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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA17-532

Filed: 7 November 2017

Pitt County, No. 16 JA 142

IN THE MATTER OF: N.J.P.

Appeal by respondent-father from order entered 23 February 2017 by Judge P. Gwynett Hilburn in District Court, Pitt County. Heard in the Court of Appeals 19 October 2017.

The Graham.Nuckolls.Conner. Law Firm, PLLC, by Timothy E. Heinle, for petitioner-appellee Pitt County Department of Social Services.

Parker Poe Adams & Bernstein LLP, by Thomas N. Griffin III, for guardian ad litem.

Assistant Appellate Defender Annick Lenoir-Peek for respondent-appellant father.

STROUD, Judge.

Respondent-father appeals from an order adjudicating his son “Nick”¹ a neglected and dependent juvenile and maintaining him in the custody of the Pitt County Department of Social Services (“DSS”). Respondent-mother is not a party to this appeal. We affirm the trial court’s order as to all sections except the requirement

¹ The parties chose this pseudonym to protect the juvenile’s privacy.

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that respondent-father be subject to random drug screens. As to that requirement, we remand for the trial court to remove it.

Facts

On 19 September 2016, days after Nick was born, DSS took him into nonsecure custody and filed a juvenile petition alleging neglect and dependency. The petition averred that Nick tested positive for cocaine at birth and that respondent-mother, a resident of Ayden, North Carolina, had declined to bond with him. It reported that respondent-mother had a history with DSS and had physical custody of just two of her six children. The petition listed an address in Virginia for respondent-father and alleged he had a “co-dependent relationship” with respondent-mother and had “served time in prison for Statutory Rape/Sex Offense and Sexual Exploitation of a Minor.” Finally, DSS averred that neither respondent-mother nor respondent-father (collectively “respondents”) had a suitable relative with whom to place Nick.

The trial court held a hearing on the petition on 5 January 2017 and entered its “Adjudication and Disposition Order” (“Order”) on 23 February 2017, adjudicating Nick a neglected and dependent juvenile. The court maintained Nick in DSS custody and awarded respondent-father one hour of supervised visitation per week.

Respondent-father filed timely notice of appeal on 23 March 2017. Although the notice of appeal fails to designate the order from which appeal is taken, as required by N.C.R. App. P. 3(d) and 3.1(a), we conclude respondent-father’s inclusion

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of the district court file number in his notice makes sufficiently clear his intent to appeal the Order entered on 23 February 2017. *See State v. Rowe*, 231 N.C. App. 462, 465 n.1, 752 S.E.2d 223, 225 n.1 (2013); *see also Von Ramm v. Von Ramm*, 99 N.C. App. 153, 156-57, 392 S.E.2d 422, 424 (1990) (allowing liberal construal of notice of appeal where “ ‘the intent to appeal from a specific judgment can be *fairly inferred* from the notice and the appellee is not misled by the mistake’ ” (quoting *Smith v. Independent Life Ins. Co.*, 43 N.C. App. 269, 274, 258 S.E.2d 864, 867 (1979))). Here, appellee filed its brief, did not challenge jurisdiction and was not misled by the mistake.

Discussion

I. Adjudication

Respondent-father presents several claims challenging the trial court’s adjudications of neglect and dependency. We review an adjudication under N.C. Gen. Stat. § 7B-807 (2015) to determine whether the trial court’s findings are supported by “clear and convincing competent evidence” and whether the court’s findings support its conclusions of law. *In re Helms*, 127 N.C. App. 505, 511, 491 S.E.2d 672, 676 (1997). Findings of fact supported by competent evidence, or that are unchallenged by the appellant, are “binding on appeal.” *In re McCabe*, 157 N.C. App. 673, 679, 580 S.E.2d 69, 73 (2003); *see Koufman v. Koufman*, 330 N.C. 93, 97, 408 S.E.2d 729, 731 (1991) (unchallenged findings). We review a trial court’s conclusions

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of law *de novo*. *In re J.S.L.*, 177 N.C. App. 151, 154, 628 S.E.2d 387, 389 (2006). Where an adjudication or other legal conclusion of the trial court is supported by its valid findings of fact, any “erroneous findings unnecessary to the determination do not constitute reversible error.” *In re T.M.*, 180 N.C. App. 539, 547, 638 S.E.2d 236, 240 (2006).

