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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA22-947

Filed 01 August 2023

New Hanover County, No. 21-JT-213

In the Matter of:

W.H.F.

Appeal by Respondent-Father from order entered 20 June 2022 by Judge Julius H. Corpening in New Hanover County District Court. Heard in the Court of Appeals 7 June 2023.

*James W. Lea, III for the Petitioner-Appellee Mother.*

*Jason R. Page for the Respondent-Appellant Father.*

STADING, Judge.

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

**I.     Background**

In 2018, Petitioner-Mother (“Mother”) became pregnant after she and Father had been dating for six months. The parties ended their relationship thirteen weeks into the pregnancy but remained in contact. Throughout the pregnancy, Mother was

living in Wilmington, North Carolina; Father was living in Raleigh, North Carolina. Mother gave birth to “Whitney”<sup>1</sup> in a Wilmington hospital in March of 2019. Following Whitney’s birth, Father visited with Whitney a handful of times, with his last visit being on 2 November 2019.

On 16 November 2021, Mother filed this petition to terminate Father’s parental rights in Whitney based on abandonment under N.C. Gen. Stat. § 7B-1111(a)(7). The parties had not been in contact for well over a year when Mother filed this petition. Father filed his response to the petition, denying that grounds to terminate exist. On 10 January 2022, the trial court appointed attorney Mark Ihnat as Whitney’s guardian *ad litem* (“GAL”) and attorney advocate. The trial court heard this case on 13 and 17 June 2022. The court accepted testimony from Mother, Father, and other interested parties, including Ihnat. Additionally, Ihnat submitted a GAL report to the court, concluding that it was not in Whitney’s best interest that Father’s parental rights be terminated.

The trial court entered an order on 22 August 2022, terminating Father’s parental rights in Whitney and finding that doing so would be in Whitney’s best interest. Within the order, the trial court made a number of findings of facts, including:

11. From the date of birth until present, the minor child has resided exclusively with Petitioner.

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<sup>1</sup> Whitney is a pseudonym to protect the identity of the minor child. See N.C. R. App. P. 42.

12. After the minor child went home from the hospital, Respondent visited the minor child six times over nine months. These visits occurred at Petitioner's home in New Hanover County; The longest visit lasted no more than two hours. . . .

13. Respondent testified that during the minor child's first nine months he never contemplated visitations outside of Petitioner's home because he was an alcoholic and would not have wanted to put the minor child "in that position."

14. Respondent cancelled and missed visited on 27 May 2019 and 9 June 2019, and admitted that he lied and misled Petitioner about why he could not attend these visits with the minor child.

15. 2 November 2019 is the last date Respondent saw the minor child in person.

. . .

18. On 19 March 2020, Respondent sent a text message to Petitioner acknowledging the minor child's birthday. . . .

19. The next time Respondent contacted Petitioner was 10 May 2020. . . .

20. 10 May 2020 was the last date Respondent contacted Petitioner before the Petition was filed on 16 November 2021. There was no contact between Petitioner and Respondent between 10 May 2020 until after the Petition was filed.

21. For the entirety of the minor child's life, Respondent has had access to Petitioner's cell phone number and e-mail address. Respondent was able to contact Petitioner at the same cell phone number after the Petition was filed. Respondent knew Petitioner lived in Wilmington, North Carolina, although Petitioner did move to a new home Respondent had never visited.

. . .

26. After receiving a copy of the filed Petition, Respondent sent a letter apologizing to Petitioner for his absence and a Christmas gift for the minor child. Respondent followed up with a text message to Petitioner asking if the letter and gift were received. Petitioner did not respond.

. . .

32. Since at least age thirteen, Respondent has had some dependency on alcohol. . . .

33. Respondent was using and dependent on alcohol during his romantic relationship with Petitioner and throughout the pregnancy[.]

. . .

35. On 14 October 2019, Respondent entered in-patient treatment for alcoholism, anxiety, and depression at a facility called Triangle Springs. . . . Respondent informed Petitioner that he had attended in-patient treatment at the end of his visit with the minor child in Petitioner's home on 2 November 2019[.]

36. Sometime after completing treatment at Triangle Springs, Respondent relapsed. He later became sober on 20 June 2020 and has maintained sobriety since that date[.]

37. Despite testifying that the minor child was his primary motivation for achieving sobriety . . . Respondent allowed more than sixteen months to pass without contacting Petitioner or the minor child between his sobriety date and the filing of the Petition in this action.

. . .

