IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA22-711

Filed 05 July 2023

Pender County, No. 20 JT 33

In the Matter of

A.M.H.B.

Appeal by Respondent-Father from order entered 2 June 2022 by Judge R. Russell Davis in Pender County District Court. Heard in the Court of Appeals 10 May 2023.

No brief filed on behalf of Petitioner-Appellee Mother.

Benjamin J. Kull for the Respondent-Appellant Father.

STADING, Judge.

Respondent-Father ("Father") appeals from the trial court's order terminating his parental rights in his minor child pursuant to N.C. Gen. Stat. § 7B-1111 (2022). For the reasons set forth below, we affirm the trial court's order.

I. Background

"Amelia"[1] was born on 27 October 2013 to Father, Timothy Wayne Black, and Petitioner-Mother, Faith Shown Hollingsworth ("Mother"). At the time of Amelia's birth, Mother and Father were married and lived in Jacksonville, Florida. After Father's discharge from the Navy, the family moved to live near family in LaFollette, Tennessee. In 2015, Mother and Amelia moved to Pender County, North Carolina, for a "better opportunity." Father was present in North Carolina for a short period of time; however, he became increasingly absent, due in part to his employment as a truck driver. After extended lapses in communication, Mother requested a divorce in late spring or early summer of 2015. In total, Father lived with Mother and Amelia "for about the first year and a half of [Amelia's] life. . . ."

Following the divorce, Father resumed his residence in Tennessee and visited with Amelia in North Carolina on 28 October 2015. Father's last visit with Amelia was in November of 2015. Subsequently, communication between the parties further declined. In December of 2015, Mother contacted Father's girlfriend "to make sure [Father] gets time with [Amelia]." There was no response and between December 2015 and June 2016, Mother was unable to contact Father. In February 2017, the parties corresponded about their divorce and, on 2 August 2017, the parties communicated on the Facebook messaging platform discussing "signing [Amelia] over to [Mother]." There was no further communication between the parties until April of

[1] Amelia is a pseudonym to protect the identity of the minor child. *See* N.C. R. App. P. 42.

2020. Father's brother who lives near Augusta, Georgia, visits with Amelia and communicates with Mother on Amelia's birthday.

On 10 August 2017, Mother married her current husband. Amelia resides with Mother, Mother's current husband, and two half-sisters in North Carolina, while Father resides in Tennessee. Communication finally resumed between the parties when Mother began "the process of filing" of this petition to terminate Father's parental rights. On 11 April 2020 Father inquired about visitation and sent a text message requesting Mother to tell his daughter "happy Easter." Mother responded by stating, in part: "This is a fair warning . . . leave me alone, don't text/call again." (ellipsis in original). Several hours later, Father repeated his request, to which Mother replied: "It's 2am. Don't text again."

On 12 June 2020, Mother filed this petition alleging that grounds exist to terminate Father's parental rights in Amelia. The petition alleged that Father (1) neglected Amelia, (2) willfully failed to pay for Amelia's care, support, and education, (3) is incapable of providing proper care and supervision for Amelia, and (4) willfully abandoned Amelia for at least six consecutive months prior to filing this petition. Mother's petition further alleged that neither Father, nor Father's family, have consistently visited Amelia since November 2015. Father filed his answer on 13 September 2021, denying that these grounds exist.

The trial court appointed a guardian ad litem ("GAL") for Amelia on 16 September 2020. The GAL produced a report that was admitted into evidence by the

trial court. The report indicated that "[b]oth parties assign blame to each other for why [Father] and [Amelia] have not seen one another since November of 2015." Further, it provided that the GAL does not "believe that [Father] has taken enough action or made enough effort during [Amelia]'s life." **{R. p. 28}.** However, the report also states that the GAL is "not convinced that [Mother] has always kept the door between [Father] and [Amelia] as opening and inviting as she indicates." The GAL ultimately concluded that he did not believe it would be in Amelia's best interest for Father's rights to be terminated. **{R. at 29}.**