We note that the arguments presented in respondent-father’s brief are poorly organized and difficult to follow, but we attempt to address each of his arguments below.

A. Preliminary Issues

Respondent-father claims the trial court erred by basing certain adjudicatory findings upon an “Adjudication Court Report” that was not admitted into evidence until the dispositional phase. The order lists the report among the evidence received at adjudication, rather than at disposition. In comparing the testimony and statements by counsel regarding the exhibits admitted at various points during the trial and the listing of exhibits in the transcript, we are not entirely certain which reports were admitted and when. But even if the adjudication report was listed improperly in the order, we presume the trial court disregards any erroneously-admitted evidence when sitting as the fact-finder. *See, e.g., In re McMillon*, 143 N.C. App. 402, 411, 546 S.E.2d 169, 175 (2001) (“In a bench trial, the court is presumed to disregard incompetent evidence.”). Given this presumption, “[w]here there is

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competent evidence to support the court's findings, the admission of incompetent evidence is not prejudicial." *Id.* Therefore, we will disregard the "Adjudication Court Report" in determining whether the trial court's adjudicatory findings are supported by the evidence.

Respondent-father also claims the trial court erred by making adjudicatory findings on issues, such as his lack of stable housing in Finding of Fact 7, which were not alleged in the petition filed by DSS. We conclude respondent-father failed to preserve this issue for appellate review, because he did not object to the evidence supporting these findings when introduced. *See* N.C.R. App. P. 10(a)(1). Specifically, the court received into evidence Nick's DSS Child Protective Services records, excluding material revealing respondent-father's criminal record. Respondent-father assented to the admission of these DSS records, provided his "criminal records were pulled out." Therefore, he waived objection to the court's consideration of facts in the DSS file. *In re A.S.*, 190 N.C. App. 679, 688-89, 661 S.E.2d 313, 319 (2008), *aff'd per curiam*, 363 N.C. 254, 675 S.E.2d 361 (2009).

In a related claim, respondent-father contends that "[a]ny findings made upon post-petition evidence should be struck as improper." This Court has used the term "post-petition evidence" to refer to "evidence of *events which occurred* after the filing of the juvenile petition[.]" *In re A.B.*, 179 N.C. App. 605, 609, 635 S.E.2d 11, 15 (2006) (emphasis added). "[B]ecause the purpose of an adjudicatory hearing is to determine

only the existence or nonexistence of any of the conditions alleged in a petition,” we have held that “post-petition evidence generally is not admissible during an adjudicatory hearing” *In re V.B.*, 239 N.C. App. 340, 344, 768 S.E.2d 867, 869-70 (2015) (citation and quotation marks omitted).

Respondent-father appears to misconstrue “post-petition evidence” as denoting any evidence obtained by DSS after a petition is filed. He suggests that “[n]o evidence *created* post-petition could be used [by DSS] to support whether or not he had a prior conviction,” even though the prior conviction was alleged in the petition. (Emphasis added). We find no support in the case law for this position. But because respondent-father did not object to any “post-petition evidence” at the adjudicatory hearing, he waived appellate review of this issue. *See* N.C.R. App. P. 10(a); *see also In re A.S.*, 190 N.C. App. at 688-89, 661 S.E.2d at 319 (“Since there was no objection by respondent to the admission of these reports or any request that the use of the reports be limited in any way, the reports constitute substantive evidence sufficient to support the trial court’s findings of fact.”).

B. Findings of Fact

Respondent-father takes exception to several adjudicatory findings of fact as unsupported by the evidence presented at the hearing. The court made these adjudicatory findings of fact by clear, cogent, and convincing evidence:

4. The Court has been presented with the stipulation of the Respondent Parents in open court in which [they]

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acknowledge that the allegations contained in the DSS's petition are true and that the Court has a factual basis to conclude that the Juvenile falls within the jurisdiction of the Juvenile Court. The Respondent Father, however, does not stipulate that his criminal history can be used as the basis of a determination of neglect or dependency for his child.

