

IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA14-1176

Filed: 21 April 2015

Wayne County, No. 14 JT 35

IN THE MATTER OF: C.J.H.

Appeal by respondent from order entered 21 July 2014 by Judge Timothy I. Finan in District Court, Wayne County. Heard in the Court of Appeals 16 March 2015.

*Mary McCullers Reece, for petitioner-appellee.*

*Jeffrey William Gillette, for respondent-appellant.*

STROUD, Judge.

Respondent-father appeals from an order terminating his parental rights to his daughter, C.J.H. (“Shelly”).<sup>1</sup> Respondent contends that the trial court erred in denying his motion to continue and challenges all three of the trial court’s grounds for termination of his parental rights. Because the trial court did not err in denying respondent’s motion to continue and the trial court’s findings of fact are sufficient to support at least one ground for termination, abandonment, we affirm the trial court’s order.

I. Background

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<sup>1</sup> A pseudonym is used to protect the identity of the juvenile and for ease of reading.

*Opinion of the Court*

While respondent and petitioner were dating, petitioner became pregnant with Shelly. In December 2008, Shelly was born. The three lived together in a mobile home in Tennessee for approximately eighteen months. On 31 May 2010, respondent left Shelly and petitioner without notifying petitioner that he intended to leave. A few months later, respondent resumed a previous relationship with another woman (“Ms. Smith”) with whom he had previously fathered a child. At the time of the hearing, respondent, Ms. Smith, and their two children lived in Mountain City, Tennessee.

In July 2010, petitioner began to date another man (“Mr. Jones”). Mr. Jones assumed the position of Shelly’s father as soon as petitioner and he began dating. In February 2012, petitioner and Shelly moved to Goldsboro, North Carolina to live with Mr. Jones, who is employed as a maintenance instructor crew chief at Seymour Johnson Air Force Base. In June 2012, petitioner and Mr. Jones married.

In June 2013, respondent emailed petitioner to inquire about the possibility of Mr. Jones adopting Shelly. But in January 2014, after receiving Consent to Adoption documents, respondent refused to consent to the adoption and requested visitation with Shelly.

On 4 March 2014, petitioner filed a petition to terminate respondent’s parental rights to Shelly and alleged that Mr. Jones would like to adopt Shelly, which was served upon respondent on 14 April 2014. The trial court appointed Kevin MacQueen

*Opinion of the Court*

as respondent's counsel upon the petition's filing. Respondent did not file an answer or any other responsive pleadings to the petition. MacQueen represented respondent at the pre-trial conference held on 8 May 2014. In the pre-trial conference order, which was entered with the consent of petitioner, respondent, and the guardian ad litem, the trial court set a hearing for 9 July 2014.

At the beginning of the hearing, respondent's counsel moved to continue the hearing due to respondent's absence. After hearing argument from both respondent and petitioner, the trial court denied the motion. During a break in the hearing, a juvenile court administrator informed the trial court that respondent had called to inquire what time the hearing began the following day. The trial court allowed petitioner to finish the direct examination of her witnesses that day. But in an effort to accommodate respondent who indicated he would arrive in Wayne County the next day, the trial court postponed the cross-examination of petitioner's witnesses to the afternoon of the next day. On 10 July 2014, respondent was present for the remainder of the hearing. He declined to cross-examine petitioner's witnesses but did present his own evidence.

On 21 July 2014, the trial court entered an order in which it found the following grounds for termination: (1) abandonment; (2) neglect; and (3) failure to establish paternity. See N.C. Gen. Stat. § 7B-1111(a)(1), (5), (7) (2013). The trial court

*Opinion of the Court*

terminated respondent's parental rights to Shelly. On 20 August 2014, respondent gave timely notice of appeal.

II. Motion to Continue

Respondent contends that the trial court erred in (1) denying his motion to continue at the beginning of the hearing; and (2) allowing petitioner to finish the direct examination of her witnesses after it learned of respondent's intention to arrive the next day.

A. Standard of Review

A trial court's decision regarding a motion to continue is discretionary and will not be disturbed on appeal absent a showing of abuse of discretion. Continuances are generally disfavored, and the burden of demonstrating sufficient grounds for continuation is placed upon the party seeking the continuation. Where the lack of preparation for trial is due to a party's own actions, the trial court does not err in denying a motion to continue.

