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IN THE COURT OF APPEALS OF NORTH CAROLINA

2022-NCCOA-318

No. COA21-640

Filed 3 May 2022

Burke County, No. 19 JT 174

IN RE: R.C.C.L.

Appeal by respondent-father from order entered 8 July 2021 by Judge Burford

A. Cherry in Burke County District Court. Heard in the Court of Appeals

6 April 2022.

Burke County Department of Social Services, by Amanda C. Perez Staff Attorney, for the petitioner-appellee.

Freedman Thompson Witt Ceberio & Byrd PLLC, by Christopher M. Watford, for the respondent-appellant father.

Jeanine R. Soufan for the Guardian ad Litem.

ARROWOOD, Judge.

¶ 1

Respondent-father (“father”) appeals from the trial court’s order terminating his parental rights with respect to the minor child, “Riley.”¹ For the following reasons, we affirm the trial court.

I. Background

¹ A pseudonym is used throughout to protect the identity of the minor child.

¶ 2

Riley was born on 27 October 2019. On 30 October 2019, the Catawba County Department of Social Services (“Catawba County DSS”) received two Child Protective Services reports (“CPS report” or “CPS reports”) relating to Riley’s birth. At this time, there “was already [an] investigation open” with the Burke County Department of Social Services (“Burke County DSS”) involving father and his two other children due to father’s “substance abuse issues” and “criminal charges.”²

¶ 3

The first CPS report “contained concerns of injurious environment” and alleged that Riley’s mother (“mother”), wife of father, had given birth without any prenatal care. This report was sent to Burke County DSS. The second CPS report alleged that Riley’s “umbilical cord tested positive for amphetamines and methamphetamine”; cord test results proved this allegation to be true, and Riley “was diagnosed with intrauterine methamphetamine exposure and neonatal potential methadone withdrawal” at birth. On 1 November 2019, Catawba County DSS received information that mother “had tested positive for amphetamines via urine testing at the time of delivery.” Burke County DSS “requested Catawba County [DSS] assist by making contact with [mother], [father] and [Riley] at multiple possible addresses”; however, Catawba County DSS was unable to locate them.

² Father’s history with Burke County DSS is detailed in paragraph 8 of this opinion.

¶ 4

On 7 December 2019, father was arrested in Catawba County for failure to appear. Father denied knowing where mother or Riley were located at this time. Unable to observe Riley since his birth, Burke County DSS filed an obstruction petition in Burke County District Court against mother and father (“parents”) on 16 December 2019 “for failure to cooperate with the investigation and allow [Burke County DSS] access to” Riley. The trial court filed an *ex parte* order to cease obstruction on the same day.

¶ 5

“A hair follicle drug screen” completed on Riley on 19 December 2019 tested positive for “cannabinoids, Carboxy-THC, amphetamines, and methamphetamine.” On the same day, the trial court filed an order to cease obstructions, finding that parents had “obstructed or interfered” with Burke County DSS by, among other things, “refusing to provide the current location of parents or [Riley.]” The trial court also found that mother was entering in-patient treatment for substance abuse; that parents were homeless; and that Riley had missed “well child checks[.]”

¶ 6

Also on 19 December 2019, Burke County DSS filed a juvenile petition alleging Riley, as well as his two older siblings, were neglected and dependent. The trial court filed an order for nonsecure custody, scheduling a hearing to determine the need for continued nonsecure custody for 20 December 2019. On 20 December 2019, the trial court filed the first of many orders on need for continued nonsecure custody.

¶ 7

Riley entered into the custody of Burke County DSS and was placed in foster care in December 2019. On 5 March 2020, Riley’s paternal grandparents were approved for the placement of Riley and his siblings. Although Riley’s siblings were placed with the grandparents, they declined to provide placement for Riley “due to his current medical needs.” Thus, Riley remained in foster care.