5. Respondent Father was convicted of fourteen counts of sex offenses against a child, including statutory rape. He was convicted May 2, 2001 He was unconditionally released on September 15, 2015. [He] persisted at all times in denying the allegations of sexual abuse

6. In 1986, in the state of Maryland, Respondent Father was convicted of sexual exploitation of a minor and served a six months sentence in Maryland.

7. At the time of the Petition, the Respondent Father lacked housing which this Court would consider stable or appropriate for placement of the Juvenile.

. . . .

9. Respondent Father has received no sex offender specific treatment because it cannot be done unless the alleged perpetrator admits committing sexual offenses with minors and Respondent Father continues to deny the allegations, despite his guilty pleas in North Carolina and his convictions in Maryland.

10. Respondent Father has attended every court hearing and made a request for a home study.

11. Respondent Father has adult children who he does not see.

12. The Respondent Mother has a history of substance abuse.

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....

14. Respondent Mother has a history with Nash County Social Services as well as Pitt County [DSS].

15. Respondent Mother admitted to using marijuana on a regular basis and the child, [Nick], tested positive for cocaine at birth . . . [and] was born prematurely.

16. While the mother was in the hospital with the minor child, she failed to bond with the child . . ., further admitting that she was not sure that she even wanted this child.

....

18. Respondent Father has played no part in mother's decisions during her pregnancy.

19. . . . [B]oth Respondent Parents were determined by [DSS] to not be appropriate for the child to be placed with, and no appropriate alternative placement was provided to [DSS] at the time the Juvenile was ready for discharge from the hospital.

The court concluded that Nick is a neglected juvenile “in that [he] does not receive proper care, supervision or discipline from [his] parents and lives in an environment injurious to [his] welfare,” and a dependent juvenile “in that [his] parents are unable to provide for [his] care and supervision and lack an appropriate alternative child care arrangement.” *See* N.C. Gen. Stat. § 7B-101(9), (15) (2015).

1. *Finding of Fact 4*

Respondent-father challenges Finding 4 on the ground that the “stipulation was much narrower than the allegations in the petition -- recognizing that Nick tested

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positive for cocaine at birth and that the mother lacked a bond with him.” Because of this error, respondent-father contends, the court mistakenly believed “that it had enough to support an adjudication of neglect and dependency” based solely upon the parties’ stipulations. While respondent-father concedes “everyone agreed that the allegations in the petition as to the mother were true and would support an adjudication of neglect,” he insists “the stipulations did not address [respondent-father’s role,” if any, in neglecting Nick. Nor did they address respondent-father’s ability to care for Nick, as required for an adjudication of dependency.

The transcript shows that the parties’ stipulation pertained to the contents of DSS Exhibit 1, Nick’s hospital records, which was admitted into evidence without objection. Counsel for DSS advised the trial court that “the parties . . . are stipulating to the fact that those records support that this baby was born positive for cocaine and that the Respondent Mother . . . admitted to hospital staff to having used [cocaine] twice during the course of the pregnancy,” and the fact “that upon the birth of this child the Respondent Mother did not bond with the child and made some statements . . . about being unsure if she was happy to have the child[.]” *See* N.C. Gen. Stat. § 7B-807(a) (2015) (providing procedures for a stipulation).

Following this stipulation, the trial court received additional evidence for purposes of adjudication. DSS introduced its Exhibit 2, Nick’s Child Protective Services (“CPS”) records excluding the information about respondent-father’s

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criminal records. Respondent-father consented to the admission of these DSS records, provided the “criminal records were pulled out.”