On 6 September 2022, the trial court conducted a bifurcated hearing, with an adjudication phase and a disposition phase. After hearing Mother's evidence during the adjudication phase, the trial court granted Father's motion to dismiss Mother's allegation that he is incapable of providing proper care and supervision for Amelia. Thereafter, the trial court found that "adequate grounds do exist to terminate the parental rights of . . . Father" under the three remaining grounds: neglect under N.C. Gen. Stat. § 7B-1111(a)(1); willful failure without justification to pay for care, support, and education under N.C. Gen. Stat. § 7B-1111(a)(4); and willful abandonment under N.C. Gen. Stat. § 7B-1111(7). Then, the trial court concluded that terminating parent-child relationship was in Amelia's best interest.

The trial court entered a written order, filed on 2 June 2022, terminating Father's parental rights. On 28 June 2022, Father filed a notice of appeal of the order terminating his parental rights. Father raises the following issues on appeal: (1)

whether findings of fact nos. 24, 25, and 24 are actually conclusions of law; (2) whether the trial court failed to resolve a key conflict in the evidence regarding Mother hindering Father from having contact with Amelia; (3) whether the trial court made factual determinations that Father's acts or omissions were willful or manifested a willful intent to abandon Amelia; (4) whether the findings of fact establish that Father made a "willful determination to forego all parental duties and relinquish all parental claims to" Amelia; (5) whether the findings of fact and the evidence establish the statutorily required elements of N.C.G.S. § 7B-1111(a)(4); and (6) whether the trial court abused its discretion at disposition by failing to give any consideration to the GAL's opposition to termination.

II. Jurisdiction

This Court has jurisdiction over Father's appeal from the order terminating his parental rights pursuant to N.C. Gen. Stat. §§ 7A-27(b)(2) and 7B-1001(a)(7) (2023).

III. Analysis

A. Standard of Review

On appeal, Father argues that the trial court erred by adjudicating grounds to terminate his parental rights to Amelia. "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) (citations omitted). "At the adjudicatory stage, the petitioner bears the burden

of proving by clear, cogent, and convincing evidence the existence of one or more grounds for termination under subsection 7B-1111(a)." *In re B.C.B.*, 374 N.C. 32, 35, 839 S.E.2d 748, 751 (2020) (citation omitted). "If the petitioner meets her burden during the adjudicatory stage, 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 35, 839 S.E.2d at 751–52 (citations omitted). This Court reviews a trial court's order terminating parental rights "to determine whether the findings are supported by clear, cogent and convincing evidence and the findings support the conclusions of law[.]" *In re T.M.L.*, 377 N.C. 369, 371, 856 S.E.2d 785, 789 (2021) (citation omitted). The trial court's conclusions are subject to *de novo* review. *Id.* "Findings of fact not challenged by respondent are deemed supported by competent evidence and are binding on appeal. Moreover, we review only those findings necessary to support the trial court's determination that grounds existed to terminate respondent's parental rights." *Id.*

B. Findings of Fact as Conclusions of Law

First, Father notes that findings nos. 24, 25, and 27 are conclusions of law that were improperly classified as findings of fact. In its order, the trial court found:

> 24. That the Court finds that this minor child is neglected, and Respondent Father has failed to provide any financial support for the six (6) months prior to filing and that he abandoned his minor child.
>
> 25. That as a result of the above findings of the Court and the evidence presented, the Court finds that pursuant to

> N.C.G.S. [§] 7B-1111 et. seq., grounds exist to terminate the parental rights of the Respondent.
>
> . . .
>
> 27. That grounds do exist for terminating the parental rights of the Respondent Father, Timothy Wayne Black.