47. Since at least the end of August 2021, Respondent has cohabitated with [his girlfriend] at the residence she owns in Wake County, State of North Carolina. [His girlfriend's daughter] also lives in the home.

. . .

49. Since at least May of 2021, Respondent has built familial relationships with [his girlfriend] and her daughter and by August 2021 had integrated himself into their household. During that same window of time, Respondent had the ability to contact Petitioner and seek to build a relationship with the minor child but did not do so, nor did he file any legal action to establish a child custody arrangement or exercise his parental rights.

. . .

53. After Petitioner ended the romantic relationship with Respondent, Petitioner did respond to Respondent and his family in a polite and cordial manner. These communications were largely by text message although there were a few phone calls. Petitioner never initiated the contact.

54. In particular, Petitioner corresponded my text message with Respondent's stepmother[.]

. . .

57. [Respondent's stepmother] and other members of Respondent's family, including Respondent's mother, . . . who contacted Petitioner did so in their own capacity as relative by blood or marriage to the minor child, and did not do so on behalf of Respondent.

. . .

63. On 4 May 2021 Petitioner married [her husband] in a courthouse ceremony. . . .

. . .

72. Since the minor child's birth, Petitioner has been her primary—and at times sole—caregiver. . . .

73. [Petitioner's husband] has taken on important parental and caregiver roles in the minor child's life . . .

. . .

74. [Petitioner's husband], through his relationship with Petitioner, became involved in the minor child's life before she could speak. . . . [Petitioner's husband] is the "daddy" figure in the minor child's life.

75. [Petitioner's husband] strongly desires to adopt the minor child. . . .

. . .

78. The bond between the minor child and her stepfather . . . is very strong. . . .

79. During his testimony, Respondent conceded that his bond with the minor child is nonexistent.

80. The minor child does not know that Respondent exists of that someone other than [Petitioner's husband] is her biological father. Her last in-person interactions with Respondent occurred at too young of an age for the minor child to recall. Petitioner has not discussed Respondent with the minor child due to Petitioner's concerns the information will confuse the minor child and have a negative effect on her intellectual and emotional development.

The court concluded that, under N.C.G.S. § 7B-1111(a)(7), Father had willfully abandoned Whitney for at least six consecutive months immediately preceding the filing of this petition. Father entered his notice of appeal on 25 August 2022.

## **II. Jurisdiction**

This Court has jurisdiction over Father's appeal from the order terminating his parental rights under N.C. Gen. Stat. §§ 7A-27(b)(2) and 7B-1001(a)(7) (2021).

### III. Analysis

Father raises the following issues on appeal: (1) whether the trial court erred in concluding that Father had willfully abandoned Whitney, (2) whether the trial court abused its discretion in terminating Father's parental rights, and (3) whether the trial court's judgment must be reversed because the attorney appointed as the GAL served only as the GAL and not as an attorney advocate.

#### A. Willful Abandonment

Father argues that the trial court erred in concluding that he willfully abandoned Whitney because Father's alcoholism, depression, and limitations on access made his actions not willful. "At the adjudicatory stage of a termination of parental rights hearing, the burden is on the petitioner to prove by clear, cogent, and convincing evidence that at least one ground for termination exists." *In re O.J.R.*, 239 N.C. App. 329, 332, 769 S.E.2d 631, 634 (2015) (citations omitted); *see also* N.C. Gen. Stat. § 7B-1109(f) (2021). This Court reviews a trial court's order terminating parental rights "to determine whether the findings are supported by clear, cogent and convincing evidence and that the findings support the conclusions of law." *In re T.M.L.*, 377 N.C. 369, 371, 856 S.E.2d 785, 789 (2021) (citations omitted). The trial court's conclusions of law are subject to *de novo* review. *Id.* "Any unchallenged findings are deemed supported by competent evidence and are binding on appeal." *In re Z.G.J.*, 378 N.C. 500, 508–09, 862 S.E.2d 180, 187 (2021) (internal quotation marks and citation omitted).