*In re J.B.*, 172 N.C. App. 1, 10, 616 S.E.2d 264, 270 (2005) (citations and quotation marks omitted). "Abuse of discretion results where the court's ruling is manifestly unsupported by reason or is so arbitrary that it could not have been the result of a reasoned decision." *State v. Hennis*, 323 N.C. 279, 285, 372 S.E.2d 523, 527 (1988). "It is the duty of the trial judge to consider and weigh all of the competent evidence, and to determine the credibility of the witnesses and the weight to be given their testimony." *In re S.C.R.*, 198 N.C. App. 525, 531-32, 679 S.E.2d 905, 909 (brackets omitted), *appeal dismissed*, 363 N.C. 654, 686 S.E.2d 676 (2009). "If the trial court's

*Opinion of the Court*

findings of fact are supported by ample, competent evidence, they are binding on appeal, even though there may be evidence to the contrary.” *Id.* at 531, 679 S.E.2d at 909 (quotation marks omitted).

B. Analysis

Respondent contends that the trial court abused its discretion in initially denying his motion to continue. N.C. Gen. Stat. § 7B-803 describes when a trial court may continue a hearing in an abuse, neglect, and dependency proceeding:

The court may, for good cause, continue the hearing for as long as is reasonably required to receive additional evidence, reports, or assessments that the court has requested, or other information needed in the best interests of the juvenile and to allow for a reasonable time for the parties to conduct expeditious discovery. Otherwise, continuances shall be granted only in extraordinary circumstances when necessary for the proper administration of justice or in the best interests of the juvenile. Resolution of a pending criminal charge against a respondent arising out of the same transaction or occurrence as the juvenile petition shall not be the sole extraordinary circumstance for granting a continuance.

N.C. Gen. Stat. § 7B-803 (2013). Additionally, N.C. Gen. Stat. § 7B-1109(d) provides: “Continuances that extend beyond 90 days after the initial petition shall be granted only in extraordinary circumstances when necessary for the proper administration of justice, and the court shall issue a written order stating the grounds for granting the continuance.” *Id.* § 7B-1109(d) (2013).

*Opinion of the Court*

At the beginning of the 9 July 2014 hearing, more than 90 days after the petition was filed, respondent's counsel moved to continue the hearing due to respondent's absence. The trial court denied the motion and allowed petitioner to present evidence. During a break in the hearing, a juvenile court administrator informed the trial court that respondent had called to inquire what time the hearing began the following day. The trial court allowed petitioner to finish the direct examination of her witnesses that day. But in an effort to accommodate respondent who indicated he would arrive in Wayne County the next day, the trial court postponed the cross-examination of petitioner's witnesses to the afternoon of the next day.

The trial court made the following findings of fact that support its initial decision to deny respondent's motion to continue:

8. Pursuant to the Pre-Trial Order entered on May 8, 2014, this case was set for a special session of Wayne County Juvenile Court on Wednesday, July 9, 2014. The Order was delivered to all of the parties involved in this matter.

9. During the week prior to the trial of this matter, the Respondent Father contacted the Juvenile Court administrator, Allyson Smith, directly to request a continuance of this hearing and she advised him to contact his attorney, Kevin MacQueen.

10. Upon calling the case for hearing on July 9, 2014, Kevin MacQueen, counsel for the Respondent father[,] made a Motion to continue the hearing. . . . Mr. MacQueen advised the Court that he had written the Respondent Father on two occasions including sending the Respondent

*Opinion of the Court*

Father a copy of the Pre-Trial Order entered on May 8, 2014. Mr. MacQueen advised the Court that he had spoken to the Respondent Father on the Wednesday or Thursday of the week prior to the hearing. The Respondent Father had advised Mr. MacQueen that he had accepted a job in Nashville, Tennessee for three weeks to begin the week before the trial of this matter. Mr. MacQueen advised that the Respondent Father was the sole provider for his fiancée and his other two children and that the Respondent Father advised Mr. MacQueen that he would lose his job if he left the job to come to Court. Kim Benton, Guardian ad litem, advised the Court that she had spoken to the Respondent Father a couple of weeks prior to the trial and that the Respondent Father was aware of the Court date and time of the hearing prior to him leaving for the job in Nashville, Tennessee because . . . she had specifically advised him of the date and time in at least three previous conversations.

