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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA24-133

Filed 15 October 2024

Forsyth County, No. 23 JT 75

IN THE MATTER OF: G.I.S.

Appeal by Respondent-mother from order entered 27 November 2023 by Judge George M. Cleland, IV, in Forsyth County District Court. Heard in the Court of Appeals 6 September 2024.

*Benjamin J. Kull for respondent-appellant mother.*

*Craig Jenkins Liipfert & Walker LLP, by Susan Sullivan Simos, for petitioner-appellee father.*

STADING, Judge.

Respondent-mother (“Mother”) appeals from an order terminating her parental rights for willfully abandoning her minor child on the basis that the trial court’s adjudicatory findings were insufficient. Since the trial court’s findings were supported by clear, cogent, and convincing evidence and did not leave any material conflicts in the evidence unresolved, we affirm the termination order.

## **I. Background**

Mother and petitioner-father (“Father”) were unmarried but engaged in a romantic relationship that ended at some point in 2016. During this relationship, one child, G.I.S. (“George”),<sup>1</sup> was born. At the time the parties separated, George was about three years old.

Mother and Father shared custody of George according to a mutually agreed upon schedule for around three years. This arrangement lasted until 2 August 2019 when Father sued for sole custody of George based on allegations that Mother was living in an abusive relationship with John Parente, George had witnessed domestic violence between Mother and Parente, and Mother had begun to abuse methamphetamines. The complaint further alleged that Mother had stopped seeing George and ceased exercising overnight visitation since December 2018. Father also claimed that, although Parente had been incarcerated for an undefined amount of time, and although Mother had obtained a domestic violence protective order against Parente, Mother continued to reside with him and “misrepresented to the court the current status of her relationship with” Parente. Thus, Father sought sole custody of George based on Parente’s and Mother’s ongoing relationship and entry of an order prohibiting Mother from allowing George to be in Parente’s presence. The trial court entered an emergency *ex parte* custody order granting Father sole custody of George

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<sup>1</sup> A stipulated pseudonym is used to protect the privacy of the child and for ease of reading.

the same day.

On 12 August 2019, the trial court entered a temporary child custody order granting Father sole legal and physical custody of George and granting Mother two supervised visits between 12 August and 23 August 2019. The trial court also ordered both parties to complete any onboarding requirements for visitation at the organization supervising visitation. Additionally, Mother was ordered not to allow George to be in Parente's presence. Furthermore, the 12 August 2019 order decreed:

4. That pending further orders, [Mother] and all other persons acting on behalf of [Mother] herein be, and they hereby are, restrained from removing said minor child from the custody of [Father] herein; and further, [Mother] is hereby restrained from coming about [Father's] residence, [his] place of employment, the child's school/childcare locations, and the residence of any individual providing care for the minor child on behalf of [Father].

5. That pending further orders[,] [Mother], and any other person acting on behalf of [Mother] herein, is specifically enjoined and restrained from assaulting, threatening, molesting, harassing, or interfering with [Father] and the minor child.

On 23 August 2019, the trial court entered another "Order for Temporary Child Custody" ("Temporary Custody Order") with the parties' consent. The Temporary Custody Order awarded Father sole legal and physical custody of George, and Mother was permitted supervised visitation with George at the organization supervising visitation. Both parties were ordered to complete the onboarding requirements for the supervising organization by 27 August 2019. The Temporary Custody Order also

maintained the above-quoted restrictions from the 12 August 2019 order and required Mother to keep George away from Parente.

At some point, the parties completed the intake requirements for the supervising organization, and Mother began visiting with George. Between November 2019 and January 2020, Mother visited with George three times. However, Mother had no other visits with George after January 2020.

Three years later, on 10 February 2023, Mother filed a motion to modify the Temporary Custody Order. The entirety of the allegations in Mother's motion stated:

[Father] has changed residence several times without notifying [Mother] and refusal to let [Mother] know as well as changing phone numbers. Has not complied with temp[orary] order[.]

Orientation for a child custody mediation program was scheduled, but Mother did not complete the child custody mediation orientation. Nor did Mother try to reach out to Father at any point about scheduling a visit with George.