A trial court may terminate a party's parental rights when "[t]he parent has willfully abandoned the juvenile for at least six consecutive months immediately preceding the filing of the petition or motion." N.C. Gen. Stat. § 7B-1111(a)(7) (2021). "Abandonment implies conduct on the part of the parent which manifests a willful determination to forego all parental duties and relinquish all parental claims to the child." *In re Young*, 346 N.C. 244, 251, 485 S.E.2d 612, 617 (1997) (citation omitted). "[I]f a parent withholds his presence, his love, his care, the opportunity to display filial affection, and wilfully neglects to lend support and maintenance, such parent relinquishes all parental claims and abandons the child." *In re B.C.B.*, 374 N.C. 32, 35, 839 S.E.2d 748, 752 (2020) (citing *Pratt v. Bishop*, 257 N.C. 486, 501, 126 S.E.2d 597, 608 (1962)). "Although the trial court may consider a parent's conduct outside the six-month window in evaluating a parent's credibility and intentions, the 'determinative' period for adjudicating willful abandonment is the six consecutive months preceding the filing of the petition." *In re J.D.C.H.*, 375 N.C. 335, 338, 847 S.E.2d 868, 872 (2020).

Here, Mother filed this petition on 16 November 2021. Thus, the determinative timeframe is the six months before that date, between 16 May 2021 and 16 November 2021. Throughout his brief, Father cites to events that occurred outside the relevant six-month period, including attempts to be a part of Whitney's life before her birth, treatments he went through to regain his sobriety between Whitney's birth and June 2020, and Mother's declination to have Father attend pregnancy-related doctor's



visits. While the trial court was free to consider these events and Father's conduct to determine his credibility and the willfulness of his absence from the Whitney's life, the relevant inquiry for the trial court must be on determining the intent behind Father's actions or inactions during the statutory six-month window. *See id.*

Father claims that his abandonment of Whitney was not willful due to his alcoholism. However, the record demonstrates that Father had been sober since 20 June 2020, sixteen months and twenty-six days before Mother filed her petition. In the six months before the filing of this action, Father had no contact with Whitney or Mother. Father did not reach out to Mother or Whitney even after achieving sobriety in June 2020. The uncontested findings of fact show that since Father "allowed more than sixteen months to pass without contacting [Mother] or the minor child," Whitney's "last in-person interactions with [Father] occurred at too young of an age for the minor to recall."

Father also asserts that his stepmother tried to schedule a visit with Whitney during the summer of 2021—within the statutorily relevant period—and that Mother did not agree to the visit. However, this, along with other unchallenged findings of facts showing that Father's family members were in contact with Mother, only demonstrate that Father "possessed the ability to seek [Mother and Whitney's] contact information from his relatives but declined to do so[.]" *In re M.S.A.*, 377 N.C. 343, 348, 856 S.E.2d 811, 815 (2021). Rather than make efforts to communicate with the minor child, Father "withheld his love, care, and filial affection from [Whitney],

both in the statutorily relevant six-month period prior to the filing of the petition to terminate parental rights and in the [months] preceding that time span.” *Id.* (citing *Pratt*, 257 N.C. at 501, 126 S.E.2d at 607).

Furthermore, the trial court properly considered Father’s substance abuse and weighed the evidence appropriately. Father testified about how his alcoholism impacted his life and his ability to be part of Whitney’s life. The trial court’s findings reflect that it considered Father’s substance abuse and sobriety but also considered that Father could have contacted Mother throughout the year-and-a-half span of time and chose not to. At trial, Father conceded to knowing how to reach Mother by phone, knew the general area where Mother and Whitney lived in Wilmington, had no legal barriers preventing contact, and sent mail to Mother after the petition was filed. Accordingly, we hold the trial court did not err in concluding that Father willfully abandoned Whitney.

**B. Termination of Father’s Parental Rights**

Father argues that the trial court abused its discretion in determining that it is in Whitney’s best interest to terminate Father’s parental rights. This Court reviews a trial court’s determination of a juvenile’s best interest for abuse of discretion. *In re D.C.*, 236 N.C. App. 287, 292–93, 763 S.E.2d 314, 318 (2014). A trial court’s determination will be reversed only upon a showing that “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.” *In re T.L.H.*, 368 N.C. 101, 107, 772 S.E.2d 451, 455 (2021).

After a trial court concludes “that one or more grounds for termination of a parent’s rights exist, the court shall determine whether terminating the parent’s rights is in the juvenile’s best interest.” N.C. Gen. Stat. § 7B-1110(a) (2021). In making such a determination, the trial court must consider and make written findings about the following factors:

- (1) The age of the juvenile.
- (2) The likelihood of adoption of the juvenile.
- (3) Whether the termination of parental rights will aid in the accomplishment of the permanent plan for the juvenile.
- (4) The bond between the juvenile and the parent.
- (5) The quality of the relationship between the juvenile and the proposed adoptive parent, guardian, custodian, or other permanent placement.
- (6) Any relevant consideration.

