

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority. Citation is disfavored, but may be permitted in accordance with the provisions of Rule 30(e)(3) of the North Carolina Rules of Appellate Procedure.

IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA22-419

Filed 21 February 2023

Mitchell County, No. 20 JT 01

IN THE MATTER OF: L.G.M.W.

Appeal by respondent-father from order entered 10 February 2022 by Judge Larry Leake in Mitchell County District Court. Heard in the Court of Appeals 10 January 2023.

Hockaday & Hockaday, P.A., by Daniel M. Hockaday, for petitioner-appellee Mitchell County Department of Social Services.

Parker Poe Adams & Bernstein LLP, by Maya Madura Engle, for guardian ad litem.

Leslie Rawls for respondent-appellant father.

ZACHARY, Judge.

Respondent-Father appeals from the trial court's order terminating his parental rights to his minor child, "Laura."¹ Respondent-Father challenges many of the trial court court's findings of fact, as well as the court's conclusion that grounds

¹ We use the pseudonym adopted by the parties for ease of reading and to protect the juvenile's identity.

existed pursuant to N.C. Gen. Stat. § 7B-1111(a)(2) (2021) to terminate his parental rights for willfully failing to make reasonable progress toward correcting the conditions that led to Laura’s removal from the home in which she lived with her mother and her mother’s relatives. After careful review, we affirm.

Background

I. Events Preceding Termination of Parental Rights

Laura was born in November 2018. When Laura was approximately one year old, Petitioner-Appellee Mitchell County Department of Social Services (“DSS”) received a report that Laura and her mother, Tabitha, were residing with Laura’s maternal relatives in a mobile home in which “there was drug use” and “no running water[.]” However, investigations ceased after DSS “was informed that Tabitha and [Laura] did not reside in th[at] home[.]”

On 6 January 2020, DSS received a report that Tabitha’s mother and sister had found Tabitha deceased in her bedroom; Laura was in the room when Tabitha’s body was discovered. The law enforcement officer who responded to the call described the environment in which he found Tabitha:

[The] single wide mobile home was extremely unsanitary, with a foul odor contributed to filth. The floor of the residence was rotted out in numerous places, including directly in front of the entry door. I was directed to the back bedroom and observed Tabitha’s body on the floor, face up, with her legs folded back under her torso. Several hypodermic needles, a tan powdery substance, and numerous spoons were discovered on the dresser near Tabitha’s body. One needle contained a red substance,

possibly blood.

That same day, DSS filed a petition alleging that Laura was a dependent juvenile because, *inter alia*, Laura's maternal relatives were not suitable for placement. DSS further alleged that at the time of the petition's filing, Laura's putative father, Respondent-Father, "had little to no involvement with [Laura] and paternity had not been established." Later that day, the trial court entered an order granting DSS nonsecure custody of Laura. Shortly after DSS removed Laura from the home in which she resided with her mother, Laura tested positive for methamphetamine and amphetamine.

Respondent-Father submitted to paternity testing on 6 January 2020, which indicated a 99.99% probability that he was Laura's biological father. He explained to DSS that he did not know that he was potentially Laura's father until approximately one month before Tabitha's death, and that he "initially questioned" this information because "he and Tabitha had only had one sexual encounter." However, after establishing his paternity of Laura, Respondent-Father advised the trial court that he was "willing to enter into a DSS case plan to work towards reunification" with Laura. When DSS filed the dependency petition, Respondent-Father was living in the home of his adoptive mother, Maude Garland; was on supervised probation due to his conviction for misdemeanor breaking or entering; and was participating in substance abuse and mental health treatment at October Road, a behavioral health and substance use treatment provider.

On 14 February 2020, the dependency petition came on for hearing in Mitchell County District Court. By its adjudication and interim disposition order entered on 5 March 2020, the trial court adjudicated Laura as dependent. The court ordered that Laura remain in the legal custody of DSS with placement in the discretion of DSS. The court further ordered that Respondent-Father “enter into a DSS case plan prior to the dispositional hearing.”

In a disposition order entered on 30 March 2020, the court designated the primary plan of care for Laura as reunification with Respondent-Father. The trial court also adopted Respondent-Father’s case plan and ordered that Respondent-Father comply with the plan’s provisions. Pursuant to his case plan, Respondent-Father was required to remain drug free; submit to drug screens; seek treatment for his emotional and substance use issues; comply with the terms of his probation; participate in parenting classes; communicate with DSS; and authorize the release of his medical records to DSS in order to keep the agency apprised of his progress with his treatment.