On 24 April 2023, Father petitioned to terminate Mother's parental rights for willfully abandoning George. The petition alleged Mother had willfully abandoned George for at least six months preceding the filing of the petition. Furthermore, the petition alleged that Mother had not exercised overnight visitation with George since December 2018 nor provided financial support for George since 2019. It also claimed that Mother had not contacted George or Father, about George, between August 2019 and February 2023. Additionally, it alleged that Mother had not been involved in

George's life since the Temporary Custody Order was entered. The petition further alleged that Father had owned the same property since 2019, had the same phone number through the summer of 2022, and that George had been enrolled in the same elementary school since 2019. Moreover, it stated that Mother had court-ordered supervised visitation, yet she had not attempted to contact Father through any avenue since 2019. On 11 July 2023, the trial court appointed a guardian *ad litem* ("GAL") for George. As part of their duties, the GAL filed a report on the history of this case and the possible termination of Mother's parental rights.

The trial court held a hearing on Father's petition to terminate Mother's parental rights on 5 October 2023. On 27 November 2023, the trial court entered an order terminating Mother's parental rights. The trial court found Parente had died on 23 February 2022, and even after the death of her abuser, Mother did not attempt to reconnect with George. Based on these evidentiary findings, the trial court ultimately found Mother had willfully abandoned George between January 2020 through the filing of the petition in April 2023, concluded such grounds existed to terminate her parental rights and termination was in George's best interests, and ordered that Mother's parental rights be terminated.

## **II. Jurisdiction**

This Court has jurisdiction to review the termination of Mother's parental rights under N.C. Gen. Stat. §§ 7B-27(b) and 7B-1001(a)(7) (2023).

### **III. Analysis**

Mother only challenges the adjudicatory stage of the termination proceeding. Her arguments overlap somewhat in making specific challenges to findings of fact, disputing that the trial court's findings do not resolve multiple material conflicts in the evidence, and asserting the trial court's deficient findings do not support the trial court's ultimate finding that Mother had the requisite intent to "forego all parental duties and relinquish all parental claims to" George. *In re E.H.P.*, 372 N.C. 388, 393, 831 S.E.2d 49, 52 (2019).<sup>2</sup>

#### **A. Standard of Review**

At the adjudicatory stage, the trial court's findings must be supported by clear, cogent, and convincing evidence, and "if a trial court's finding of fact is supported by clear, cogent, and convincing evidence, it will be deemed conclusive even if the record contains evidence that would support a contrary finding." *In re S.R.*, 384 N.C. 516, 520, 886 S.E.2d 166, 171 (2023) (cleaned up). "Unchallenged findings of fact are deemed supported by competent evidence and are binding on appeal." *In re J.S.*, 374 N.C. 811, 814, 845 S.E.2d 66, 71 (2020) (citation and quotation marks omitted). The trial court's conclusions of law are reviewed *de novo* to determine whether the findings of fact support them. *In re S.R.*, 384 N.C. at 520, 886 S.E.2d at 171.

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<sup>2</sup> Mother initially raised a fourth argument in her primary brief, namely that the GAL breached a statutory mandate and unlawfully disclosed confidential material in its report, but she withdrew this argument in her reply brief.

**B. Abandonment of a Juvenile**

The trial court terminated Mother’s parental rights for willfully abandoning George pursuant to N.C. Gen. Stat. § 7B-1111(a)(7) (2023). Section 7B-1111(a)(7) provides that “[t]he court may terminate . . . parental rights upon a finding . . . [t]he parent has *willfully abandoned* the juvenile for at least six consecutive months immediately preceding the filing of the petition. . . .” N.C. Gen. Stat. § 7B-1111(a)(7) (emphasis added). Our Supreme Court has further defined willful abandonment:

We have held that 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. It has been held that if a parent withholds his presence, his love, his care, the opportunity to display filial affection, and willfully neglects to lend support and maintenance, such parent relinquishes all parental claims and abandons the child.

*In re E.H.P.*, 372 N.C. at 393, 831 S.E.2d at 52 (cleaned up). “In this context, the word willful encompasses more than an intention to do a thing; there must also be purpose and deliberation. *Whether a biological parent has a willful intent to abandon his child is a question of fact to be determined from the evidence.*” *In re A.K.D.*, 227 N.C. App. 58, 61, 745 S.E.2d 7, 9 (2013) (cleaned up).

“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 D.E.M.*, 257 N.C. App. 618, 619, 810 S.E.2d 375, 378

(2018) (cleaned up). Furthermore, “[a] delinquent parent may not dissipate at will the legal effects of his abandonment by merely expressing a desire for the return of the abandoned juvenile” within this window. *In re C.J.H.*, 240 N.C. App. 489, 504, 772 S.E.2d 82, 92 (2015) (citation omitted). Here, because the petition was filed on 24 April 2023, the determinative period for purposes of N.C. Gen. Stat. § 7B-1111(a)(7) was from 24 October 2022 through 24 April 2023.