*Id.*

Here, Father concedes that the trial court evaluated all the statutory factors but argues that “the decision to terminate was based largely on conjecture that terminating Whitney’s ties to her father promotes stability.” However, Father asks this Court to “reweigh the record evidence and to substitute our weighing of the relevant statutory criteria for that of the trial court.” *In re C.B.*, 375 N.C. 556, 564,

850 S.E.2d 324, 330 (2020). “[T]he weight assigned to particular evidence, and to the various dispositional factors in N.C.G.S. § 7B-1110(a), is the sole province of the trier of fact.” *In re B.E.*, 375 N.C. 730, 749, 851 S.E.2d 307, 320 (2020). Thus, we decline to engage in a review that “would be inconsistent with the applicable standard of review, which focuses upon whether the trial court’s dispositional decision constitutes an abuse of discretion rather than upon the manner in which the reviewing court would weigh the evidence were it the finder of fact.” *In re C.B.*, 375 N.C. at 564, 850 S.E.2d at 330 (citations omitted).

In pertinent part, the trial court’s dispositional order found:

- a. The age of the minor child: she is three years old.
- b. The likelihood of adoption: high. Petitioner and the minor child’s stepfather . . . each indicated that they wish for [Petitioner’s husband] to adopt the minor child, and for all of them to share a last name.
- c. Whether termination will aid in accomplishing a permanency plan: inapplicable.
- d. The bond between the juvenile and the parent: Respondent testified that there is no bond between him and the minor child. Evidence from Petitioner, Respondent, and the Guardian Ad Litem showed that there is a very strong bond between Petitioner and minor child. Uncontested evidence from Petitioner also showed that there is a very strong bond between [Petitioner’s husband] and the minor child.
- e. The quality of the relationship between the minor child and the proposed adoptive parent, guardian, custodian, or other placement: Evidence from Petitioner, Respondent, and the Guardian Ad Litem showed that

there is a very strong bond between Petitioner and minor child. Uncontested evidence from Petitioner also showed that there is a very strong bond between [Petitioner's husband] and the minor child. Petitioner and [Petitioner's husband] wish for [Petitioner's husband] to adopt the minor child.

- f. Any other relevant consideration: Respondent willfully abandoned the minor child. Withholding his love and affection for more than a year and four months between the Petition was filed. . . .

Based upon the evidence presented at both the adjudicatory and dispositional phases of the trial, the trial court properly considered each relevant factor in N.C.G.S. § 1110(a) and made findings of facts supported by competent evidence. These findings showed a reasoned determination and supported the trial court's ultimate decision that terminating Father's parental rights was in Whitney's best interest. Accordingly, the trial court did not abuse its discretion in concluding that it is in Whitney's best interest that Father's parental rights be terminated.

### **C. Guardian Ad Litem**

Father argues that the trial court's order must be reversed because Mark Ihnat, the appointed GAL and attorney, did not serve in the statutorily required roles of GAL and attorney advocate. Father raises this issue for the first time on appeal, arguing that the issue is preserved for appeal because the trial court did not follow statutory mandates. This Court has held that "[w]hen an appellant argues the trial court failed to follow a statutory mandate, the error is preserved, and the issue is a question of law and reviewed *de novo*." *In re J.C.-B.*, 276 N.C. App. 180, 192, 856

S.E.2d 883, 892 (2021). “[A] statutory mandate that automatically preserves an issue for appellate review is one that, either: (1) requires a specific act by a trial judge; or (2) leaves no doubt that the legislature intended to place the responsibility on the judge presiding at the trial, or at specific courtroom proceedings that the trial judge has authority to direct.” *In re E.D.*, 372 N.C. 111, 121, 827 S.E.2d 450, 457 (2019) (cleaned up).

Our Juvenile Code requires the appointment of a GAL for the juvenile by the trial court in two scenarios. In the first case, the court must appoint a GAL in abuse, neglect, or dependency cases. N.C. Gen. Stat. § 7B-601(a) (2021). Second, in a private termination proceeding, after the petitioner files a petition to terminate parental rights and the respondent answers by denying any material allegation, the trial court must appoint a GAL to ensure the juvenile’s best interests are represented. N.C. Gen. Stat. § 7B-1108(b) (2021). Additionally, this subsection mandates that “[a] licensed attorney shall be appointed to assist those guardians ad litem who are not attorneys licensed to practice in North Carolina.” *Id.* Because these statutes require specific acts by the trial judge, they constitute statutory mandates that automatically preserve this issue for appellate review. *In re J.C.-B.*, 276 N.C. App. at 192, 856 S.E.2d at 892.