11. The Petitioner objected to the Motion to continue and advised the Court that the Petition alleged a lack of involvement and unwillingness to travel to North Carolina to maintain a relationship with the minor child. Although the Court did not know if the above allegations of the Petitioner were true or not at the time of the Motion to Continue and the objection, the Court did consider these facts in making its ruling.

Respondent argues that the trial court erred in initially denying his motion to continue, because “the case had not been previously continued” and “there is no indication that an additional week or two would have prejudiced either party.” But respondent bore the burden of demonstrating sufficient grounds for continuance; petitioner had no burden to show lack of prejudice. *See J.B.*, 172 N.C. App. at 10, 616 S.E.2d at 270. Respondent agreed to take the job in Nashville despite the fact that he was aware of its conflict with the court date, and instead of filing a written motion

*Opinion of the Court*

to continue the week prior to 9 July 2014 so petitioner, her counsel, and the guardian ad litem would be advised of the situation, he waited until the matter was called for hearing to make an oral motion for continuance. Because respondent had not demonstrated any “extraordinary circumstances” that necessitated a continuance, the trial court did not abuse its discretion in initially denying respondent’s motion to continue. *See* N.C. Gen. Stat. §§ 7B-803, -1109(d).

Respondent next contends that the trial court erred in allowing petitioner to finish the direct examination of her witnesses after it learned of respondent’s intention to arrive the next day. The trial court made the following findings that support its decision to allow petitioner to finish the direct examination of her witnesses but to postpone the cross-examination of those witnesses to the following day:

13. During a break in the hearing, the Juvenile Court administrator, Allyson Smith, advised the Court that the Respondent Father had called to inquire as to what time Court began the following day, Thursday, July 10, 2014. The Court requested that [Mr. MacQueen] call the Respondent Father during the break.

14. Mr. MacQueen advised the Court that the Respondent Father advised that Mr. MacQueen had [told him that the hearing] was on Thursday, July 10, 2014. Mr. MacQueen advised the Court that he did not specifically recall the telephone conversation with the Respondent Father but he could have advised the Respondent Father that the [hearing] was on Thursday, July 10, 2014 and not Wednesday, July 9, 2014 because Thursday, July 10, 2014 was a regular juvenile session for Wayne County. Mr.



*Opinion of the Court*

MacQueen advised the Court that the Respondent Father advised that he could be in Court the following day, Thursday, July 10, 2014 by 11 a.m[.] The Court advised that the Petitioner could conclude her direct examination of her witnesses and that the Respondent Father would have the right to cross examine after he arrived and to recall these witnesses for further examination. The Court further advised that after the Petitioner concluded the direct examination of her witnesses with Mr. MacQueen being present that the Court would recess the hearing until the following day, Thursday, July 10, 2014. Court resumed on Thursday, July 10, 2014 at 1 p.m. with evidence from the Respondent Father after the Respondent Father had an opportunity to meet with his attorney. The Respondent Father did not choose to cross examine the witnesses of the Petitioner.

The trial court also found that respondent knew the correct date of the hearing, because the guardian ad litem “had specifically advised him of the date and time [of the hearing] in at least three previous conversations.” We also note that the consent pre-trial order had set 9 July 2014 as the hearing date and that respondent had received that order.

Respondent argues that the trial court should have immediately recessed the hearing upon learning that respondent’s counsel may have given respondent the wrong date for the hearing. Relying on *In re Gibbons*, respondent specifically asserts that the trial court erred in allowing petitioner to complete the direct examination of her witnesses, because it deprived respondent of hearing that testimony firsthand and assisting his counsel in preparing for cross-examination of those witnesses. *See* 245 N.C. 24, 29, 95 S.E.2d 85, 88 (1956). But *Gibbons* is distinguishable. There, the

*Opinion of the Court*

Court held that the trial court had erred in excluding both parties from its *in camera* interviews with the juvenile and other witnesses. *Id.* at 28-29, 95 S.E.2d at 88. In contrast, here, respondent's counsel was present during the entire hearing.

Additionally, the trial court afforded respondent the opportunity to confer with his counsel regarding petitioner's witnesses' testimony and be present for any cross-examination of those witnesses. Given the trial court's finding that respondent knew the correct date of the hearing, the respondent's counsel's presence during the entire hearing, and respondent's presence for any cross-examination, we hold that the trial court did not abuse its discretion in allowing the petitioner to finish the direct examination of her witnesses. *See J.B.*, 172 N.C. App. at 10, 616 S.E.2d at 270.