### ***1. Evidentiary Findings of Fact***

Mother challenges several adjudicatory findings as unsupported by clear, cogent, and convincing evidence. We preliminarily note several of Mother’s challenges are omitted because Father concedes the trial court improperly considered dispositional evidence—the GAL’s written report—when making its adjudicatory findings.<sup>3</sup> See *In re D.T.H.*, 378 N.C. 576, 582, 862 S.E.2d 651, 656 (2021) (quoting N.C. Gen. Stat. § 7B-1110(a) (2023)) (cleaned up) (stating that evidence from dispositional phase can’t evaluate adjudicatory decisions. Civil evidence rules apply in adjudication. Dispositional evidence is admissible “if relevant, reliable, and necessary” for juvenile’s best interests.: See *In re R.D.*, 376 N.C. 244, 250, 852 S.E.2d 117 (2020))

Among the several findings Mother contests, she challenges finding of fact 36, which states, “[Father] has maintained a Facebook account and while he blocked one

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<sup>3</sup> Father conceded findings 40–41 and 43–47 were “improperly numbered in that they are not based on evidence considered by the trial court during the adjudicatory phase[.]”



of [Mother's] accounts prior to 2019, he is aware that [Mother] has had numerous accounts which he did not block and which she could have contacted him from." Mother asserts this finding is unsupported by the evidence because Father testified he intentionally blocked Mother to not hear from her, and in light of the no harassment provisions in the Temporary Custody Order, expecting Mother to circumvent Father's block would run the risk of violating the Temporary Custody Order.

Contrary to Mother's argument, each portion of the finding is supported by Father's testimony at the termination hearing. Father testified he has maintained a Facebook account since January 2020, that he blocked one of Mother's accounts, that he had seen that she maintained other accounts, and that Mother had not contacted Father through any of her alternate accounts.

Mother also challenges finding 37, which states:

[Father] has been represented by counsel of record in the [custody] action and [Mother] has had the ability to contact counsel at all times since January 2020. [Mother] testified that she made limited attempts to call [Father's] counsel in 2020 but admitted that she has not made any further attempts since that time.

Mother asserts this finding is unsupported because (1) contacting Father through his counsel was "not a viable option for her" after Father's counsel had not returned her calls in 2020, and (2) this finding was a mere recitation of evidence and not a proper finding of fact.

While Mother is correct that mere recitations of evidence are not proper findings of fact and should be disregarded, a trial court makes a proper finding of fact where it simultaneously refers to a portion of a witness's testimony in conjunction with a "determination reached through logical reasoning from the evidentiary facts[.]" *See In re A.C.*, 378 N.C. 377, 384-85, 861 S.E.2d at 867-68 (2021) (citation omitted). In the matter of *A.C.*, "the trial court . . . point[ed] out that respondent-mother had state[d] that she was no longer in a relationship with the father." *Id.* at 384, 861 S.E.2d at 867. Notwithstanding this statement, "the trial court determined in Finding of Fact No. 54 (1) that respondent-mother continued to have contact with the father and allowed him to have visitation with her new baby and (2) that her conduct in this regard was extremely troubling to the trial court." *Id.* at 384-85, 861 S.E.2d at 867 (cleaned up). The trial court determined that "both of these statements constitute[d] actual findings of fact rather than simple recitations of witness testimony." *Id.* at 385, 861 S.E.2d at 867.

Here, like the findings addressed in *In re A.C.*, finding of fact 37 is a proper finding because it (1) determines, based on the evidence introduced at the termination hearing, that Father was represented by counsel in the custody action since 2020 and Mother could have contacted Father's counsel, and (2) supplements this factual determination with reference to Mother's testimony that she had not attempted to contact Father's counsel since 2020.

Finding of fact 37 is also supported by both Father's and Mother's testimony

at the termination hearing. Father testified that he was represented by counsel in the custody action since January 2020. Mother testified that she had tried to reach out through Father’s counsel three times in 2020, and had not tried to contact counsel after those three attempts. Mother’s argument about the “viab[ility]” of this method of contact is misplaced; again, the trial court found as fact that Mother could have contacted Father, yet did not do so. This finding is supported by both parties’ testimonies.