¶ 8

A hearing for adjudication and disposition was held on 25 June 2020. At trial, “father submitted facts for stipulation” to the trial court, which detailed Burke County DSS’s history with father prior to Riley’s birth. The stipulated facts included: Burke County DSS’s receipt of a CPS report in March 2019 alleging substance abuse and improper care of Riley’s two siblings; father’s being on house arrest due to a money laundering charge incurred in Arizona; multiple, failed attempts from Burke County DSS to make contact with either father or mother; father’s hair follicle test results returning positive on 1 May 2019 for amphetamine and methamphetamine despite his denial of substance use; father, after his initial refusal, entering into a safety plan for Riley’s two older siblings; father’s 2 August 2019 arrest in Catawba County for “felony possession with intent to manufacture, sell, deliver schedule II controlled substance, possession of marijuana . . . , felony possession of a firearm by a felon[,] and felony possession of a stolen firearm”; and father informing Burke County DSS that he was homeless and refusing to provide his location.

¶ 9

The trial court filed a consolidated order for adjudication and disposition, rendered on 25 June 2020 and entered on 1 October 2020, adjudicating Riley and his siblings as neglected, and Riley as dependent as well. The trial court ordered for Riley to remain in the custody of Burke County DSS, and for father to have a minimum of one hour per week supervised visitation with Riley, “so long as he is not incarcerated.” The trial court also ordered that father:

- a. Submit to a new comprehensive clinical assessment and follow all recommendations[;]
- b. Submit to random drug screening via hair follicle and urine testing[;]
- c. Enroll, actively participate and successfully complete a parenting education program[;]
- d. Obtain and maintain a safe, stable and sanitary home[;]
- e. Obtain and maintain a legal and verifiable source of income.

¶ 10

It appears that father was incarcerated from December 2019 to August 2020. At some point during this time frame, father was released, attended the 25 June 2020 hearing, and was “extradited to Arizona.” After mother “bonded [him] out in Arizona[,]” he returned to North Carolina. On 19 August 2020, both parents submitted to a case plan (the “case plan”) with Burke County DSS; father, specifically, agreed to:

- a. Submit to a comprehensive clinical assessment and follow all recommendations;
- b. Submit to random drug screening via hair follicle and urine testing;

- c. Enroll, actively participate and successfully complete a parenting education program;
- d. Obtain and maintain a legal and verifiable source of income;
- e. Obtain and maintain a safe, stable and sanitary home;
- f. Comply with all legal requirements in North Carolina, Arizona[,] and Georgia[,] and refrain from engaging in further criminal activity.

¶ 11 On 10 September 2020, mother died as a result of a car accident. On 16 September 2020, Burke County DSS learned that father “had gone to Arizona for court” and had been arrested. On 21 October 2020, during a telephone call to the Mohave County Jail in Arizona, where father was being held, Burke County DSS learned that father “was given nine months with a credit of one hundred and eleven days[,]” that he would soon “be transferred to prison[,]” and that he would “be released in June 2021 if he has no infractions.” Father also had charges pending in Georgia at this time and was facing the possibility of being “sent to Georgia[,]” Father was eventually transferred to prison while in Arizona.

¶ 12 On 29 October 2020, the trial court heard a permanency planning hearing, followed by an order rendered on the same day and entered on 10 December 2020. After finding, among other things, that father was incarcerated in Arizona, had pending charges in Georgia, was homeless, had substance abuse issues, and lacked an alternative child care arrangement for Riley, the trial court concluded father had “abdicated his constitutionally protected status as a parent” and was “unfit” to care

for Riley. The trial court then ordered for Riley’s permanency plan to be “a primary plan of adoption and a secondary plan of reunification[,]” and ordered that father submit to a “NEW” comprehensive clinical assessment, submit to random drug screenings, complete a parenting education program, obtain housing, obtain legal income, comply “will all legal requirements in North Carolina, Arizona[,] and Georgia[,]” and “refrain from engaging in further criminal activity.”