By late July 2020, Respondent-Father had made progress in the areas of substance abuse and parenting, in that he received negative drug screens and developed a bond with Laura. The trial court therefore authorized a trial placement of Laura with Respondent-Father in the home of Ms. Garland. However, roughly one month into the trial placement, Respondent-Father tested positive for methamphetamine; DSS consequently removed Laura from the home and placed her

into foster care.

Over the next six months, Respondent-Father's substance abuse continued and his mental health deteriorated. Of the 12 required drug screens since August 2020, Respondent-Father failed to appear for testing four times, once received a positive result for illegal substances, and once refused to submit to the screen, admitting that he would test positive for methamphetamine. Respondent-Father also stopped participating in therapy after changing treatment providers in September 2020, and he was involuntarily committed for a five-day stay at Copestone, a psychiatric facility, in January 2021. On 23 June 2021, Respondent-Father was arrested on charges of assault with a deadly weapon with intent to kill, larceny of firearms, and possession of a firearm by a felon. The trial court changed the primary plan of care for Laura to adoption, with a concurrent plan of reunification with a family member.

On 7 October 2021, DSS filed a petition to terminate Respondent-Father's parental rights to Laura, alleging that Laura was dependent and that Respondent-Father willfully left her in foster care or a placement outside the home for more than 12 months without showing to the satisfaction of the court that he had made reasonable progress under the circumstances toward correcting the conditions that led to her removal from the home in which she resided with her mother. *See id.* The termination petition came on for hearing in Mitchell County District Court on 13 January 2022.

II. Termination of Parental Rights Order

By order entered on 10 February 2022, the trial court terminated Respondent-Father's parental rights to Laura on the ground that Respondent-Father "willfully left the juvenile in foster care or placement outside the home for more than twelve (12) months without showing to the satisfaction of the [c]ourt that reasonable progress under the circumstances has been made in correcting those conditions which led to the removal of the juvenile as prescribed by" N.C. Gen. Stat. § 7B-1111(a)(2).

The trial court made numerous findings of fact in support of its conclusion that Respondent-Father willfully failed to make reasonable progress pursuant to § 7B-1111(a)(2). The findings relevant to the instant appeal are contained within finding of fact 11, which first provides:

11. That the Court finds by clear, cogent and convincing evidence that [Respondent-Father] has willfully left [Laura] in foster care or placement outside the home for more than twelve (12) months without showing to the satisfaction to the Court that reasonable progress under the circumstances has been made in correcting those conditions which led to the removal of [Laura] as prescribed by [N.C. Gen. Stat. §] 7B-1111[(a)(2)]. The request to terminate parental rights for [Respondent-Father] is not based on the sole reason that [Respondent-Father] is unable to care for [Laura] on account of his poverty.

The trial court also detailed in finding 11 how Respondent-Father's progress with his case plan affected his reunification with Laura:

Initially, [Respondent-Father] made progress on the DSS case plan in that [Respondent-Father] took parenting classes and attended treatment to address his emotional and substance abuse issues. This progress resulted in the

Court endorsing a trial home placement for [Laura] with [Respondent-Father] at the home of Maude Garland on 23 July, 2020.²

Subsequent to the trial home placement, [Respondent-Father] reverted to a pattern of testing positive for controlled substances, testing positive for methamphetamines for both Mitchell County DSS and October Road in late August, 2020. As [a] result, [Laura] was removed from that home in late August, 2020 and placed in foster care.

Regarding Respondent-Father's behavior after DSS removed Laura from the trial home placement with him and placed her into foster care, the court found:

At that time, [Respondent-Father]'s response was to attack October Road. He declined to follow their treatment plan[;] . . . has since not initiated or completed a substance abuse treatment plan[; and] has not addressed his mental health issues[.]

[Respondent-Father] then advised the Court at the 23 October, 2020 Term that he would test positive for methamphetamines; [Respondent-Father] advised the Court and DSS that he would continue to reside with his legal mother (Maude Garland) in the hope [Laura] could be reunited with him at that location[.]