Mother challenges a portion of finding of fact 38, which states, in relevant part, Mother “has at all times been able to contact [Father] to inquire about the juvenile, to request her court-ordered visitation. . . .” Mother asserts this finding is not supported by clear, cogent, and convincing evidence because Father moved in spring 2022, changed his phone number in summer 2022, and never made any attempt to provide Mother with his new contact information. But Mother again challenges a finding the trial court did not make; the trial court did not find that Mother specifically could have contacted Father by phone or by going to his residence. The finding that the trial court did make—that Mother could have contacted Father about visitation—is supported both by the evidence at the termination hearing and the trial court’s unchallenged findings.

As addressed above, the trial court found that Mother could have contacted Father through his counsel. Finding of fact 38, couched in more general terms, is supported for the same reasons. Moreover, Mother failed to challenge finding of fact

28, which states Mother “has at all times known how to contact [Father] but has failed to do so from in or about January 2020 until February 2023, when [Mother] filed a motion in the underlying Chapter 50 action[,]” or finding of fact 32, which states, in relevant part, that “[Mother’s] last in[-]person contact with [George] was in January 2020 and that [Mother] had a legally enforceable right to exercise visitation according to the terms of the” Temporary Custody Order. These unchallenged findings are binding on appeal and establish that Mother could have contacted Father to exercise her visitation with George. *In re J.S.*, 374 N.C. at 814, 845 S.E.2d at 71.

The challenged portion of finding of fact 38 is supported because the evidence and the trial court’s unchallenged findings show that Mother could have contacted Father to enforce visitation at any point after January 2020.

Mother also challenges finding of fact 39, which states, in relevant part, that Mother “did not provide her residential address to [Father] after moving from the residence she resided at in 2019.” Mother asserts this finding is unsupported “because it appears that no evidence speaks to Respondent-Mother having moved out of her home in 2019.”

Mother’s argument is misplaced because finding of fact 39 is supported by her own testimony. Father testified that the parties lived approximately three houses apart on “Skylark Road.” Mother then testified that she left the Skylark property, moved several times, lived at her grandmother’s home for a time, and was “homeless a lot of the time[,]” and further acknowledged that she never provided Father with

any information about her frequent moves. Finding 39 is supported by clear, cogent, and convincing evidence.

Mother challenges finding of fact 47, which states that “[o]n January 27, 2023, [Mother] consented to submit to a 17-panel hair follicle drug test, the results of which showed a non-contact positive for marijuana, carboxy THC, and methamphetamine.” Mother asserts this finding was improperly based on the GAL’s report, which was not introduced until the dispositional phase of the termination proceeding. However, Mother simultaneously acknowledges that Finding 47 “relate[s] to answers that [ ] Mother provided on cross-examination during her adjudication stage testimony[.]” (Emphasis added.) A review of the transcript shows that finding 47 is partially supported by Mother’s testimony. On cross-examination during the adjudicatory stage of the termination proceeding, Mother was asked “[i]n January of 2023, you again submitted to a hair follicle drug test which again tested positive for marijuana and methamphetamine, correct?” to which she responded, “[c]orrect.” This testimony supports finding 47 to the extent the trial court found Mother had tested positive for marijuana and methamphetamine in January 2023. Even so, Mother is correct that the remaining details in finding 47 were only addressed in dispositional evidence, and the remaining portion of finding 47 is disregarded. *See In re D.T.H.*, 378 N.C. at 582, 862 S.E.2d at 656.

Further, Mother challenges finding of fact 48, which states:

While [Mother] testified that her relationship

with . . . Parente and the domestic violence and control associated with the same was the impediment to her pursuing or maintaining a relationship with [George], the Court finds that . . . Parente committed suicide in February 2022 and [Mother] made no effort to resume her relationship with [George] for approximately one (1) year, until filing a motion in the Chapter 50 action on or about February 10, 2023.

Mother asserts that this finding is inadequate for two reasons. First, this finding, along with several others, does not resolve the underlying material issues “of whether [ ] Mother had been the victim of a years-long pattern of daily domestic violence and manipulation[,]” whether Parente’s domestic abuse of Mother impeded her reaching out to see George, and whether Mother’s abuse precluded an ultimate finding that Mother had formed the requisite intent to willfully abandon George. *See In re E.H.P.*, 372 N.C. at 393, 831 S.E.2d at 52. We address this argument below alongside Mother’s other arguments that the trial court failed to resolve material conflicts in the evidence. Second, Mother asserts finding 48 is unsupported to the extent it is a mere recitation of her testimony and “accomplishes nothing because it fails to indicate, from the factfinder’s view, what actually took place or whether this testimony was accepted as true.”

