6, 2008, Grandparents filed a petition for change of custody and a request to be considered de facto custodians of the children. The trial court held a hearing on November 25, 2008, at which Grandparents appeared by counsel and Mother and Father appeared pro se. The trial court issued very detailed findings of fact and conclusions of law on December 2, 2008. The trial court found clear and convincing evidence that the Grandparents acted as de facto custodians and awarded them custody of the children. Mother now appeals.

Discussion and Decision

I. Standard of Review

Where, as here, the trial court enters findings of fact and conclusions of law, we employ a two tiered standard of review: first, we determine whether the evidence supports the findings, and second, we determine whether the findings support the judgment. Davis v. Davis, 889 N.E.2d 374, 379 (Ind. Ct. App. 2008). We will not reweigh the evidence and consider only the evidence favorable to the trial court's judgment. Id. We will reverse the trial court's judgment only when its findings are clearly erroneous, which occurs when our review of the record leaves us with the firm conviction that a mistake has been made. Id.

II. Custody of the Children

Mother argues the trial court erred when it granted primary physical custody of the children to Father. We review custody modifications for an abuse of discretion, with a preference for granting latitude and deference to trial court judges in family matters. Kirk v. Kirk, 770 N.E.2d 304, 307 (Ind. 2002). In so doing, we will not re-weigh the evidence or

judge the credibility of the witnesses. Leonard v. Leonard, 877 N.E.2d 896, 900 (Ind. Ct. App. 2007). The trial court can observe the parties' conduct and demeanor and listen to their testimony; the value of such close proximity cannot be overstated in the matter of deciding custody, where the trial court is called upon to make Solomon-like decisions in complex and sensitive matters. Pawlik v. Pawlik, 823 N.E.2d 328, 329-30 (Ind. Ct. App. 2005), trans. denied. Therefore, we will set aside the trial court's judgment only when it is clearly against the logic and effect of the facts and circumstances before the trial court. Liddy v. Liddy, 881 N.E.2d 62, 68 (Ind. Ct. App. 2008).

Indiana Code section 31-14-13-2 sets forth several factors a trial court must consider when determining the custody of a child, including: the age and sex of the child; the wishes of the parents; the wishes of the child; the interaction and interrelationship of the child with the child's parents, siblings, and other significant persons; the child's adjustment to home, school, and community; the physical and mental health of all individuals involved; and any evidence of a pattern of domestic or family violence by either parent. In addition, if a trial court finds by clear and convincing evidence that a child has been cared for by a de facto custodian, then it must consider additional factors, including: the wishes of the de facto custodian; the extent to which the child has been cared for, nurtured, and supported by the de facto custodian; the intent of the child's parent in placing the child with the de facto custodian; and the circumstances under which the child was placed with the de facto custodian. Ind. Code § 31-14-13-2.5(b). "The trial court shall award custody of the child to the de facto custodian if the court determines that it is in the best interests of the child." Ind.

Code § 31-14-13-2.5(d). The trial court here entered detailed findings and conclusions including a specific finding that Grandparents are de facto custodians of the children and that placement of the children with Grandparents is in their best interest.

The crux of Mother's argument is that the "because [L.D.] gave false and contradictory testimony, this Court should reverse the order depriving [Mother] of custody of her two minor children." Brief of the Appellant at 3. As such, Mother's appeal requests that we judge the credibility of L.D. as a witness or reweigh the evidence. This we will not do. Leonard, 877 N.E.2d at 900. The evidence presented at the hearing supports the trial court's detailed findings and Mother presented no evidence to contradict L.D.'s testimony. As a result, the trial court did not abuse its discretion when it awarded custody of the children to Grandparents.

Conclusion

The trial court did not abuse its discretion in awarding custody of the children to Grandparents.

Affirmed.

DARDEN, J., and MATHIAS, J., concur.