III. Abandonment

On appeal, respondent challenges all three of the trial court's grounds for termination of his parental rights. But if we determine that the findings of fact support one ground for termination, we need not review the other challenged grounds. *See In re Humphrey*, 156 N.C. App. 533, 540, 577 S.E.2d 421, 426-27 (2003). After reviewing the record, we conclude that the trial court's findings of fact are sufficient to support at least one ground for termination, abandonment, pursuant to N.C. Gen. Stat. § 7B-1111(a)(7). On 4 March 2014, petitioner filed her petition to terminate respondent's parental rights. We therefore examine whether respondent had willfully abandoned the juvenile during the determinative six-month period from 4

*Opinion of the Court*

September 2013 to 4 March 2014. *See* N.C. Gen. Stat. § 7B-1111(a)(7); *In re B.S.O.*, \_\_\_ N.C. App. \_\_\_, \_\_\_, 760 S.E.2d 59, 63 (2014).

A. Standard of Review

Termination of parental rights proceedings are conducted in two stages: adjudication and disposition. *In re Montgomery*, 311 N.C. 101, 110, 316 S.E.2d 246, 252 (1984). “In the adjudication stage, the trial court must determine whether there exists one or more grounds for termination of parental rights under N.C. Gen. Stat. § 7B-1111(a).” *In re D.H.*, \_\_\_ N.C. App. \_\_\_, \_\_\_, 753 S.E.2d 732, 734 (2014); *see also* N.C. Gen. Stat. § 7B-1109(e) (2013). This Court reviews a trial court’s conclusion that grounds exist to terminate parental rights to determine whether clear, cogent, and convincing evidence exists to support the court’s findings of fact, and whether the findings of fact support the court’s conclusions of law. *In re Huff*, 140 N.C. App. 288, 291, 536 S.E.2d 838, 840 (2000), *appeal dismissed and disc. review denied*, 353 N.C. 374, 547 S.E.2d 9 (2001). “If the trial court’s findings of fact are supported by ample, competent evidence, they are binding on appeal, even though there may be evidence to the contrary.” *S.C.R.*, 198 N.C. App. at 531, 679 S.E.2d at 909 (quotation marks omitted). However, “[t]he trial court’s conclusions of law are fully reviewable *de novo* by the appellate court.” *In re S.N., X.Z.*, 194 N.C. App. 142, 146, 669 S.E.2d 55, 59 (2008) (quotation marks omitted), *aff’d per curiam*, 363 N.C. 368, 677 S.E.2d 455 (2009). “It is the duty of the trial judge to consider and weigh all of the competent

*Opinion of the Court*

evidence, and to determine the credibility of the witnesses and the weight to be given their testimony.” *S.C.R.*, 198 N.C. App. at 531-32, 679 S.E.2d at 909 (brackets omitted).

B. Findings of Fact

Respondent first challenges the trial court’s sub-conclusions 7(b), 7(c), and 7(d), because, during the relevant six-month period, respondent made some child support payments and “nearly” paid off his arrears. Although the trial court included these findings in its conclusions of law, we look at their substance and review them as findings of fact. *See B.S.O.*, \_\_\_ N.C. App. at \_\_\_, 760 S.E.2d at 63-64. The challenged findings of fact state that respondent acted in the following manner:

- b. Not voluntarily providing any financial support for the minor child prior to the entry of child support Order in Tennessee;
- c. Not providing *consistent* child support for the minor child since the entry of the child support Order in Tennessee;
- d. Intentionally not working for periods of time each year even though one direct consequence of these decisions by Respondent Father was his failure to pay child support in a *timely* and a *consistent* manner[.]

(Emphasis added.)