As addressed above in Mother’s challenge to finding of fact 37, finding of fact 48 is a properly made finding because, while it does acknowledge Mother’s testimony, the trial court also made a “determination reached through logical reasoning from the evidentiary facts[.]” *In re A.C.*, 378 N.C. at 385, 861 S.E.2d at 868. The trial court

did not merely recite Mother's testimony; the trial court found that, notwithstanding Mother's testimony that she was impeded from maintaining a relationship with George due to Parente's abuse, Mother had still not tried to reach out to George after Parente died. Furthermore, Mother's argument that this finding "accomplishes nothing" because it fails to show whether the trial court found her testimony credible is not persuasive. While Mother is correct that Parente's death did not flip "a miraculous switch" that cured Mother of years of domestic violence, the trial court expressly found that, even in light of Mother's testimony, Mother waited a year after the alleged impediment to her seeking a relationship with her son was gone before she took any action in the custody matter. Contrary to Mother's argument, finding 48 indicates the trial court, as factfinder, determined that regardless of the veracity of Mother's testimony, she still did not reach out to George after Parente died. The trial court did not err in making finding 48.

Mother next challenges finding of fact 49, which states Mother "testified that she worked at Dollar General and used the money she earned to pay for drugs[.]" as a mere recitation of testimony. In contrast to findings of fact 37 and 48, this finding is not a determination based on evidentiary facts and is, as Mother asserts, a mere recitation of testimony. *See Id.* We disregard this finding of fact. *See In re Z.J.W.*, 376 N.C. 760, 772, 855 S.E.2d 142, 151–52 (2021).

## ***2. Ultimate Findings of Fact and Willful Intent***

We next address Mother's challenges to findings 50 through 55 and her

argument that the trial court failed to resolve certain material conflicts in the evidence. Mother challenges findings 50 through 55 to the extent these findings make the ultimate determination that she “possessed the requisite ‘willful intent’ for termination under N.C. Gen. Stat. § 7B-1111(a)(7).” Mother asserts the findings were unsupported by the evidentiary findings of fact once the challenged findings above are discarded, and that a “clear pattern emerges” indicating that Mother did not abandon George, but that Father instead hid himself and George from Mother and prevented her from reaching out to maintain her relationship with George. Similarly, Mother asserts the trial court failed to resolve two material conflicts in the evidence: (1) whether Parente’s abuse was an impediment to her maintaining a relationship with George and (2) to what extent Mother believed she was limited in her lawful ability to contact Father in light of the restraining provisions of the Temporary Custody Order. Without a resolution of these two conflicts, Mother contends it was impossible for the trial court to determine whether she had the requisite intent to abandon George. *See In re E.H.P.*, 372 N.C. at 393, 831 S.E.2d at 52.

Whether a parent had the willful intent to abandon their child is an ultimate finding of fact. *See In re D.M.O.*, 250 N.C. App. 570, 573, 794 S.E.2d 858, 861 (2016). “A trial court’s finding of an ultimate fact is conclusive on appeal if the evidentiary facts reasonably support the trial court’s ultimate finding [of fact].” *See In re G.C.*, 384 N.C. 62, 65, 884 S.E.2d 658, 661 (2023) (citation and quotation marks omitted); *see also id.* at 65 n.3, 884 S.E.2d at 661 n.3 (quoting *Woodard v. Mordecai*, 234 N.C.



463, 470, 472, 67 S.E.2d 639, 644, 645 (1951) (clarifying the difference between evidentiary findings of fact and ultimate findings of fact and applicable standards of review)). We therefore review findings 50 through 55 to determine whether they are supported by the evidentiary findings.

Here, the trial court made clear, ultimate findings that Mother possessed the willful intent to abandon George:

50. [Mother's] actions and/or omissions and failures to act for the 37 months preceding the filing of the [p]etition, are wholly inconsistent with any assertion by [Mother] that she desired to maintain custody of or a relationship with the juvenile.
51. For the 37 months prior to the filing of the [p]etition, [Mother] withheld her presence, her love, and her care, and further, willfully neglected to provide support and maintenance to [Father] for the use and benefit of [George].
52. From January 2020 until the filing of the [p]etition, [Mother] willfully abandoned [George] and withdrew and withheld her support and love[,] and failed to take reasonable efforts to maintain contact with [George].
53. Even after she was served with the [p]etition in this case, [Mother] failed to demonstrate through her actions, other than filing an Answer through counsel [three] days before the hearing in this matter, a desire to support [George] financially and emotionally and failed to take any action to request visitation with [George]. [Mother] has not requested any visitation with [George] since the filing of the [p]etition to Terminate Parental Rights.
54. [Mother] has willfully abandoned [George] for at least six (6) months immediately preceding the filing of the

[p]etition in this action.