¶ 13 Father was released from prison in Arizona on 5 January 2021. On 3 February 2021, Burke County DSS filed a motion for termination of parental rights with respect to Riley. Burke County DSS stated, in pertinent part, the following:

12. Pursuant to N.C.G.S. § 7B-1111(a)(1), the respondent father . . . has neglected the juvenile pursuant to the meaning of neglect as defined under N.C.G.S. § 7B-101(15), in that:
 - a. On June 25, 2020, the juvenile was adjudicated as a dependent and neglected juvenile pursuant to N.C.G.S. § 7B-101(9) and (15). . . .
 - b. The juvenile was born on October 27, 2019 and his umbilical cord tested positive for methamphetamine and amphetamine.
 - c. The juvenile had a hair follicle drug screen on December 19, 2019 and was positive for methamphetamine, amphetamine, and marijuana. The cutoff point for a positive methamphetamine result is 100 pg/mg. [Riley]’s methamphetamine level was 23,323 pg/mg.
 - d. [Father] has been in and out of incarceration since the juvenile was born.
 - e. [Father] has a long history of substance abuse and his drug of choice is methamphetamine. [Father]

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tested positive for methamphetamine and amphetamines on May 1, 2019 via hair follicle testing. [Father] has not submitted to drug screens as requested to demonstrate sobriety.

- f. The respondent father has not addressed fully the issues of neglect which brought the juvenile into care and the likelihood of continued neglect is high if the juvenile was returned to his care.
13. Pursuant to N.C.G.S. § 7B-1111(a)(2), the respondent father has willfully left the juvenile in foster care or placement outside the home for more than 12 months without showing to the satisfaction of the court that reasonable progress under the circumstances has been made in correcting those conditions which led to the removal of the juvenile, to wit:
- a. The juvenile was placed into the care, custody and control of . . . Burke County [DSS] on December 19, 2019 through a nonsecure custody order.
 - b. Since the juvenile has been placed into the custody of [Burke County DSS], the respondent has been ordered to complete services through [Burke County DSS] to alleviate the conditions of neglect and dependency that led to the removal of the juvenile from the home.
 - c. . . . Burke County [DSS] has worked with the family since December 19, 2019 to reunify the family and return the juvenile to the home. The efforts have been unsuccessful due to the lack of progress of the respondent father.
 - d. The respondent father entered into an out-of-home services case plan on August 19, 2020. [Father] agreed to complete the following:
 - i. Submit to a comprehensive clinical assessment and follow all recommendations;
 - ii. Submit to random drug screening via hair follicle and urine testing;

- iii. Enroll, actively participate and successfully complete a parenting education program;
 - iv. Obtain and maintain a safe, stable and sanitary home;
 - v. Obtain and maintain a legal and verifiable source of income;
 - vi. Comply with all legal requirements in North Carolina, Arizona[,] and Georgia[,] and refrain from engaging in further criminal activity.
- e. The respondent father has not made adequate progress on his case plan.
 - f. The juvenile entered into the custody of [Burke County DSS] on December 19, 2019. [Father] did not enter into a case plan until August 2020 when the juvenile had already been in foster care for eight months.
 - g. [Father] has not submitted to a comprehensive clinical assessment since the juvenile entered [Burke County DSS]'s custody,
 - h. [Father] has only submitted to one drug screen since the juvenile entered [Burke County DSS]'s custody.
 - i. [Father] has not completed parenting education.
 - j. [Father]'s housing and employment is unknown because he has not made contact with [Burke County DSS] since being released from prison on January 5, 2021.
 - k. The respondent father was released from prison in Arizona on January 5, 2021. His whereabouts are unknown at this time. Upon information and belief, [father] also has pending charges in Georgia related to substances. [Father] has been in and out of incarceration since the birth of the juvenile.
 - l. [Father] has been unwilling or unable to provide appropriate care for the juvenile in a safe home since the juvenile was placed in [Burke County DSS]'s custody on December 19, 2019.

14. Pursuant to N.C.G.S. § 7B-1111(a)(6), the respondent

father . . . is incapable of providing for the proper care and supervision of the juvenile, such that the juvenile is a dependent juvenile within the meaning of N.C. Gen. Stat. § 7B-101 and there is reasonable probability that such inability will continue for the foreseeable future. The respondent father's incapability is due to ongoing issues with substance abuse and criminal activity. The respondent also lacks an appropriate alternative childcare arrangement. The juvenile will remain dependent in that:

- a. [Father] has a long history of drug use and drug related criminal offenses. He has consistently failed to comply with randomly requested drug screen requests to demonstrate sobriety. He has only submitted to one drug screen since the juvenile was born.
- b. The juvenile was removed from the care of the father. [Father] has tested positive for controlled substances and has a long history of substance abuse with his drug of choice being methamphetamine. [Father] has not completed substance abuse treatment.
- c. Prior to the juvenile's birth, [father] was involved with [Burke County DSS] in regards to his other children. Throughout the investigation [father] would frequently avoid contact with [Burke County DSS]. [Father] submitted to one drug screen on May 1, 2019 and his hair follicle was positive for amphetamine and methamphetamine. [Father] was charged with multiple drug related offenses and firearm related offenses on August 2, 2019. [Father] was on house arrest due to a money laundering conviction in Arizona.
- d. [Father] has pending charges in Iredell County related to drug possession.
- e. [Father] does not have stable housing and employment sufficient to care for the minor child

and has struggled with unreliable housing in the past.

- f. [Father] was released from incarceration in Arizona on January 5, 2021 after serving a sentence of about three months on a money laundering charge. [Father]’s current location is unknown. [Father] has not made contact with [Burke County DSS] since his release.
- g. Due to in utero exposure to substances, the juvenile has several medical needs and receives various therapy services weekly.
- h. [Father] has been unable to show that he could provide appropriate and consistent care for the juvenile. [Father] has been unable to demonstrate he can maintain sobriety.
- i. [Father] has not engaged in services to address his substance abuse issues.
- j. [Father] has been unable to identify appropriate alternate care providers for the juvenile. [Father] originally proposed his parents as a placement resource but they were unable to accept placement of [Riley] due to his medical needs.

¶ 14 The matter came on for termination hearings during the 16 April 2021 and 27 May 2021 Juvenile Court sessions in Burke County District Court, Judge Cherry presiding. The trial court heard testimony from Burke County DSS social worker Anna Smith-Bradley (“Ms. Smith-Bradley”), who was assigned to father’s case, father, and Riley’s paternal grandmother.

¶ 15 After briefly describing Burke County DSS’s history with father, Ms. Smith-Bradley stated that father had made no progress on his case plan. Ms. Smith-Bradley explained that father had signed this case plan in August 2020 while “he was out of

incarceration for a period of time[,]” then “was incarcerated again in October[,]” and made no progress on any item of the case plan “in that two[-]month period” Ms. Smith-Bradley later stated that it was not until she heard father’s testimony at the termination hearings that she learned father had “engaged in parenting classes” while detained in Arizona.

¶ 16 Ms. Smith-Bradley stated that, after father’s release from prison in Arizona on 5 January 2021, she did not hear from him until she reached out to him in February 2021. She stated that father had explained to her that he had stayed in Arizona after being released to receive his federal stimulus check before returning to North Carolina on “Easter weekend.” Father then contacted Ms. Smith-Bradley after a week upon returning to North Carolina. She also stated that, since father’s return to North Carolina, father had not had a home.

¶ 17 Ms. Smith-Bradley described how Riley was thriving in his foster home, had bonded with his foster parents, and was having his special medical needs met in his foster placement. Specifically, she explained, Riley received weekly occupational therapy, physical therapy, and speech therapy.

¶ 18 Father testified that he was released from prison on 5 January 2021 to “a halfway home in Mesa, Arizona[,]” where he lived “until March.” Father explained that he was unable to return to North Carolina until April 2021 because he had filed for a federal stimulus check while in Arizona and waited to receive it by mail in

Arizona. Father later testified that he was not able to leave Arizona until 26 March 2021 because he “was on a post-release.”

¶ 19 Father stated that, “[a]s soon as [he] got out of prison in Tucson, Arizona, [he] had completed a parenting class” online. However, he later stated that he had completed the parenting class in February, about a month after being released from prison. When asked whether he provided proof of completion of the parenting class to Burke County DSS, father replied, “No. I was never even asked about if I took any classes or anything like that, but I was wanting to kind of tell [Ms. Smith-Bradley] about things like that, but the topic never arrived [sic].”

¶ 20 Father stated that, while incarcerated in Arizona, he did not have access to any substance abuse treatment “because of COVID.” However, father also stated that he had undergone an assessment “during the first case” with respect to his two other children. When asked whether he recalled signing the case plan on 19 August 2020 in which he agreed to “have another assessment[,]” father replied, “No.”