"[A]ny determination requiring the exercise of judgment or the application of legal principles is more properly classified a conclusion of law," while a determination reached through "logical reasoning from the evidentiary facts" should be classified as a finding of fact. *In re Helms*, 127 N.C. App. 505, 510, 491 S.E.2d 672, 675 (1997) (citations omitted). This Court has held that a trial court's determination that statutory grounds exist for termination of parental rights is a conclusion of law. *See id.*; *In re J.T.C.*, 273 N.C. App. 66, 73, 847 S.E.2d 452, 458 (2020); *In re S.Z.H.*, 247 N.C. App. 254, 261–62, 785 S.E.2d 341, 347 (2016). A trial court's classification of its determination as a finding or conclusion does not govern our analysis. *In re J.T.C.*, 273 N.C. App. at 73, 847 S.E.2d at 458 (citation omitted). We treat conclusions of law mislabeled as findings of fact accordingly and apply the appropriate *de novo* standard of review. *Id.*

Here, finding no. 24 contains a legal determination of neglect, as well as a factual finding that Father has failed to provide financial support for six months preceding the filing of the termination petition. Since the determination of neglect requires the application of legal principle, this portion of finding no. 24 is a conclusion of law. Additionally, findings of fact nos. 25 and 27 declare that grounds exist to

terminate Father's rights. Since the trial court had to exercise judgment and apply legal principles, findings of fact nos. 25 and 27 are conclusions of law. Therefore, findings of fact nos. 25, 27, and a portion of no. 24, shall be considered conclusions of law and will be reviewed *de novo*.

C. Termination Under N.C. Gen. Stat. § 7B-1111(a)(1) and (7)

1. Resolving Conflicting Evidence

Next, Father argues that the rulings by the trial court under N.C. Gen. Stat. § 7B-1111(a)(1) and (7) "must be vacated because the court failed to resolve a key conflict in the evidence: whether [Mother] hindered [Father] from having contact with his daughter." In framing his argument, Father recognizes that this consideration is addressed in analyzing the willfulness of abandonment. However, in this matter, Father claims the trial court's willfulness analysis was incomplete, as the findings of fact only "superficially" address the lack of contact with his daughter and fail to sufficiently explore the underlying details of why there was a lack of contact. To support his argument, Father is only able to marshal cases in which a legal impediment was the obstacle—specifically, the parent was subject to either incarceration or provisions of a domestic violence protective order.

First, Father cites *In re D.M.O.*, in which there were "material conflicts in the evidence relating to the issue of respondent-mother's willfulness that were not resolved by the trial court's order." 250 N.C. App. 570, 579, 794 S.E.2d 858, 865 (2016). In that case, the trial court terminated the respondent-mother's parental

rights under N.C. Gen. Stat. § 7B-1111(a)(7). *Id.* at 571, 794 S.E.2d at 860. The respondent-mother "was incarcerated for all but 33 of the determinative 180 days preceding the filing of the termination petition[.]" *Id.* at 575, 794 S.E.2d at 862. This Court noted that "a parent's opportunities to care for or associate with a child while incarcerated are different than those of a parent who is not incarcerated." *Id.* at 575, 794 S.E.2d at 863 (citing *In re B.S.O.*, 234 N.C. App. 706, 711, 760 S.E.2d 59, 64 (2014)). In that case, this Court expressed concern that the trial court "made no findings indicating that it considered the limitations of respondent-mother's incarceration. . . ." *Id.* at 578, 760 S.E.2d at 864. Moreover, this Court enumerated the multiple efforts made by the respondent-mother to contact her child. *Id.* at 579–81, 794 S.E.2d at 865–66. In the present case, despite the physical distance that separated Father and Amelia, the record does not show multiple efforts to communicate with or visit his child. Only recently, upon learning of that the petition would be filed, did Father reach out to Mother, in attempt to pass a communication to his daughter. In fact, outside of this instance, there is scant contrary evidence that Father attempted to visit or speak with his daughter since 2015.