[I]t was the belief of the Court then and now that the psychiatric and substance abuse issues of [Respondent-Father] would prevent him at that time and for the foreseeable future to independently raise [Laura] without the assistance of his mother; that goal became impossible when Ms. Garland took a warrant for [Respondent-Father] for trespassing which prohibited him from returning to that home for a period of time. Ms. Garland testified that [Respondent-Father] was unruly in her home and spoke to

² To allow for clarity and ease of reading, we insert paragraph breaks throughout finding of fact 11.

her in such a fashion that she could not allow or tolerate him to continue to reside there.

Despite these difficulties, the Court and DSS continued to work with [Respondent-Father] and make efforts to reunify [Laura] with either him or some member of his family; the efforts to reunify [Laura] with [Respondent-Father] were severely damaged and prevented by his unwillingness to submit to drug screens, to maintain appropriate behaviors to allow him to continue to reside in the home of his mother and his lack of progress to address the substance abuse and mental health concerns through a treatment plan.

The court next found that Respondent-Father exhibited increasingly concerning behavior over the ensuing months:

At the January, 2021 Term, the Court authorized four (4) hours per week supervised visitations with [Laura], these visitations to be supervised by Ms. Garland; however, the actions previously described prevented [Laura] from being safe with [Respondent-Father] during these visitations[.]

[T]he Court found that [Respondent-Father]'s mental health had deteriorated; at the time [Respondent-Father] stated that he wanted to sign [Laura] over to his mother (Ms. Garland); sent texts to the DSS worker and foster parents that caused concern as to the safety of [Laura]; he stated he did not like the fact that [Laura]'s name had appeared in an obituary of a relative; he complained as to how [Laura] was dressed; he asked DSS for the address where [Laura] was residing with the foster parents so he could pick up [Laura] although not authorized; his speech appeared slurred when talking to the DSS worker; he called 911 seeking assistance to retrieve [Laura] from the home of the foster parents.

Subsequently, [Respondent-Father] was committed to Copestone to address his mental health concerns. Upon his release, [Respondent-Father] then refused to release those records and requested that his court appointed attorney be

released as counsel. Those actions led to the Court suspending his visitations at the February, 2021 Juvenile Term.

Since that time, [Respondent-Father] has done nothing to cause the Court to believe that he has adequately addressed his mental health or substance abuse issues; [Respondent-Father] declined a drug screen requested by the Court at the 09 March, 2021 Juvenile Term; when [Respondent-Father] next appeared in Court at the 09 September, 2021 Term he attempted to spit on the DSS attorney; referred to the Court by the Judge's last name; had to be restrained by officers and removed from the Courtroom; was found in contempt for his behaviors.

In July, 2021, [Respondent-Father] was arrested in Avery County on charges of Assault with a Deadly Weapon with Intent to Kill; Larceny of Firearm; and Possession of Firearm by Felon; [Respondent-Father] remains incarcerated at the Avery County Jail; these cases are set for trial in March, 2022. The alleged victim of these crimes is the biological mother of [Respondent-Father] (Tammy Hawkins). [Respondent-Father] has made no effort as to [Laura] or any effort as to the case plan while incarcerated[, and] has requested no assistance with respect to the case plan.

Thus, the trial court determined:

[Respondent-Father], by his behavior, has demonstrated that he is unable to provide for the care of [Laura]; his failure to provide care for the care of [Laura] has led to the placement of [Laura] outside the home for a period in excess of 12 months.

These findings go back more than the requisite months prior to the filing of the [Termination of Parental Rights] Petition and are relevant to the grounds alleged in the Petition because the same show a pattern of conduct which establishes that [Respondent-Father] did not have and will likely not have the ability to provide for the care or arrange

for the care of [Laura].

The Court finds [Respondent-Father] has willfully left [Laura] in foster care or placement outside the home for a period of more than 12 months next preceding the filing of the Petition without showing to the Court that reasonable progress under the circumstances has been made to correct the conditions leading to the removal of [Laura]. [Respondent-Father] has not been restricted by financial inabilities from working a DSS case plan to reunification. Therefore, these findings by the Court are not based on an inability to care for [Laura] due to poverty.

The failure of [Respondent-Father] to comply with the DSS case plan and/or eliminate the reasons [Laura] came into custody demonstrates his failure to make reasonable progress to correct the conditions which led to the removal of [Laura].