¶ 21 Father stated, at the beginning of the termination hearings, that he had pending charges in Iredell County for what he believed to be “littering and possession of marijuana[,]” though he later admitted he did not know the nature of those charges. Amid the termination hearings, father was arrested on 20 April 2021 after being pulled over while driving a rental car rented by his sister-in-law’s cousin “because the tag didn’t match the car.” When the officer “ran [father’s] license[,]” the officer

discovered that father had warrants in Iredell County for “littering and possession of marijuana.” After father was arrested, “[he] bonded [him]self out” of jail and “took a plea[,]” after which his possession of marijuana charge was dismissed and he paid “a littering ticket.” Thus, father claimed, his pending charges in Iredell County were “[a]ll done.”

¶ 22 Father testified that he did not contact Burke County DSS upon his release from prison in Arizona because he “had no way of contacting them”; he explained, however, that he was able to contact the Internal Revenue Service and apply for a federal stimulus check during this time because he received the help of a friend and was “free to travel about” while living in the halfway home. Father confirmed that, since being released from prison, the first time he spoke with Ms. Smith-Bradley was when she called him in February 2021. Once he returned to North Carolina in April 2021, Burke County DSS provided father with Ms. Smith-Bradley’s phone number, after which he made contact with her.

¶ 23 When asked what he had yet to complete from his case plan, father stated that he needed to get “a place of [his] own” and that he had made “a couple applications” for housing, some of which were pending and others of which had been unsuccessful. Father testified that, since returning to North Carolina on 2 April 2021, he had been living with his sister-in-law in Hickory and seeking employment. Father also testified that, at the time of the termination hearings, he was a self-employed

“livestock dealer or broker.” Father confirmed that this was the same line of work for which he was charged with money laundering in Arizona, and that he had returned to this line of work since being released from prison in Arizona. Father confirmed he had access to transportation.

¶ 24 When Riley’s paternal grandmother testified during the termination hearings, she stated that she had told Burke County DSS she was unable to place Riley in her home, in addition to his two siblings, because she did not think she would be able to care for him due to his special medical needs and also due to the fact that, when Burke County DSS approached her, she had never met Riley since his birth.

¶ 25 The trial court entered an order in open court on 28 May 2021, signed and filed on 8 July 2021. In the adjudication portion of the order, the trial court found, in pertinent part, that:

32. The Burke County [DSS] has worked with the family since December 19, 2019 to reunify the family and return the juvenile to the home. The efforts have been unsuccessful due to the lack of progress of the respondent parents.
33. The respondent father has failed to make reasonable progress to address the conditions that led to the juvenile’s removal from his care.
34. The respondent father has untreated substance abuse issues and continues to deny to [sic] that he has or has ever had a substance abuse issue.
35. The juvenile was removed from the care of [father]. He has tested positive for substances. The respondent

father has not complied with drug screen requests to show he is sober and has not completed substance abuse treatment.

36. [Father] has a long history of substance abuse. [Father] tested positive for methamphetamine and amphetamines on May 1, 2019 via hair follicle testing. [Father] has a conviction in North Carolina for “Maintaining a Dwelling.”

....

44. [Father] did not submit to a comprehensive clinical assessment until May 4, 2021, after the termination hearing had already begun. [Father] was told by [Burke County DSS] that he could get a walk-in appointment for a comprehensive clinical assessment at A Caring Alternative throughout the case.

45. In his comprehensive clinical assessment on May 4, 2021, [father] told the assessor that he does not and has never been a user of substances. He also told the assessor that the assessment was a “formality.” [Father] was not honest with his assessor as was previously ordered by the court.

46. [Father] did not submit to randomly requested drug screens even during periods where he was not incarcerated.

....

51. [Father] was incarcerated for multiple periods of time during this case, however, he was free for several months while the case was ongoing and did not complete any parts of his case plan or make any efforts to do so.

....

56. The respondent father has had substance abuse issues

for more than one year and has failed to address his substance abuse issues. He denies that he has issues with substances despite testing positive for controlled substances and having multiple arrests involving charges for substances.