Over respondent-father’s objection, the trial court also admitted into evidence DSS Exhibits 3-5 containing respondent-father’s criminal record and certified copies of a transcript of plea and judgment entered 30 April 2001 in Pitt County Superior Court. The court records reflect respondent-father’s guilty plea to 15 counts of statutory rape under N.C. Gen. Stat. § 14-27.7A(a) (2015), for which he received an active prison sentence of 173 to 217 months.

Finally, DSS presented testimony from the CPS social worker supervisor, who verified the facts alleged in the petition filed on 19 September 2016. No other party offered evidence. Counsel for respondent-father acknowledged “there are facts to adjudicate” based on Nick’s positive cocaine test and respondent-mother’s failure to bond with him. He argued, however, that respondent-father was blameless regarding these facts and that his criminal history was irrelevant to an adjudication of Nick’s status as neglected or dependent. Counsel emphasized that the facts found by the court at adjudication would guide the court’s disposition and the requirements placed on respondents for reunification.

We agree with respondent-father that Finding 4 overstates the parties’ “stipulation” as announced in open court at the hearing. The parties stipulated only to the circumstances of Nick’s birth, as depicted in the hospital records in Exhibit 1,

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rather than to the entirety of the petition's allegations. However, it appears the parties agreed that the stipulated facts provided a "factual basis to conclude that the Juvenile falls within the jurisdiction of the Juvenile Court" as stated in Finding 4, because the facts supported an adjudication of neglect or dependency.² See N.C. Gen. Stat. §§ 7B-200, -201, -807(a) (2015).

We find the trial court's inaccurate characterization of the parties' stipulation to be harmless error. See *In re B.S.O.*, 234 N.C. App. 706, 713, 760 S.E.2d 59, 65 (2014) ("[T]o obtain relief on appeal, an appellant must not only show error, but that . . . the error was material and prejudicial, amounting to denial of a substantial right that will likely affect the outcome of an action.'" (quoting *Starco, Inc. v. AMG Bonding & Ins. Servs.*, 124 N.C. App. 332, 335, 477 S.E.2d 211, 214 (1996))). Finding 4 expressly recognizes respondent-father's refusal to stipulate to the consideration of his criminal record for adjudication. Setting aside the stipulated facts surrounding Nick's birth and respondent-father's criminal history, the petition filed by DSS alleged only the additional facts that (1) respondents "have engaged in a co-dependent relationship," and (2) neither respondent "has family that is deemed an appropriate

² The determination that a given set of facts supports an adjudication of neglect or dependency is a conclusion of law. See *Helms*, 127 N.C. App. at 510, 491 S.E.2d at 675. As parties may not stipulate to a conclusion of law, *In re A.K.D.*, 227 N.C. App. 58, 60, 745 S.E.2d 7, 9 (2013), the agreement on this issue is more accurately characterized as a concession by respondents, rather than a stipulation.

caregiver for the juvenile.” DSS adduced uncontested evidence of each fact, the truth of which is not disputed by respondent-father.³

2. *Findings of Fact 5 and 9*

Respondent-father claims that no evidence supports the statement in Finding 5 that he “persisted at all times in denying the allegations of sexual abuse which resulted in his spending more time incarcerated than he would have had he admitted the acts.” DSS Exhibit 2 shows respondent-father’s persistent denial of committing the sexual offenses for which he was convicted. Respondent-father’s counsel represented to the court at the adjudication hearing that respondent-father “has throughout the process maintained his innocence and *it has been kept [sic] behind bars longer than he would have been . . .*” (Emphasis added). While counsel’s argument is not evidence, *State v. Collins*, 345 N.C. 170, 173, 478 S.E.2d 191, 193 (1996), we are satisfied that counsel invited any error by the court regarding this finding. *Cf. generally In re K.C.*, 199 N.C. App. 557, 563-64, 681 S.E.2d 559, 564 (2009) (applying invited error doctrine in juvenile neglect proceeding). In any event, this portion of Finding 5 is unnecessary to the adjudications of neglect and dependency. *See In re T.M.*, 180 N.C. App. at 547, 638 S.E.2d at 240.