Respondent-Father appealed.

Discussion

On appeal, Respondent-Father argues that the record does not support several portions of finding of fact 11, and that the findings do not support the trial court's conclusion that grounds existed to terminate Respondent-Father's parental rights for willful failure to make reasonable progress as articulated in N.C. Gen. Stat. § 7B-1111(a)(2).

I. Standard of Review

"A termination of parental rights proceeding consists of an adjudicatory stage and a dispositional stage." *In re D.L.A.D.*, 375 N.C. 565, 567, 849 S.E.2d 811, 814 (2020); see N.C. Gen. Stat. §§ 7B-1109, -1110. Our appellate courts "review a trial

court's adjudication to determine whether the findings are supported by clear, cogent and convincing evidence and the findings support the conclusions of law." *In re M.A.*, 378 N.C. 462, 466, 862 S.E.2d 169, 173 (2021) (citation and internal quotation marks omitted). "Unchallenged findings of fact 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 [the] respondent's parental rights." *Id.* (citations and internal quotation marks omitted). "The trial court's conclusions of law are reviewable de novo on appeal." *Id.* (citation omitted).

II. Analysis

Respondent-Father asserts that "[s]ome of the trial court's findings of fact were either unsupported or contradicted by the record and cannot be used to support the conclusion that termination grounds existed." He further asserts that the court's conclusion concerning the ground for termination pursuant to N.C. Gen. Stat. § 7B-1111(a)(2) "was not supported by the evidence or findings of fact, which showed that [Respondent-Father] substantially complied with his case plan."

"At the adjudicatory stage, the petitioner bears the burden of proving the existence of one or more grounds for termination under [N.C. Gen. Stat.] § 7B-1111(a) by clear, cogent, and convincing evidence." *In re R.G.L.*, 379 N.C. 452, 456, 866 S.E.2d 401, 407 (2021) (citation and internal quotation marks omitted); *see also* N.C. Gen. Stat. § 7B-1109(e)–(f). One such ground for termination is that "[t]he parent 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.” N.C. Gen. Stat. § 7B-1111(a)(2).

“The relevant time period for measuring ‘reasonable progress under the circumstances’ begins after ‘removal of the juvenile’ from the home.” *In re C.W.*, 182 N.C. App. 214, 225–26, 641 S.E.2d 725, 733 (2007). Additionally, “[t]he willfulness of a parent’s failure to make reasonable progress toward correcting the conditions that led to a child’s removal from the family home is established when the parent had the ability to show reasonable progress, but was unwilling to make the effort.” *In re M.B.*, 382 N.C. 82, 88, 876 S.E.2d 260, 266 (2022) (citation omitted).

Our Supreme Court has determined that the “conditions which led to the removal” as articulated in § 7B-1111(a)(2) “include all of the factors that directly or indirectly contributed to causing the juvenile’s removal from the parental home.” *In re B.O.A.*, 372 N.C. 372, 382, 831 S.E.2d 305, 312 (2019). Evaluating a parent’s progress in correcting both the direct and indirect factors surrounding removal acknowledges “the practical reality that a child’s removal from the parental home is rarely the result of a single, specific incident and is, instead, typically caused by the confluence of multiple factors, some of which are immediately apparent and some of which only become apparent in light of further investigation.” *Id.* at 384–85, 831 S.E.2d at 314. Hence, “nothing in the relevant statutory provisions limits the

‘conditions for removal’ to those specified in any initial abuse, neglect, or dependency petition or any subsequent amendment to that petition[.]” *Id.* at 382–83, 831 S.E.2d at 312.

In recognition of the fact that multiple factors may contribute to a child’s removal from the home, parental compliance with a case plan “is relevant in determining whether grounds for termination exist” pursuant to § 7B-1111(a)(2), even when “no direct and immediate relationship” exists between the terms of the case plan and the circumstances surrounding the juvenile’s removal from the home. *Id.* at 384, 831 S.E.2d at 313–14. Importantly, parental compliance with a case plan is only relevant for the purposes of § 7B-1111(a)(2) where “the objectives sought to be achieved by the case plan provision in question address issues that contributed to causing the problematic circumstances that led to the juvenile’s removal[.]” *Id.* at 384, 831 S.E.2d at 314.