A GAL appointed under N.C.G.S. § 7B-1108 has the same duties as an abuse, neglect, or dependency GAL appointed under N.C.G.S. § 601. *Id.* In pertinent part, the duties of a GAL and an attorney advocate are as follows:

[T]o make an investigation to determine the facts, the needs of the juvenile, and the available resources within the family and community to meet those needs; to facilitate, when appropriate, the settlement of disputed issues; to offer evidence and examine witnesses at adjudication; to explore options with the court at the dispositional hearing; to conduct follow-up investigations to insure that the orders of the court are being properly executed; to report to the court when the needs of the juvenile are not being met; and to protect and promote the best interests of the juvenile until formally relieved of the responsibility by the court.

N.C. Gen. Stat. § 7B-601(a). While the statute does not convey which duties are reserved for the GAL and which are for the attorney advocate, if the appointed GAL is a licensed attorney, the attorney may perform both roles. *In re J.H.K.*, 365 N.C. 171, 175–76, 711 S.E.2d 118, 120 (2011). However, “[t]he functions of the guardian ad litem and the attorney advocate are not sufficiently similar to allow one to ‘pinch hit’ for the other when the best interest of a juvenile is at stake.” *In re R.A.H.*, 171 N.C. App. 427, 431, 614 S.E.2d 382, 385 (2005).

This Court has held that in termination of parental rights proceedings, the attorney advocate is to “perform the traditional role of a lawyer” by “assist[ing] the nonlawyer GAL and thereby protecting the legal rights of the minor in the court proceedings.” *Id.* This normally includes “[facilitating], when appropriate, the settlement of disputed issues; [offering] evidence and [examining] witnesses at adjudication; [and] . . . [exploring] options with the court at the dispositional hearing.” *Id.* (citing N.C. Gen. Stat. § 7B-601(a)). In comparison, “[w]hile the GAL could

potentially facilitate settlement of disputed issues,” the GAL is mainly responsible for the out of court “investigation and observation of the needs of children and identification of the resources available to meet those needs. . . .” *Id.*

First, Father argues that Ihnat’s appointment did not specify that he needed to also act as an attorney advocate. When appointing Ihnat, the trial court completed form AOC-J-144, titled “Order of Assignment or Denial of Counsel,” and listed “Mark Ihnat (GAL for Juvenile)” under section two, titled “Name of Appointed Attorney.” Here, a review of the order of assignment of counsel establishes that the court intended that Ihnat act as both the attorney advocate and as the GAL. The trial court provided Ihnat’s name under the section naming him the “appointed attorney” and noted that he is the “GAL for Juvenile.” Additionally, the court noted that this was a “Termination of Parental Rights (TPR)” case by checking the corresponding box on the form, indicating that the court was cognizant of the applicable statutory requirements that apply to such proceedings. Within the four corners of the form, it is sufficiently clear that the trial court judge, Ihnat, and both parties were aware that Ihnat was appointed to act as both the attorney advocate and the GAL for Whitney. *See Huntley v. Potter*, 255 N.C. 619, 628, 122 S.E.2d 681, 687 (1961) (defining the presumption of regularity as “the presumption that public officials will discharge their duties in good faith and exercise their powers in accord with the spirit and purpose of the law.”) (internal quotation marks and citations omitted); *see also In re*



*E.D.H.*, 381 N.C. 395, 399, 873 S.E.2d 510, 514 (2022) (holding that the presumption of regularity attaches generally to judicial acts) (citation omitted).

Next, Father argues that Ihnat did not request clarification of his role or inform the court of his conflict. In support of this contention, Father cites Rule 3.7 of the Rules of Professional Conduct and a Formal Ethics Opinion entitled “Attorney Serving Dual Role of Guardian ad Litem and Advocate.” Rule 3.7 generally prohibits an attorney from acting as an advocate at trial if the attorney is a necessary witness. N.C. Rules of Prof'l Conduct Rule 3.7 (2022). Additional clarification is provided by 22 Formal Ethics Opinion 1, which states that “if the court appoints the attorney in a dual role of GAL and attorney advocate, the attorney may only proceed if the attorney informs the court of the ethical concerns associated with the attorney’s dual role and the court concludes that the attorney may proceed in the dual role.” 22 Formal Ethics Opinion 1.