Father's reliance on *In re N.D.A.*, 373 N.C. 71, 833 S.E.2d 768 (2019), fails for similar reasons. In that matter, the respondent-father was incarcerated, and a court order prohibited him from exercising visitation while incarcerated. Even so, he produced "unchallenged testimony [that] tended to show that he had unsuccessfully attempted to work out arrangements under which he could visit with [his child] on

multiple occasions following his release . . . on at least fifteen occasions." *Id.* at 73, 78, 833 S.E.2d at 770, 774. Additionally, the trial court did not make findings of fact concerning the respondent-father's ability to provide financial support for his child. *Id.* at 79, 833 S.E.2d at 774. Conversely, in the case before us, the record contains well-supported evidence that Father last saw Amelia in November of 2015, attempted to visit her shortly after the separation but had to cancel the trip in route because Mother said "it's not a good time," and most recently requested visitation in the spring of 2020. The well-supported findings of Father's deficient efforts can hardly compare to the unchallenged testimony of fifteen unsuccessful attempts noted by the Court in *In re N.D.A.*, 373 NC at 78, 833 S.E.2d at 774. Further differentiating the cases, the trial court here noted that Father did not provide support to Amelia when receiving unemployment (he had a source of income yet "he did not send any support").

Father also points to *In re B.F.N.*, 381 N.C. 372, 873 S.E.2d 291 (2022), in support of his argument that the trial court failed to resolve a conflict in the evidence. In that case, the respondent-father was subject to a temporary domestic violence protective order that granted temporary custody of the children to the petitioner-mother, and prohibited the respondent-father from, among other things, interfering with the children residing with or in the custody of the petitioner-mother; going to her residence, the children's school, or any place where the children received daycare. *Id.* at 374, 873 S.E.2d at 293. Ten days later, the trial court entered an order concluding "that respondent[-father] was not a fit and proper person to exercise any

custody or visitation with the children. . . ." *Id.* Further, the order granted the petitioner-mother "exclusive care, custody, and control of the children, and respondent[-father]'s rights of secondary joint custody and visitation were terminated." *Id.* The trial court ordered that he was not to have any contact with the children "pending further orders of th[e] court and only upon a motion in the cause being filed by [respondent-father] alleging that a substantial change of circumstances has occurred and no sooner can such motion be filed then until after one (1) year from the entry of this order." *Id.* While the order was in effect, the respondent-father was found in contempt for violating its provisions by sending text messages to the petitioner-mother, requesting to see the children, and going to a child's school. *Id.* at 375, 873 S.E.2d at 294. Thereafter, the petitioner-mother filed a petition to terminate the parental rights of the respondent-father, which the trial court denied. *Id.* On appeal, our Supreme Court found that the trial court denied the petitioner-mother's requested relief based on N.C. Gen. Stat. § 7B-1111(a)(7) but failed to consider the "determinative six-month period" or respondent-father's "ability to seek modification of the [protective] order during the six-month determinative period." *Id.* Moreover, in reviewing the trial court's denial of the petition's asserted N.C. Gen. Stat. § 7B1111(a)(1) ground for termination, the trial court made findings that did not address the issue of whether the respondent-father neglected the children by abandonment. *Id.* at 380, 873 S.E.2d at 297. While Father urges that these cases are similar and urges to us to "vacate[] and remand[] [his case] for further

fact-finding" regarding a "hindrance," they are analytically and factually distinguishable.

In this matter before the Court, the findings are adequate to resolve any conflicts in the evidence, as the record presents us with few conflicts in the evidence. Even assuming all evidentiary conflicts are resolved in favor of Father—that Mother twice obstructed visitation and presented generalized "roadblocks"—they nonetheless show that Mother often had to track down Father when attempting to communicate, and Father displayed years of failure to even attempt to write, call, send presents, child support, or exercise visitation with Amelia.

2. Willfulness Under N.C. Gen. Stat. § 7B-1111(a)(1) and (7)

As a preliminary matter, Father is correct that, in concluding that grounds existed to terminate parental rights pursuant to N.C. Gen. Stat. § 7B-1111(a)(1), the trial court's order does not specify which definition of "neglected juvenile" was used. "The court may terminate the parental rights upon a finding . . . [that] [t]he parent has . . . neglected the juvenile. The juvenile shall be deemed to be . . . neglected if the court finds the juvenile to be . . . a neglected juvenile within the meaning of G.S. 7B-101." N.C. Gen. Stat. § 7B-1111(a)(1). A neglected juvenile is "[a]ny juvenile less than 18 years of age . . . whose parent . . . [d]oes not provide proper care, supervision, or discipline" or "[h]as abandoned the juvenile." N.C. Gen. Stat. § 7B-101(15) (2022). Here, we agree with Father that since the trial court's termination order did not contain findings of likely future neglect, the grounds underlying the determination of

neglect under N.C. Gen. Stat. § 7B-1111(a)(1) necessarily rest upon a theory of abandonment pursuant to N.C. Gen. Stat. § 7B-101(15)(b) (2022). *See In re D.T.H.*, 378 N.C. 576, 589, 862 S.E.2d 651, 660 (2021).