A trial court “should refrain from finding that a parent has failed to make reasonable progress in correcting those conditions which led to the removal of the juvenile simply because of his or her failure to fully satisfy all elements of the case plan goals.” *Id.* at 385, 831 S.E.2d at 314 (citation and internal quotation marks omitted). Nonetheless, “a trial court has ample authority to determine that a parent’s ‘extremely limited progress’ in correcting the conditions leading to removal adequately supports a determination that a parent’s parental rights in a particular child are subject to termination pursuant to [N.C. Gen. Stat.] § 7B-1111(a)(2).” *Id.*

In *B.O.A.*, DSS initially removed the juvenile from the home due to “an act of domestic violence and the discovery of an unexplained bruise located on [the child]’s arm.” *Id.* at 386, 831 S.E.2d at 314. The respondent-mother then entered into a case plan, which required that she, *inter alia*: obtain a mental health assessment; complete domestic violence counseling and a parenting class; remain drug-free and submit to random drug screenings; participate in weekly substance abuse group therapy meetings and attend medication management sessions; and refrain from engaging in criminal activity. *Id.* at 373, 831 S.E.2d at 307. However, the respondent-mother failed to remain substance-free; allowed her mental health to deteriorate by failing to attend therapy sessions or to take her prescribed medications; was “hostile and combative” toward DSS employees; and revoked her consent for DSS to have access to her mental health records. *Id.* at 375–76, 831 S.E.2d at 307–08. Consequently, the trial court terminated the respondent-mother’s parental rights pursuant to N.C. Gen. Stat. § 7B-1111(a)(2), concluding that she had failed to make reasonable progress toward correcting the conditions that led to her child’s removal by failing to comply with her case plan. *Id.* at 376, 831 S.E.2d at 308.

On appeal, our Supreme Court upheld the trial court’s termination of the respondent-mother’s parental rights pursuant to § 7B-1111(a)(2). *Id.* at 373, 831 S.E.2d at 306. A review of the record revealed that although an act of domestic violence was “the triggering event[,]” it was evident that “a much broader list of concerns contributed to causing the events that directly and immediately contributed

to [the child]’s adjudication as a neglected juvenile and her removal from the parental home”—including the respondent-mother’s ongoing mental health and substance abuse issues. *Id.* at 386, 831 S.E.2d at 314. The Court reasoned that the trial court’s decision to terminate the respondent-mother’s parental rights for her failure to follow the case plan was therefore appropriate because a “necessary nexus [existed] between the components of the court-approved case plan with which [the] respondent-mother failed to comply and the ‘conditions which led to [the child]’s removal’ from the parental home[.]” *Id.* at 385, 831 S.E.2d at 314. Accordingly, the *B.O.A.* Court concluded that by failing “to comply with all but the most minimal requirements of her court-ordered case plan[.]” the respondent-mother had failed to make reasonable progress pursuant to § 7B-1111(a)(2). *Id.* at 387, 831 S.E.2d at 315–16.

In the instant case, Respondent-Father first challenges several parts of the trial court’s finding of fact 11 as unsupported by clear, cogent, and convincing evidence. “However, the challenged findings are not necessary to support the trial court’s conclusion that [Respondent-Father] willfully left [Laura] in foster care for more than [12] months without making reasonable progress to correct the conditions that led to her removal, and they need not be reviewed on appeal.” *In re C.J.*, 373 N.C. 260, 262, 837 S.E.2d 859, 860 (2020); *see also M.A.*, 378 N.C. at 466, 862 S.E.2d at 173 (“[W]e review only those findings necessary to support the trial court’s determination that grounds existed to terminate [the] respondent’s parental rights.” (citation omitted)).

Respondent-Father also argues that the trial court erred by terminating his parental rights pursuant to § 7B-1111(a)(2) because he made reasonable progress in correcting the only two conditions contributing to Laura's removal that related to him: establishing his paternity of Laura and developing a relationship with Laura. Respondent-Father contends that his partial compliance with his case plan evinces his reasonable progress in correcting these conditions. We disagree.

Here, the factors directly contributing to Laura's removal from the home and placement into foster care were that (1) Tabitha "had died . . . leaving [Laura] with no alternative caregiver"; (2) "[t]here were no other appropriate relative placements available at the time [Laura] was placed in DSS custody"; and (3) "the putative father had little to no involvement with [Laura] and paternity had not been established." As Respondent-Father correctly contends, he made reasonable progress in correcting the condition concerning paternity by submitting to paternity testing and developing a bond with Laura.