Although the Formal Ethics Opinion provides guidance from the State Bar for attorneys to establish principles of ethical conduct, they are not precedential authority for appellate review. *North Carolina State Bar v. Merrell*, 243 N.C. App. 356, 372, 777 S.E.2d 103, 115 (2015) (citations omitted). “Thus, this Court has looked to formal ethics opinions for guidance when determining whether an attorney has violated the Rules of Professional Conduct.” *Id.* (citations omitted). In addition to the provisions Father cites, the ethics opinion also provides:

Notwithstanding the above, the purpose of the prohibition

set out in Rule 3.7 is to avoid confusing the trier of fact. In [abuse, neglect, and dependency] cases, the only trier of fact is the judge, and no jury is impaneled. It is unlikely the judge will be confused by the attorney's role. Moreover, the court has concurrent jurisdiction on matters of ethics and maintains inherent powers to deal with its attorneys. *See* N.C. Gen. Stat. § 84-36. Therefore, if the judge decides that in the interest of judicial efficiency the attorney will serve dual roles, the attorney may serve dual roles and prepare and file a GAL court report, testify as to his findings in the GAL court report, and simultaneously serve as the attorney advocate for the children. Under this limited circumstance, the attorney may be called as a witness and be subject to cross-examination.

22 Formal Ethics Opinion 1. Upon considering this ethics opinion, along with the rationale underpinning Rule 3.7, we are not persuaded by Father's contention that any individual committed a violation of the Rules of Professional Conduct. Here, the trial court judge—who assigned Ihnat to be the GAL and attorney advocate—was the only trier of the fact involved in these proceedings. As provided for above, the trial court was on sufficient notice that Ihnat was serving in dual roles. Sitting as the sole factfinder, it is unlikely that the trial court judge would have been confused about Ihnat's role.

Finally, Father argues that, while Ihnat acted as a GAL, he failed to also serve as an attorney advocate as required by N.C.G.S. §§ 7B-601(a) and 7B-1108(b). Specifically, Father contends that the trial court's order should be reversed because Ihnat did not protect Whitney's legal rights during the proceeding as he did not

examine witnesses at adjudication, make objections, or offer a closing argument. We disagree.

In cases involving termination of parental rights, an appointed attorney advocate must “assure protection of the juvenile’s legal rights throughout the proceeding.” N.C. Gen. Stat. § 601(a). In the criminal context, strategic decisions made at trial are the providence of the lawyer unless he reaches an absolute impasse with his client, in which case the client’s wishes must control. *State v. Ali*, 329 N.C. 394, 404, 407 S.E.2d 183, 189 (1991). However, proceedings such as the one before us are distinguishable in that the represented minor is incapable of understanding, asserting, and protecting its own rights and interests. *In re R.A.H.*, 171 N.C. App. at 431, 614 S.E.2d at 385. Accordingly, “our polar star in these proceedings is the best interests of the child.” *Id.* at 430, 614 S.E.2d at 384 (citing *In re Montgomery*, 311 N.C. 101, 109, 316 S.E.2d 246, 252 (1984) (“Our discussion would not be complete unless we reemphasized the fundamental principle underlying North Carolina’s approach to controversies involving child neglect and custody, to wit, that the best interest of the child is the polar star.”). Therefore, we must consider the attorney advocate’s actions within the frame of the best interests of the child.

Ihnat was present at all stages of the proceedings. *Compare In re J.H.K.*, 365 N.C. at 177–78, 711 S.E.2d at 122 (holding that an attorney advocate who appeared at every hearing documented in the record satisfied their statutory duties under N.C. Gen. Stat. § 7B-601(a)); *with In re R.A.H.*, 171 N.C. App. at 430, 614 S.E.2d at 384

(holding that “there was no representative of [the juvenile] performing the duties required by N.C. Gen. Stat. § 7B-601 until four days into the termination hearing.”). However, Ihnat did not examine witnesses at adjudication or offer a closing statement. Although he could have declined to examine witnesses for strategic reasons, it is generally prudent to offer a closing statement of some nature. Nonetheless, in the matter presently before us, this single inaction is not dispositive. Our Supreme Court has previously reviewed the actions of an attorney who served in the dual roles of attorney advocate and GAL. *In re C.J.C.*, 374 N.C. 42, 45–46, 839 S.E.2d 742, 745–46. In that matter, the Court did not find that the attorney’s conduct was faulty even though he did not offer evidence or examine witnesses. *Id.* The fact-specific inquiry here shows that Ihnat’s actions as both a GAL and attorney advocate were proper and in the best interests of the minor child.

#### **IV. Conclusion**

For the forgoing reasons, the trial court’s order terminating Father’s parental rights is affirmed.

AFFIRMED.

Judges TYSON and MURPHY concur.

Report per Rule 30(e).