. . . .

69. The respondent father has not made reasonable progress to regain custody of the juvenile.
70. The respondent father has willfully neglected the juvenile. There is also a high probability of a repetition of neglect as the respondent father has failed to address or even acknowledge his substance abuse issues; nor has the father sufficiently engaged in court ordered services designed to alleviate the neglect of the juvenile.
71. The respondent father has failed to correct the conditions that led to the removal of the juvenile and that failure was willful. The respondent father has willfully failed to make reasonable progress in complying with court ordered services which were designed to correct the conditions that led to the removal of the juvenile from his care.

. . . .

73. The respondent father has willfully left the juvenile in placement outside the home for more than twelve (12) months. The respondent father has willfully failed to make reasonable progress to correct the conditions that led to the juvenile's removal. Poverty is not the sole reason for his lack of compliance.
74. The respondent father has long term substance abuse issues as well as a long history of criminal activity and those issues have rendered them [sic] incapable of providing proper care and supervision for the

juveniles [sic]. It is foreseeable that the father's inability will continue for the foreseeable future as he has failed to address his substance abuse issues. The respondent father also lacks an appropriate alternative care arrangement for the juvenile.

¶ 26 The trial court concluded that father had neglected Riley pursuant to N.C. Gen. Stat. § 7B-1111(a)(1); that, pursuant to N.C. Gen. Stat. § 7B-1111(a)(2), father “willfully left [Riley] in placement outside of the home for more than twelve . . . months without showing . . . that reasonable progress . . . in correcting those conditions that led to the removal of [Riley]”; and that, pursuant to N.C. Gen. Stat. § 7B-1111(a)(6), father was “incapable of providing for the proper care and supervision of [Riley], such that the minor child is a dependent juvenile” and that father lacked suitable alternative child care arrangements. After decreeing that “[g]rounds exist[ed] to terminate the parental rights of [father] to [Riley,]” the trial court ordered for termination.

¶ 27 Father entered notice of appeal on 6 August 2021.

II. Discussion

¶ 28 On appeal, father argues the trial court erred in concluding that grounds existed to terminate his parental rights pursuant to N.C. Gen. Stat. § 7B-1111(a)(2), in concluding that father had neglected Riley pursuant to N.C. Gen. Stat. § 7B-1111(a)(1), and in concluding that father was incapable of providing care for Riley pursuant to N.C. Gen. Stat. § 7B-1111(a)(6). We disagree.

¶ 29 “We review a trial court’s adjudication under N.C. [Gen. Stat.] § 7B-1111 to determine whether the findings are supported by clear, cogent and convincing evidence and the findings support the conclusions of law.” *In re J.T.C.*, 273 N.C. App. 66, 68, 847 S.E.2d 452, 455 (2020) (citation and quotation marks omitted) (alteration in original), *aff’d*, 376 N.C. 642, 2021-NCSC-3. “We review *de novo* whether a trial court’s findings support its conclusions.” *Id.* (citation and quotation marks omitted).

¶ 30 “In termination of parental rights proceedings, the trial court’s ‘finding of any one of the . . . enumerated grounds is sufficient to support a termination.’” *In re N.T.U.*, 234 N.C. App. 722, 733, 760 S.E.2d 49, 57 (2014) (alteration in original) (quoting *In re J.M.W.*, 179 N.C. App. 788, 791, 635 S.E.2d 916, 918-19 (2006)). “Thus, on appeal, if we determine that any one of the statutory grounds enumerated in § 7B-1111(a) is supported by findings of fact based on competent evidence, we need not address the remaining grounds.” *Id.* (citing *In re D.H.H.*, 208 N.C. App. 549, 552, 703 S.E.2d 803, 805-806 (2010)). Accordingly, we limit our review to father’s argument regarding the trial court’s conclusion pursuant to N.C. Gen. Stat. § 7B-1111(a)(6) (“subsection (a)(6)”).