Nevertheless, while the lack of established paternity and parent-child relationship were among the conditions that led to Laura's removal from the home, they were not the only contributing conditions. In that a parent must work toward correcting *all* the conditions that led to a child's removal—conditions which may extend beyond "those specified in any . . . dependency petition" and "include all of the factors that directly or indirectly contributed to causing the juvenile's removal from the parental home[.]" *B.O.A.*, 372 N.C. at 382, 831 S.E.2d at 312—Respondent-Father

was obligated under N.C. Gen. Stat. § 7B-1111(a)(2) to make reasonable progress in correcting additional contributing conditions, not just those regarding paternity.

Although Respondent-Father could not correct the directly contributing factors of Tabitha's death and the unsuitability of Laura's maternal relatives for placement, he nonetheless could work toward correcting the factors that indirectly contributed to Laura's removal from the home. A careful examination of the record reflects that these indirectly contributing factors were substance abuse and mental illness. DSS initially became involved with Laura's family in November 2019 after it received a report that the home had no running water and that Laura's family consumed illegal drugs within it. Shortly after DSS removed Laura from the home, Laura tested positive for methamphetamine and amphetamine. Furthermore, at the time of Laura's mother's death from a drug overdose, the "home was extremely unsanitary, with a foul odor[.]" and the floor was "rotted out in numerous places[.]" And although Respondent-Father promptly established his paternity, he remained unavailable for placement because of his substance abuse and mental health issues. Thus, as in *B.O.A.*, the factors that indirectly contributed to Laura's removal from the home were untreated substance abuse and mental health issues. *Id.* at 387, 831 S.E.2d at 315–16.

Therefore, in addition to remedying the directly contributing factor of unestablished paternity, Respondent-Father needed to make reasonable progress in correcting the indirectly contributing factors of substance abuse and mental illness.

See id. at 382, 831 S.E.2d at 312. As explained below, Respondent-Father failed to make reasonable progress in correcting these factors by failing to sufficiently comply with his case plan’s provisions regarding his substance abuse and mental health concerns.

The trial court’s findings in its termination order reflect that there was “a sufficient nexus between the conditions that led to [Laura]’s removal from [the] home and the provisions of the court-ordered case plan relating to [Respondent-Father]’s mental health issues . . . [and] substance abuse treatment[.]” *Id.* at 387, 831 S.E.2d at 315. As the trial court found, the case plan required Respondent-Father to participate in parenting classes; submit to drug screens; seek treatment for any emotional and substance use issues; remain drug-free; comply with the terms of his probation; communicate with DSS; and authorize release of his medical records so that DSS could confirm his progress in his treatment. By requiring that Respondent-Father remain drug-free and seek treatment, “the objectives sought to be achieved by the case plan provision[s] in question address[ed] issues that contributed to causing the problematic circumstances that led to [Laura]’s removal”—namely, substance abuse and mental health issues. *Id.* at 384, 831 S.E.2d at 314. Therefore, the trial court appropriately considered Respondent-Father’s compliance with his case plan when evaluating his progress toward correcting the conditions that led to Laura’s removal. *See id.*

In reviewing Respondent-Father's compliance with his case plan for whether he made reasonable progress pursuant to § 7B-1111(a)(2), the trial court found that Respondent-Father initially "made progress on the DSS case plan in that [he] took parenting classes and attended treatment to address his emotional and substance abuse issues[.]" which resulted in the court "endorsing a trial home placement for [Laura] with [Respondent-Father] at the home of Maude Garland on 23 July, 2020." However, the court also found that he struggled with remaining drug-free: DSS terminated Laura's trial home placement with Respondent-Father after approximately one month because Respondent-Father tested positive for methamphetamine. The court further found as fact that Respondent-Father "advised the [c]ourt at the 23 October, 2020 [t]erm that he would test positive for methamphetamines[.]"