The fact that respondent made some child support payments during the relevant six-month period does not undermine the trial court’s findings that respondent did not voluntarily provide financial support for the juvenile before entry

*Opinion of the Court*

of the Tennessee child support order and that he failed to provide timely, consistent child support since the entry of that order. Moreover, the trial court made additional findings of fact that address respondent's failure to provide timely, consistent child support:

27. After the Respondent Father and the Petitioner separated, the Respondent Father only paid a total of \$400 toward child support until he was [o]rdered to do so by a Court in Tennessee in October 2011. The Respondent Father purposely chose not to pay child support prior to the Court entering an Order against him. Since the Child Support Order was entered in October 2011, the Respondent Father has not paid child support on a consistent basis. The Respondent Father was ordered to pay \$181.00 per month plus an additional \$40.00 a month toward arrears. The Respondent Father has had substantial arrears due to his failure to pay prior to the Order being entered and his failure to pay on a timely basis after the Order was entered. The Respondent Father has been cited back to Court in Tennessee on numerous occasions due to the Respondent Father's failure to pay child support in a timely manner. The Respondent Father also had his driver's license suspended by the State of Tennessee for his failure to pay child support on a timely basis. The Respondent Father had his entire 2013 Income Tax Refund garnished due to his failure to [pay] his arrears in child support. The Respondent Father's last child support payment was sent in April 2014.

28. Petitioner received her child support for the months of January, February and April 2014. Petitioner also received \$2,500 on April 30, 2014. As of the date of this hearing, the Respondent Father is at least 2 months behind on his child support.

*Opinion of the Court*

Respondent does not contend that he provided timely, consistent child support, nor does he challenge Findings of Fact 27 and 28. We also note that respondent's April 2014 payment falls outside the relevant six-month period. *See* N.C. Gen. Stat. § 7B-1111(a)(7). Accordingly, we hold that clear, cogent, and convincing evidence supports the trial court's sub-conclusions 7(b), 7(c), and 7(d). *See Huff*, 140 N.C. App. at 291, 536 S.E.2d at 840.

Respondent next challenges sub-conclusions 7(e) and 7(g), because he requested visitation with the juvenile in January, April, and May 2014. The challenged findings of fact state that respondent acted in the following manner:

e. Refusing to drive five hours to have visits with the minor child (despite consistently driving to other states as far away as Utah for his job);

....

g. Failing to make a *good faith* effort to maintain and subsequently to reestablish a relationship with the minor child despite having the email of the Petitioner, knowing the Petitioner and the minor child lived in Goldsboro, North Carolina, the Petitioner's keeping the same phone number after she got a new number when Respondent Father caused her to lose her former phone number, seeing Petitioner at child support hearings in Tennessee, and having the phone number and address of Petitioner's family near his residence in Tennessee.

(Emphasis added.) The trial court found that respondent had texted Mr. Jones three times in 2014 to request visitation with the juvenile.

After no contact from the Respondent Father in 2013, the

*Opinion of the Court*

Respondent Father sent texts to [Mr. Jones] about visiting with the juvenile in January 2014 after the Respondent Father received the Consent to Adoption documents, in April 2014 after the Respondent Father was served with the Petition to Terminate his Parental Rights and in May 2014 after the Respondent Father was served with a copy of the Pre-Trial Order. [Mr. Jones] responded to the Respondent Father that given that there was a pending court action[,] they were advised by their attorney to wait until the Court action concluded.

The trial court noted that respondent made each of these requests after receiving a document related to either Shelly's adoption or this litigation. Moreover, the April and May 2014 requests for visitation fall outside the relevant six-month period. *See* N.C. Gen. Stat. § 7B-1111(a)(7). Additionally, the trial court made many additional findings of fact, which delineate respondent's history of sporadic contact with the juvenile, that support its ultimate finding that respondent's 2014 requests were not made in good faith:

[Finding of Fact] 19. After the Respondent Father and the Petitioner separated, the Respondent Father only visited with the juvenile on 4 occasions: 1 time for 2 hours in the month of October, 2010; 1 time for 1 hour in the month of August, 2011; 1 time for 3 hours in the month of April, 2012 and 1 time for 4 to 6 hours in the month of December 2012.  
...

20. The Respondent Father's only contact in 2013 with the Petitioner was an email on June 15, 2013 where the Respondent Father stated to the Petitioner that [Mr. Jones] should adopt the juvenile. The Respondent Father stated that he had changed his mind prior to the Petitioner's sending him a Consent to Adoption in January 2014.