Insofar as respondent-father also challenges the evidentiary support for the statement in Finding 9 that he had “received no sex offender specific treatment” when

³ Later in his brief, respondent-father describes the allegation of respondents’ co-dependent relationship as “undefined and irrelevant to the determination of dependency or neglect.”

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DSS filed the petition on 9 September 2016, we find no merit to his claim. DSS Exhibit 2 reflects that respondent-father was asked by the social worker whether he had received any treatment while in prison. Respondent-father replied “that there was no need for him to undergo treatment because he did not do anything.”

Respondent-father further challenges Findings 5 and 9 for including facts about his prior convictions beyond their mere existence. He specifically objects to any finding describing his “position” on his prior convictions or his “participation in sex offender treatment.” Respondent-father finds “[n]o nexus” between such findings and his ability to care for his son.

When DSS filed its petition in this cause, Nick was a newborn child awaiting discharge from the hospital. In such circumstances, where an infant has yet to reside with his parents, proof of neglect and dependency “‘must of necessity be predictive in nature, as the trial court must assess whether there is a substantial risk of future [harm to] a child based on the historical facts of the case.’” *In re K.J.D.*, 203 N.C. App. 653, 661, 692 S.E.2d 437, 443-44 (2010) (quoting *In re McLean*, 135 N.C. App. 387, 396, 521 S.E.2d 121, 127 (1999)). That respondent-father was a twice-convicted child sexual offender who denied his conduct and rejected the need for treatment was relevant to an assessment of the risk he posed to Nick and his ability to properly care for the child. Therefore, we find no merit to his claim.

3. *Finding of Fact 7*

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Respondent-father contends the evidence does not support the trial court's finding that, when DSS filed its petition, he "lacked housing which this Court would consider stable or appropriate for placement" of Nick. We disagree. DSS Exhibit 2 shows that respondent-father told DSS he was "living" in Virginia but was "domiciled" in Winterville, North Carolina. He explained he had a construction job in Virginia and stayed with the daughter and son-in-law of his jail chaplain, who had offered him the job and paid for his bus ticket. When asked for his address, respondent-father provided the social worker a post office box in Winterville but no street address or proof of residency. Respondent-mother told DSS that respondent-father lived in Shenandoah, Virginia, with his boss's family.

4. *Finding of Fact 11*

Contrary to respondent-father's argument on appeal, Finding 11 -- that respondent-father "has adult children who he does not see," is also supported by respondent-father's statements to the social worker as recorded in DSS Exhibit 2. Finding 11 is also relevant to the issue of Nick's dependency, because it excludes respondent-father's adult children as potential placement options for the child. Respondent-father's challenge to this finding is overruled.

5. *Finding of Fact 18*

Respondent-father asserts that "[n]o testimony" supports the finding he "played no part in mother's decisions during her pregnancy," as stated in Finding 18.

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As with Finding 9, however, respondent-father's counsel made this very argument to the court -- i.e., there are no "facts before this Court that indicates [sic] my client had anything to do with the decisions that [respondent-mother] made during her pregnancy." We agree with respondent-father that respondents' comparative culpability is irrelevant to the adjudication, *see In re J.S.*, 182 N.C. App. 79, 86, 641 S.E.2d 395, 399 (2007), which renders Finding 18 superfluous. *See In re T.M.*, 180 N.C. App. at 547, 638 S.E.2d at 240. However, he may not complain of the trial court's consideration of a fact which he placed before the court and urged it to consider.⁴

6. *Finding of Fact 19*

Finally, respondent-father contends that Finding 19 is "irrelevant to the issue of adjudication and . . . unrelated to the underlying issues alleged as to why [Nick] is neglected and dependent." We disagree. The fact that "both Respondent Parents were determined by [DSS] to not be appropriate for the child to be placed with, and no appropriate alternative placement was provided to [DSS] at the time the Juvenile was ready for discharge from the hospital" pertains directly to Nick's status as a dependent juvenile. *See* N.C. Gen. Stat. § 7B-101(9).