Regardless of the theory underlying the grounds pursuant to termination of rights, Father argues that the findings of fact contained in the trial court's order do not establish a willful intent to abandon Amelia. On review, this Court must determine whether the trial court's findings of fact were based on clear, cogent, and convincing evidence, and whether those findings of fact support a conclusion that parental termination should occur on the grounds stated in N.C. Gen. Stat. § 7B-1111. *See In re T.M.L.*, 377 N.C. at 371, 856 S.E.2d at 789 (citation omitted). So long as the findings of fact support a conclusion based on N.C. Gen. Stat. § 7B-1111, the order terminating parental rights must be affirmed. *See In re Humphrey*, 156 N.C. App. 533, 539, 577 S.E.2d 421, 426 (2003) (citation omitted). "In order to terminate a parent's rights on the ground of neglect by abandonment, the trial court must make findings that the parent has engaged in conduct which manifests a willful determination to forego all parental duties and relinquish all parental claims to the child as of the time of the termination hearing." *In re N.D.A.*, 373 N.C. at 81, 833 S.E.2d at 775–76 (internal quotation marks and citation omitted).

The trial court may terminate the parental rights to a child under N.C. Gen. Stat. § 7B-1111(a)(7) upon a finding that the "parent has willfully abandoned the juvenile for at least six consecutive months immediately preceding the filing of the

petition or motion." N.C. Gen. Stat. § 7B-1111(a)(7). "[A]lthough the trial court may consider a parent's conduct outside the six-month window in evaluating a parent's credibility and intentions, the 'determinative' period for adjudicating willful abandonment is the six consecutive months preceding the filing of the petition." *In re N.D.A.*, 373 N.C. at 77, 833 S.E.2d at 773 (citation omitted). Also, parental rights may be terminated upon a finding that the parent has neglected the child under N.C. Gen. Stat. § 7B-1111(a)(1). As discussed in sub-subsection 2 above, for this matter, a juvenile could be adjudicated as neglected if the parent has abandoned the juvenile. N.C. Gen. Stat. § 7B-101(15)(b). There is no "six-consecutive-month requirement when the child is classified as neglected due to abandonment." *In re Humphrey*, 156 N.C. App. at 540, 577 S.E.2d at 427.

"Abandonment has been defined as wilful neglect and refusal to perform the natural and legal obligations of parental care and support." *Id.* (citation omitted). "It has been held that if a parent withholds his presence, his love, his care, the opportunity to display filial affection, and wilfully neglects to lend support and maintenance, such parent relinquishes all parental claims and abandons the child." *Id.* Willful intent is "an integral part of abandonment and this is a question of fact to be determined from the evidence." *Pratt v. Bishop*, 257 N.C. 486, 501, 126 S.E.2d 597, 608 (1962). Here, the trial court entered a detailed order containing findings of fact sufficient to show the willfulness of Father's neglect and abandonment:

8. That [Father] has not had a visitation with the minor

> child since her birthday in 2015 and has not seen the minor child since November o[f] 2015.
>
> . . .
>
> 11. [Father] does not call the minor child, nor does he send gifts or cards except for one card . . . during Christmas of 2021 in which [Father] sent $100.00.
>
> 12. [Father] helped [Mother] move from Tennessee to North Carolina and is aware of her location, though not her current address, as well as her contact information. [Father] has previously contacted her on social media, as per the evidence submitted, as well as is aware of her telephone number but still failed to contact the minor child.
>
> 13. [Mother] has previously encouraged [Father] to visit.
>
> 14. Other than [Father's] brother none of his family members have attempted to stay in contact with the minor child.
>
> 15. That prior to the filing of the petition, [Father] has not paid child support in over six (6) months . . .
>
> 16. [Father] was without a job for an extended period of time and he did not send any support even though he testified he did receive unemployment.
>
> . . .
>
> 18. [Father] did contact [Mother] at the time the petition was filed and requested a visit but did not indicate any time or date he wishes to visit. He has been able to maintain a relationship with his other children and has a loving relationship with them.