The trial court additionally determined that Respondent-Father's "mental health had deteriorated" significantly: in January 2021, Respondent-Father "stated that he wanted to sign [Laura] over" to Ms. Garland; "sent texts to the DSS worker and foster parents that caused concern as to the safety of" Laura; "asked DSS for the address where [Laura] was residing with the foster parents so he could pick up [Laura] although not authorized"; and "called 911 seeking assistance to retrieve [Laura] from the home of the foster parents." He then failed to comply with his case plan when he "refused to release [his medical] records" to DSS following his release from his five-day involuntary commitment to a psychiatric facility.

Furthermore, the trial court expressly found that Respondent-Father “ha[d] done nothing” to suggest that he had “adequately addressed his mental health or substance abuse issues[.]” For example, Respondent-Father “declined a drug screen requested by the [c]ourt at the 09 March, 2021 Juvenile Term[.]” and when he appeared in court on 9 September 2021, “he attempted to spit on the DSS attorney[.] referred to the [c]ourt by the Judge’s last name[, and] had to be restrained by officers and removed from the [c]ourtroom[.]” The court also found that Respondent-Father was unwilling “to submit to drug screens, to maintain appropriate behaviors to allow him to continue to reside in the home of his mother and . . . to address the substance abuse and mental health concerns through a treatment plan.”

Respondent-Father does not challenge these findings on appeal; neither does he challenge the trial court’s finding that Laura remained in a placement outside of the home “for a period in excess of 12 months.” These findings are thus “deemed supported by competent evidence and are binding on appeal.” *M.A.*, 378 N.C. at 466, 862 S.E.2d at 173 (citation omitted).

These unchallenged findings support the trial court’s conclusion that Respondent-Father willfully left Laura in a placement outside the home for more than 12 months without making reasonable progress under the circumstances toward correcting those conditions that led to her removal. Like the respondent-mother in *B.O.A.*, Respondent-Father’s noncompliance with his case plan manifested as his failure to remain substance-free; his plateaued progress with his mental health and

substance use treatment; his hostile behavior toward DSS employees; and his revocation of consent for DSS to have access to his mental health records. *B.O.A.*, 372 N.C. at 375–76, 831 S.E.2d at 307–08. Furthermore, Respondent-Father’s initial progress with his case plan—particularly, his negative drug screens and his participation in “treatment to address his emotional and substance abuse issues”—followed by his “unwillingness to submit to drug screens . . . and his lack of progress to address the substance abuse and mental health concerns through a treatment plan” demonstrates that his lack of reasonable progress was willful; Respondent-Father demonstrated that he “had the ability to show reasonable progress” in correcting his substance abuse and mental health issues, “but was unwilling to make the effort.” *M.B.*, 382 N.C. at 88, 876 S.E.2d at 266 (citation omitted).

In sum, because Respondent-Father was obligated under N.C. Gen. Stat. § 7B-1111(a)(2) to make reasonable progress toward correcting the indirectly contributing factors of substance abuse and mental illness, *see B.O.A.*, 372 N.C. at 382, 831 S.E.2d at 312, the trial court had an adequate basis for finding that the required relationship existed between Respondent-Father’s case plan provisions and the conditions that led to Laura’s removal from the home; thus, the court appropriately considered Respondent-Father’s compliance with his case plan when determining his progress pursuant to § 7B-1111(a)(2), *see id.* at 384, 831 S.E.2d at 314. Additionally, the trial court’s unchallenged findings—which reflect that Respondent-Father made “extremely limited progress” in fulfilling the provisions in his case plan concerning

substance abuse and mental health treatment, *id.* at 385, 831 S.E.2d at 314—support the court’s conclusion that Respondent-Father willfully left Laura in a placement outside the home for more than 12 months without showing to the satisfaction of the court that he had made reasonable progress under the circumstances toward correcting those conditions that led to her removal.

Conclusion

While there was evidence that Respondent-Father made some initial efforts toward correcting the conditions that led to Laura’s removal and placement into DSS custody, we conclude that the trial court’s unchallenged and binding findings support its conclusion that under the circumstances, Respondent-Father “willfully left [Laura] in DSS custody for a period of [12] months without making reasonable progress toward correcting the conditions that led to [Laura’s] removal” from the home. *Id.* at 388, 831 S.E.2d at 316. Accordingly, we affirm the trial court’s order terminating Respondent-Father’s parental rights pursuant to N.C. Gen. Stat. § 7B-1111(a)(2).

AFFIRMED.

Chief Judge STROUD and Judge COLLINS concur.

Report per Rule 30(e).