C. Conclusions of Law

1. *Adjudication of Neglect*

⁴ Respondent-father's lack of involvement with the pregnancy -- at least after its inception -- is reflected in DSS Exhibit 2.

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Respondent-father does not challenge the trial court's conclusion that Nick is a neglected juvenile as defined by N.C. Gen. Stat. § 7B-101(15) (2015). Rather, he concedes that "Nick was neglected" because he "tested positive for cocaine at birth and his mother was unsure whether she wanted to raise him." However, respondent-father suggests the court "also found that Nick was neglected . . . because his father had prior criminal convictions for statutory rape." He claims the court erred in basing an adjudication of neglect on his prior convictions. We find no merit to his claim.

The trial court did not enter separate adjudications of neglect for Nick based on the individual conduct of respondent-mother and respondent-father, nor would it be appropriate to do so. The trial court's purpose was to determine whether Nick had attained the status of a neglected juvenile as defined in N.C. Gen. Stat. § 7B-101(15). *See In re J.S.*, 182 N.C. App. at 86, 641 S.E.2d at 399 ("The purpose of abuse, neglect and dependency proceedings is for the court to determine whether the juvenile should be adjudicated as having the status of abused, neglected or dependent."). "In determining whether a child is neglected, the determinative factors are the circumstances and conditions surrounding the child, *not the fault or culpability of the parent.*" *In re Montgomery*, 311 N.C. 101, 109, 316 S.E.2d 246, 252 (1984) (emphasis added). As we explained in *In re A.L.T.*, 241 N.C. App. 443, 774 S.E.2d 316 (2015), if "the trial court's findings of fact support its legal conclusions that the juveniles were neglected, the lack of findings in the adjudication order regarding [one parent's] fault

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or culpability in contributing to the adjudication of neglect is immaterial.” *Id.* at 451, 774 S.E.2d at 321. To the extent respondent-father suggests the adjudication of neglect was based solely on his criminal history, we find no support in the hearing transcript or the court’s order for his position.

We are also not persuaded by respondent-father’s argument that the trial court was forbidden to consider his prior convictions when determining whether Nick was neglected, because DSS placed its allegations about respondent-father beneath the heading for dependency on the petition form. The Juvenile Code requires a petition alleging abuse, neglect, or dependency to “contain . . . allegations of facts sufficient to invoke jurisdiction over the juvenile.” N.C. Gen. Stat. § 7B-402(a) (2015). “While there is no requirement that the factual allegations be exhaustive or extensive, they must put a party on notice as to what acts, omissions or conditions are at issue.” *In re Hardesty*, 150 N.C. App. 380, 384, 563 S.E.2d 79, 82 (2002) (addressing requirements for a petition to terminate parental rights under the statutory predecessor to N.C. Gen. Stat. § 7B-1104 (2015)); *cf. also* N.C. Gen. Stat. § 1A-1, Rule 8(a)(1) (2015) (requiring “[a] short and plain statement of the claim sufficiently particular to give the court and the parties notice of the transactions, occurrences, or series of transactions or occurrences, intended to be proved showing that the pleader is entitled to relief”); *Murdock v. Chatham Cnty.*, 198 N.C. App. 309, 316-17, 679 S.E.2d 850, 855 (2009) (“Pleadings should be construed liberally and are sufficient if

they give notice of the events and transactions and allow the adverse party to understand the nature of the claim and to prepare for trial.”).

DSS checked the boxes on the petition form to allege that Nick was both a neglected and dependent juvenile. The fact that certain of DSS’s supporting allegations were listed under the heading for neglect while others were listed under dependency did not restrict the court’s consideration of the alleged facts for purposes of adjudication. The petition provided sufficient notice to respondents of the legal and factual issues to be addressed at the hearing. *Cf. In re D.C.*, 183 N.C. App. 344, 350, 644 S.E.2d 640, 643 (2007) (“While it is certainly the better practice for the petitioner to ‘check’ the appropriate box on the petition for each ground for adjudication, if the specific factual allegations of the petition are sufficient to put the respondent on notice as to each alleged ground for adjudication, the petition will be adequate.”). Respondent-father does not contest the trial court’s conclusion that Nick is a neglected juvenile based on respondent-mother’s conduct. Accordingly, his challenge to this adjudication is overruled. *See generally In re T.M.*, 180 N.C. App. at 544, 638 S.E.2d at 239 (“Notwithstanding [the respondent’s] various challenges to the trial court’s factual findings, failure to challenge any conclusion of law precludes this Court from overturning the trial court’s judgment.”).