"Whether a biological parent has a willful intent to abandon his child is a question of fact to be determined from the evidence." *In re Adoption of Searle*, 82 N.C. App. 273, 276, 346 S.E.2d 511, 514 (1986) (citation omitted). Evidence from both

parties showed, and the trial court found, that Father had not visited Amelia since 2015. While Mother did impede Father's most recent effort to communicate with his daughter on 20 April 2020, Father otherwise made no efforts to communicate or visit with Amelia for years. While Mother's recent action presented Father with difficulty, it did not prevent him from pursuing his legal rights as a parent to Amelia, supporting her, writing or communicating with her by any means, nor visiting her for the past several years. *See In re L.M.M.*, 375 N.C. 346, 353, 847 S.E.2d 770, 776 (2020); *see also In re A.G.D.*, 374 N.C. 317, 325, 841 S.E.2d 238, 243 (2020) (noting that the "respondent-father had the legal right and practical ability to contact the mother directly or through intermediaries for the purpose of inquiring about the children's welfare and asking that she convey his best wishes to them"). Additionally, the record contained evidence and the trial court found that Mother made efforts to contact Father after he was absent for extended bouts of time. Moreover, the trial court made findings that Father did not provide child support in the six months preceding the filing of the petition and did not do so when receiving unemployment. Finally, the trial court found that Father had maintained a relationship with his other children but had not done so with Amelia. The trial court's findings of fact adequately support its conclusion of law that Father willfully withheld "his presence, his love, his care, the opportunity to display filial affection, and neglect[ed] to lend support and maintenance" for Amelia. *In re Humphrey*, 156 N.C. App. at 540, 577 S.E.2d at 427.

Father also urges us to impose a strict requirement on the trial court to use the word "willful" in its order. In doing so, he argues that *In re N.M.H.*, 375 N.C. 637, 840 S.E.2d 870 (2020), is an outlier from existing precedent and its reasoning is inapplicable in the present case. When deciding *In re M.B.,* 382 N.C. 82, 88, 876 S.E.2d 260, 266 (2002), the North Carolina Supreme Court acknowledged and declined to overrule *In re N.H.M.* In doing so, the Court noted that:

> *In re N.H.M.* . . . affirm[ed] an adjudication of willful abandonment as a ground for termination despite the trial court's failure to use the statutory language because the findings "ultimately support[ed] the conclusion that respondent's conduct met the statutory criterion of willful abandonment[,]" and "when read in context, the trial court's order makes clear that the court applied the proper willfulness standard to determine that respondent willfully abandoned the child under N.C.G.S. § 7B-1111(a)(7).

In the present matter, the trial court's order found that Father had not seen Amelia in more than six years (but has seen his other children), failed to contact her (despite his brother's ability to do so), has not sent her cards or gifts prior to the filing of the petition (even though he is aware of her location), and has not provided financial support (when he was unable to work but still receiving benefits). Thus, the trial court's order, "when read in context . . . makes clear that the court applied the proper willfulness standard." *Id.* We note that the best practice for the trial court would have been employment of "the statutory language of *willful abandonment* to address [Father's] conduct." *In re N.M.H.,* 375 N.C. at 644, 849 S.E.2d at 876 (emphasis added). However, here, as in *In re N.M.H.*, "the trial court's findings . . .

are supported by clear, cogent, and convincing evidence ultimately support the conclusion that [Father's] conduct met the statutory criterion of willful abandonment." *Id.* To reach a different result in this context would elevate form over substance.