*Opinion of the Court*

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22. The Respondent Father stated that he had continuously attempted to contact the Petitioner through text messages. However, the Respondent Father failed to provide any cellphone records reflecting his attempts to contact Petitioner or her husband even though he had been with the same cellular provider for the last 7 years. The Respondent Father claims that he attempted to call or text 2 or 3 times a week to attempt to visit with the juvenile. The Respondent Father also met the Petitioner and [Mr. Jones] on several occasions in 2011 and 2012 when they all attended child support court in Tennessee due to the Respondent Father's failure to pay child support on time and during these meetings he failed to request visitation with the juvenile.

23. The Respondent Father stated that he did not know where the Petitioner was other than in Goldsboro, North Carolina and he did not know how to contact the Petitioner. The Petitioner has had the same cellphone number since shortly after the Respondent Father and Petitioner separated. The family of the Petitioner still lives at the same address with the same telephone numbers as when the Respondent Father and Petitioner were still together. The Respondent Father took no steps to contact Petitioner or locate the Petitioner in Goldsboro, North Carolina. The Petitioner and [Mr. Jones] have lived at the same address since July 2013. Furthermore, the Respondent Father's girlfriend, [Ms. Smith], was able to communicate and coordinate visits between the Respondent Father and the juvenile in April and December 2012 after the Petitioner moved to North Carolina.

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25. The Respondent Father has not provided any other gifts or cards since December 2012. The family of the Respondent Father has not visited or inquired of the minor



*Opinion of the Court*

child since October 2010. The mother of Respondent Father provided a \$50 gift card in October 2010 but has not provided any other gifts or cards since October 2010. The Respondent Father has chosen not to provide gifts or cards because he would not be there to see the juvenile receive these items. The Respondent Father acknowledged that the juvenile may know who he was if he had sent something to the juvenile.

. . . .

32. All of the visitations [between respondent and the juvenile] took place in Tennessee near the home of the Respondent Father. Petitioner and [Mr. Jones] would offer visitation between the Respondent Father and [the] juvenile when they were in Tennessee visiting family. The Respondent father has not seen the juvenile since December 2012. The Petitioner visited to the State of Tennessee in January 2013 and February 2013 and offered the Respondent Father visitation. On one occasion the Respondent Father agreed and then later cancelled stating that . . . his other daughter[] was sick. On the other occasion, the Respondent Father replied that he was working out of town.

33. The Petitioner has offered the Respondent Father the opportunity to come to Goldsboro, North Carolina to visit with the juvenile since the Petitioner was concerned [with] letting the juvenile go since the juvenile does not know the Respondent Father. It is a 5 hour drive from Mountain City, Tennessee to Goldsboro, North Carolina. The Respondent Father refused the Petitioner's offers to visit in Goldsboro, North Carolina because he does not think it is fair that he has to travel to North Carolina and that he should be able to bring the juvenile back to Tennessee with him. The Respondent Father never attempted to visit the juvenile in Goldsboro, North Carolina.

. . . .

*Opinion of the Court*

[Conclusion of Law] 4. Petitioner offered Respondent Father visits on several occasions when she and her husband were travelling to Tennessee to see some of her family members.

5. Petitioner provided transportation from North Carolina to and from Tennessee for every visit the minor child had with Respondent Father, while Respondent Father never made a single trip to North Carolina to visit with the minor child.

6. Respondent Father's complaints that he has been treated unfairly (by Petitioner regarding visitation with the minor child) are not credible or persuasive.

The trial court examined respondent's history of sporadic contact with the juvenile in evaluating whether his 2014 requests for visitation were made in good faith. Although the trial court must examine the relevant six-month period in determining whether respondent abandoned the juvenile, the trial court may consider respondent's conduct outside this window in evaluating respondent's credibility and intentions. *See S.C.R.*, 198 N.C. App. at 531-32, 679 S.E.2d at 909 ("It is the duty of the trial judge to consider and weigh all of the competent evidence, and to determine the credibility of the witnesses and the weight to be given their testimony." (brackets omitted)); *cf. Gerhauser v. Van Bourgondien*, \_\_\_ N.C. App. \_\_\_, \_\_\_, 767 S.E.2d 378, 389 (2014) (considering a party's conduct after determinative date established under the Uniform Child-Custody Jurisdiction and Enforcement Act in order to assess "the party's credibility and intentions"). In light of the trial court's findings on respondent's history of sporadic contact with the juvenile, we hold that clear, cogent,

*Opinion of the Court*

and convincing evidence supports the trial court's sub-conclusions 7(e) and 7(g) that respondent failed to make a good faith effort to visit Shelly. *See Huff*, 140 N.C. App. at 291, 536 S.E.2d at 840.