2. *Adjudication of Dependency*

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Respondent-father asserts that the evidence and the trial court's findings cannot support its adjudication of dependency. A "dependent juvenile" is defined as one whose "parent . . . is unable to provide for the juvenile's care or supervision and lacks an appropriate alternative child care arrangement." N.C. Gen. Stat. § 7B-101(9). To sustain an adjudication of dependency, "the trial court must address both (1) the parent's ability to provide care or supervision, and (2) the availability to the parent of alternative child care arrangements." *In re P.M.*, 169 N.C. App. 423, 427, 610 S.E.2d 403, 406 (2005). "Findings of fact addressing both prongs must be made before a juvenile may be adjudicated as dependent, and the court's failure to make these findings will result in reversal of the court." *In re B.M.*, 183 N.C. App. 84, 90, 643 S.E.2d 644, 648 (2007).

Respondent-father first contends "the trial court made no finding concerning whether or not the parents had a suitable alternative child care arrangement" for Nick. We disagree. The court found that "no appropriate alternative placement was provided to [DSS by respondents] at the time the Juvenile was ready for discharge from the hospital." "Our courts have . . . consistently held that in order for a parent to have an appropriate alternative child care arrangement, the parent must have taken some action to identify viable alternatives." *In re L.H.*, 210 N.C. App. 355, 364, 708 S.E.2d 191, 197 (2011). The court's conclusions of law include the requisite finding that respondents "lack an appropriate alternative child care arrangement."

The location of this finding in the order does not affect its sufficiency. *See Dunevant v. Dunevant*, 142 N.C. App. 169, 174, 542 S.E.2d 242, 245 (2001) (“[T]hat the ‘findings’ are mislabeled ‘conclusions of law’ is not fatal, because the judgment discloses each link in the chain of reasoning.” (Citation and quotation marks omitted)).

Respondent-father further claims the trial court’s findings of fact are insufficient to show “why [his] prior convictions rendered him incapable of providing care” for his son. *See generally In re J.L.*, 183 N.C. App. 126, 131, 643 S.E.2d 604, 607 (2007) (rejecting idea that “factual findings suggesting potential criminal liability for statutory rape under N.C.G.S. § 14-27.7A(a) constitute *per se* inability of a parent to care for a child”). This argument ignores the court’s finding that respondent-father lacked appropriate housing for Nick when DSS filed its petition. Because Nick was being discharged from the hospital, respondent-father’s lack of housing supports the conclusion he presently could not care for the infant child. *Cf. In re H.H.*, 237 N.C. App. 431, 439, 767 S.E.2d 347, 352 (2014). (reversing adjudication of dependency where “the juveniles have been placed with their father since [before DSS filed the dependency petition], *DSS has found his home a safe and suitable placement . . .*, and the juveniles have adjusted well to the placement and their new school” (emphasis added)). Respondent-father’s argument is overruled.

II. Disposition

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Respondent-father claims the trial court's disposition violates N.C. Gen. Stat. § 7B-904 (2015) by placing several "extraneous requirements" upon him that are "unrelated to the reasons for Nick's placement into care." Following an adjudication of neglect or dependency, the court must enter a disposition consistent with the best interest of the juvenile. *See* N.C. Gen. Stat. § 7B-903(a) (2015). "We review a trial court's dispositional order for abuse of discretion. A ruling committed to a trial court's discretion is to be accorded great deference and will be upset only upon a showing that it was so arbitrary that it could not have been the result of a reasoned decision." *In re A.R.*, 227 N.C. App. 518, 520-21, 742 S.E.2d 629, 631-32 (2013) (citations and internal quotation marks omitted).