¶ 31 Under subsection (a)(6), a trial court may terminate the parental rights of a parent if:

the parent is incapable of providing for the proper care and supervision of the juvenile, such that the juvenile is a dependent juvenile within the meaning of G.S. 7B-101, and

that there is a reasonable probability that the incapability will continue for the foreseeable future. Incapability under this subdivision may be the result of substance abuse, intellectual disability, mental illness, organic brain syndrome, or any other cause or condition that renders the parent unable or unavailable to parent the juvenile and the parent lacks an appropriate alternative child care arrangement.

N.C. Gen. Stat. § 7B-1111(a)(6) (2021). “[A]n adjudication of dependency as a ground for termination under subsection (a)(6) must be based on an examination of the parent’s ability to care for and supervise their child at the time of the adjudication hearing.” *In re Z.G.J.*, 378 N.C. 500, 2021-NCSC-102, ¶ 31 (citation omitted).

¶ 32 Father argues that the “trial court’s findings of fact fail to demonstrate how [father] is unable or unavailable to parent at the time of the termination hearing and into the foreseeable future due to his alleged non-specific substance abuse issues.” “Furthermore,” father contends, “the record discloses no evidence offered to demonstrate th[e] essential nexus” between substance abuse and his parenting ability.

¶ 33 We find there is ample evidence here to support the trial court’s findings of fact, which in turn support the conclusion that father is incapable of providing for Riley, that it would be reasonably probable that father’s incapability would continue in the future, and that father does not have an alternative child care arrangement for Riley. Indeed, at the beginning of the adjudication phase of the termination hearings,

the trial court took judicial notice of a plethora of materials resulting from Burke County DSS's various dealings with father, "including but not limited to court reports, exhibits, records, and orders."

¶ 34 All of this evidence, in addition to the witness testimony obtained during the termination hearings, provided thorough documentation of father's history with methamphetamine use, father's testing positive via hair follicle testing on 1 May 2019, father's unavailability to submit to random drug screening throughout Riley's case, and father's criminal charges related to substances. The evidence also shows that father was arrested soon after Riley's birth for failure to appear, was in and out of incarceration since December 2019, had an extensive criminal history across different states, had pending charges, albeit supposedly since resolved, in Iredell County, and pending charges in Georgia. Further, the evidence shows that father had recently resumed the line of work that resulted in his money laundering charges in Arizona, had a history of homelessness, and had not, at the time of the termination hearings, moved into a home of his own.

¶ 35 The evidence also shows Burke County DSS's repeated unsuccessful attempts, since December 2019, to make contact with father, father's reluctance or inability to share his or Riley's location, father's lack of contact with Burke County DSS once released from prison in Arizona, father's failure to carry out his case plan, father's denial of his requirement to submit to an assessment, and, by his own admission,

father's failure to realize that the case plan he signed in August 2020 required that he submit to a new assessment. All evidence pertaining to father has established a pattern of behavior.

¶ 36 The evidence shows that father did not have an alternative child care arrangement for Riley, as Riley's paternal grandparents were unavailable to take him in. Furthermore, Riley has special medical needs that require special attention; the forementioned evidence has not shown that father is capable of providing the special care Riley requires.

¶ 37 All of this evidence taken together supports the trial court's findings of fact, which in turn support the trial court's conclusion of law that, under subsection (a)(6), father is incapable of providing the proper care for Riley, that his inability is likely to continue, and that father lacks an alternative child care arrangement. *See* N.C. Gen. Stat. § 7B-1111(a)(6) ("Incapability under this subdivision may be the result of *substance abuse, . . . or any other cause* or condition that renders the parent unable or unavailable to parent the juvenile" (emphasis added)); *see In re N.T.U.*, 234 N.C. App. at 735-36, 760 S.E.2d at 58-59 (affirming the trial court's termination of a respondent's parental rights under subsection (a)(6) where the respondent had been held on charges of homicide and bank robbery, it was unclear when the respondent would be released from incarceration, and the respondent had no suitable alternative child care arrangements).

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¶ 38 Accordingly, the trial court did not err in terminating father's parental rights with respect to Riley.

III. Conclusion

¶ 39 For the foregoing reasons, we affirm the trial court's order terminating father's parental rights with respect to Riley.

AFFIRMED.

Judges COLLINS and JACKSON concur.

Report per Rule 30(e).