Respondent also challenges the trial court's sub-conclusion 7(f) that he "[failed] to send birthday and Christmas presents or cards in 2013 and 2014 for the minor child[,]" because the hearing took place before Shelly's 2014 birthday and Christmas 2014. The hearing took place on July 9 and 10, 2014. Shelly's birthday is December 22. Accordingly, we hold that the trial court erred in finding that respondent failed to send birthday and Christmas presents or cards in 2014. But in light of the following discussion, we hold that this error did not prejudice respondent.

C. Conclusion of Law

Respondent challenges the trial court's conclusion of law that he abandoned Shelly. N.C. Gen. Stat. § 7B-1111(a)(7) provides: "The parent has willfully abandoned the juvenile for at least six consecutive months immediately preceding the filing of the petition or motion, or the parent has voluntarily abandoned an infant pursuant to G.S. 7B-500 for at least 60 consecutive days immediately preceding the filing of the petition or motion." N.C. Gen. Stat. § 7B-1111(a)(7).

"Abandonment implies conduct on the part of the parent which manifests a willful determination to forgo all parental duties and relinquish all parental claims to the child. The findings must clearly show that the parent's actions are wholly

*Opinion of the Court*

inconsistent with a desire to maintain custody of the child.” *B.S.O.*, \_\_\_ N.C. App. at \_\_\_, 760 S.E.2d at 63 (citation, quotation marks, and brackets omitted). Abandonment also includes “[willful] neglect and refusal to perform the natural and legal obligations of parental care and support.” *Pratt v. Bishop*, 257 N.C. 486, 501, 126 S.E.2d 597, 608 (1962). “[I]f a parent withholds his presence, his love, his care, the opportunity to display filial affection, and [willfully] neglects to lend support and maintenance, such parent relinquishes all parental claims and abandons the child.” *Id.*, 126 S.E.2d at 608. “The word ‘willful’ encompasses more than an intention to do a thing; there must also be purpose and deliberation.” *In re Adoption of Searle*, 82 N.C. App. 273, 275, 346 S.E.2d 511, 514 (1986). The willfulness of a parent’s conduct is a “question of fact to be determined from the evidence[.]” *B.S.O.*, \_\_\_ N.C. App. at \_\_\_, 760 S.E.2d at 63. To constitute abandonment, “it is not necessary that a parent absent himself continuously from the child for the specified six months, nor even that he cease to feel any concern for its interest.” *Pratt*, 257 N.C. at 503, 126 S.E.2d at 609. A delinquent parent may not dissipate at will the legal effects of his abandonment by merely expressing a desire for the return of the abandoned juvenile. *Id.* at 502, 126 S.E.2d at 609.

In *Searle*, this Court held that the respondent’s \$500 child support payment during the relevant six-month period did not preclude a finding of willful abandonment. 82 N.C. App. at 276, 346 S.E.2d at 514. In *Pratt*, the North Carolina

*Opinion of the Court*

Supreme Court similarly held that the respondent's visit with the juvenile during the relevant six-month period did not preclude a finding of willful abandonment. 257 N.C. at 503, 126 S.E.2d at 609.

Here, the trial court found that, during the relevant six-month period, respondent did not visit the juvenile, failed to pay child support in a timely and consistent manner, and failed to make a good faith effort to maintain or reestablish a relationship with the juvenile. In light of *Searle* and *Pratt*, we hold that respondent's last-minute child support payments and requests for visitation do not undermine the trial court's conclusion that respondent had abandoned the juvenile. *See Searle*, 82 N.C. App. at 276, 346 S.E.2d at 514; *Pratt*, 257 N.C. at 503, 126 S.E.2d at 609. Accordingly, we hold that the trial court did not err in concluding that respondent had abandoned the juvenile. *See* N.C. Gen. Stat. § 7B-1111(a)(7).

Because we hold that the findings of fact support one ground for termination, we need not review the other challenged grounds. *See Humphrey*, 156 N.C. App. at 540, 577 S.E.2d at 426-27.

IV. Conclusion

For the foregoing reasons, we affirm the trial court's order terminating respondent's parental rights.

AFFIRMED.

Judges HUNTER, JR and DILLON concur.