Section 7B-904 governs the trial court's dispositional authority over the parents of an adjudicated juvenile. Under subsection (c),

the court may determine whether the best interests of the juvenile require that the parent . . . undergo psychiatric, psychological, or other treatment or counseling directed toward remediating or remedying behaviors or conditions that led to or contributed to the juvenile's adjudication If the court finds that the best interests of the juvenile require the parent . . . undergo treatment, it may order that individual to comply with a plan of treatment approved by the court

N.C. Gen. Stat. § 7B-904(c) (2015). Under subsection (d1), the court may order a parent to "[t]ake appropriate steps to remedy conditions in the home that led to or contributed to the juvenile's adjudication or to the court's decision to remove custody

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of the juvenile from the parent[.]” N.C. Gen. Stat. § 7B-904(d1)(3) (2015). Though it enjoys substantial discretion in crafting an appropriate disposition, “[a] trial court may not order a parent to undergo any course of conduct not provided for in N.C. Gen. Stat. § 7B-904.” *In re W.V.*, 204 N.C. App. 290, 297, 693 S.E.2d 383, 388 (2010) (citation, quotation marks, and brackets omitted).

Respondent-father claims the court exceeded its statutory authority by ordering him to (1) obtain a mental health evaluation; (2) “take all medications as prescribed”; (3) submit to random drug screens; (4) establish “independent housing . . . appropriate for himself and his child”; and (5) “pursue fulltime gainful employment.”⁵ Because (1) and (2) fall directly within the court’s authority under N.C. Gen. Stat. § 7B-904(c), we find no abuse of the court’s discretion on these requirements. Both DSS and the guardian *ad litem* recommended that respondent-father complete a mental health evaluation and follow any recommendations. DSS based its recommendation, at least in part, on respondent-father’s disclosure he was diagnosed with post-traumatic stress disorder in September 2015.

Regarding requirement (3), however, we find no evidence of substance abuse by respondent-father. All evidence and findings associated with drug use are related to respondent-mother, not respondent-father. Nor were any allegations raised

⁵ Respondent-father raises a conditional challenge to the requirement that he complete the sex offender specific evaluation (“SOSE”) he began in November 2016. Having determined that respondent-father’s prior convictions for child sexual abuse were properly considered by the trial court for purposes of adjudication, we construe his brief as abandoning his objection to the SOSE.

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regarding domestic violence. *Cf. In re A.R.*, 227 N.C. App. at 522, 742 S.E.2d at 632-33 (approving court-ordered substance abuse assessment and drug screens in order to “assist respondents in both understanding and resolving the possible underlying causes of respondents’ domestic violence issues”). The evidence and findings do not support a requirement for him to be subject to random drug screens. We therefore reverse the trial court’s order solely in relation to this requirement and hold this requirement should be removed from the court’s order on remand.

As discussed above, respondent-father’s lack of stable and appropriate housing was a significant factor supporting the adjudication. Therefore, the trial court did not abuse its discretion in imposing requirement (4) under N.C. Gen. Stat. § 7B-904(d1). Given the relationship between respondent-father’s housing situation and his failure in obtaining stable local employment, we conclude the court did not abuse its discretion in ordering him to at least “pursue” full-time employment. In his testimony at the disposition hearing, respondent-father described his difficulty in finding employment in Pitt County, where he hoped to live, due to his criminal record. Although he had found construction work in Virginia, he acknowledged the “volat[i]le” nature of the industry and described the upcoming winter months as “a slow period[.]” We find a sufficient “nexus” between respondent-father’s housing issues and his lack of full-time employment to support the court’s imposition of requirement (5). Accordingly, the order is affirmed as to all sections except the

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requirement that respondent-father be subject to random drug screens. For that specific requirement, we reverse and remand the trial court's order so the trial court may remove that requirement from the order.

REVERSED AND REMANDED IN PART AND AFFIRMED IN PART.

Judges BRYANT and ZACHARY concur.

Report per Rule 30(e).