D. Termination under N.C. Gen. Stat. § 7B-1111(a)(4)

Father argues that the trial court's adjudicatory ruling under N.C. Gen. Stat. § 7B-1111(a)(4) must be reversed because the order did not establish the statutorily required elements. The statute states that a court may terminate a parent's parental rights upon a finding that:

> One parent has been awarded custody of the juvenile by judicial decree or has custody by agreement of the parents, and the other parent whose parental rights are sought to be terminated has for a period of one year or more next preceding the filing of the petition or motion willfully failed without justification to pay for the care, support, and education of the juvenile, as required by the decree or custody agreement.

N.C. Gen. Stat. § 7B-1111(a)(4). In relevant part, the trial court's findings stated:

> 15. That prior to the filing of this petition [Father] has not paid child support in over six (6) months. He has since started having his wages garnished.
>
> 16. [ ] Father was without a job for an extended period of time and he did not send any support even though he testified he did receive unemployment.

Therefore, the trial court concluded as a matter of law "[t]hat adequate grounds do exist to terminate the parental rights of [Father] under . . . N.C.G.S. 7B-1111 (a) 1

[sic], N.C.G.S. 7B-1111 (a) 7 [sic] and *failed to pay a reasonable amount of support for the six (6) months preceding the filing of this action*." (emphasis added).

While the trial court's recitation of Father's "failure to pay a reasonable amount of support" could be interpreted as a finding underlying the other referenced statutory grounds, it could also be construed as a legal conclusion of grounds under N.C. Gen. Stat. § 7B-1111(a)(4). In the latter case, the trial court failed to properly apply the statute. Rather than six months, the statute requires that the parent failed to pay child support for a period of a year or more preceding the filing of the petition. Thus, while the record may contain sufficient evidence to support termination of Father's parental rights pursuant to N.C. Gen. Stat. § 7B-1111(a)(4) when applying the appropriate legal standard, the trial court's order does not currently contain sufficient findings of fact to do so. Nonetheless, since the trial court appropriately terminated parental rights under N.C. Gen. Stat. § 7B-1111(a)(1) and (7), and "an adjudication of any single ground in § 7B-1111(a) is sufficient to support a termination of parental rights[,]" no further undertaking is necessary on this ground. *In re E.H.P.*, 372 N.C. 388, 395, 831 S.E.2d 49, 53 (2019) (citation omitted).

E. The Guardian Ad Litem's Recommendation

In his final argument, Father maintains that the trial court "abused its discretion by failing to give any consideration whatsoever to the guardian ad litem's clearly stated opposition to termination." The trial court's order contained two findings of fact acknowledging and expressing consideration of the guardian ad litem:

> 11. The Guardian Ad Litem entered his report without objection.
>
> 12. Based on the testimony, evidence and the Guardian's report the minor child is happy and healthy and very intelligent.

"While the role of the guardian ad litem is critical in every juvenile case, with the testimony and reports of the guardian ad litem serving as important evidence at every phase of a case's proceeding, nonetheless a guardian ad litem's recommendation regarding the best interests of a juvenile at the dispositional stage of a termination of parental rights case is not controlling." *In re A.A.*, 381 N.C. 325, 339, 873 S.E.2d 496, 508 (2022). "Rather, because the trial court possesses the authority to weigh *all* of the evidence, the mere fact that it elected not to follow the recommendation of the guardian ad litem does not constitute error, let alone an abuse of discretion." *Id.* (citation omitted). In this matter, the trial court "had the responsibility to pass upon the credibility of the witnesses and the weight to be given their testimony and the reasonable inferences to be drawn therefrom," and in doing so, clearly considered the guardian ad litem's report and testimony but came to a different conclusion that was not an abuse of discretion. *In re D.L.W.*, 368 N.C. 835, 843, 788 S.E.2d 162, 167–68 (2016) (citation omitted).

IV. Conclusion

For the foregoing reasons, the trial court's order termination Father's parental rights is affirmed.

AFFIRMED.

Judges DILLON and COLLINS concur.

Report per Rule 30(e).