55. [Father] has presented clear, cogent, and convincing evidence that supports Findings of Fact and Conclusions of Law that grounds exist for termination of the [Mother's] parental rights. [Father] has established pursuant to North Carolina General Statutes § 7B-1111(7) that [Mother] has willfully abandoned the juvenile for at least six consecutive months immediately preceding the filing of the [p]etition, the period of time from October 24, 2022, to April 24, 2023. Specifically, the Court finds that the Respondent-Mother did not see nor have any contact with [George] from January 5, 2020 to April 24, 2023[,] and furthermore, the Court finds that the Respondent-Mother has not seen nor had any contact with [George] since January 5, 2020.

We are satisfied these findings are supported by both the trial court's findings discussed above and the unchallenged findings in the trial court's order. The trial court's findings reflect: (1) Mother was granted visitation in the Temporary Custody Order; (2) Mother did not visit with George after January 2020; (3) Mother was never prohibited about contacting George or Father about visitation; (4) Father resided at the same address through "[s]pring of 2022[.]" where Mother never attempted to contact him; (5) Father had the same phone number until "summer of 2022[.]" through which Mother never attempted to contact him; (6) Mother had multiple Facebook accounts, knew Father's Facebook account, and did not contact him through Facebook; (7) Father has at all times been represented by counsel, whom Mother was aware of, and Mother did not attempt to contact Father through counsel since January 2020; (8) Mother left her residence in 2019, moved repeatedly, and never

provided Father with contact information; (9) Mother struggled with domestic violence through at least February 2022, and with substance abuse through at least January 2023; and (10) Mother’s only attempted contact with George, or Father about George, was the motion to modify the Temporary Custody Order. As found by the trial court, Mother’s “actions and/or omissions and failures to act for the 37 months preceding the filing of the [p]etition, are wholly inconsistent with any assertion by [Mother] that she desired to maintain custody of or a relationship with” George. While Mother’s behavior over a nearly four-year period is relevant for the trial court to consider her credibility and intentions, the determinative period for adjudicating this ground consists of the six months preceding the filing of the petition. *In re D.E.M.*, 257 N.C. App. at 619, 810 S.E.2d at 378 (cleaned up) (“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.”).

Furthermore, the trial court’s findings do not leave any material conflicts in the evidence unresolved. As to domestic abuse, Mother frames the unresolved conflict as:

Given the years-long pattern of daily domestic violence and manipulation from which she suffered, was Respondent-Mother’s lack of contact with her son nonetheless indicative of a “purposeful, deliberative and manifest willful determination to forego all parental duties and relinquish all parental claims to the child”—or was it instead an unfortunate consequence of that years-long

pattern of domestic violence and manipulation?

Yet the trial court resolved this matter in finding of fact 48:

While [Mother] testified that her relationship with . . . Parente and the domestic violence and control associated with the same was the impediment to her pursuing or maintaining a relationship with [George], the Court finds that . . . Parente committed suicide in February 2022 and [Mother] made no effort to resume her relationship with [George] for approximately one (1) year, until filing a motion in the Chapter 50 action on or about February 10, 2023.

Finding 48 displays that even though Mother suffered abuse by Parente, she still did not reach out to George after Parente passed away in February 2022. Findings 48 and 50 through 55, together, show the trial court believed Mother's failure to maintain contact with George was the product of her abandonment of George, not due to the domestic abuse she suffered. Moreover, the six-month period preceding the filing of the petition was dispositive, *see In re D.E.M.*, 257 N.C. App. at 619, 810 S.E.2d at 378, and the trial court found that Parente died fourteen months before the petition was filed. As such, the trial court resolved any purported conflict regarding domestic violence, and there was no remaining conflict to resolve.

As to Mother's assertion that she believed she was "extremely limited" in her ability to contact Father, Mother's belief was not entirely misplaced. The Temporary Custody Order restrained Mother from coming to Father's residence and place of employment, as well as George's school. But the limitations on Mother did not create a conflict in the evidence necessitating resolution here because this Court has

affirmed a termination order for willful abandonment where a parent believed they were subject to a no-contact order, and, more importantly, our Supreme Court has expressly held that a parent subject to such provisions in a temporary custody order is not absolved from attempting to stay in their child's life. *See In re E.H.P.*, 372 N.C. 388, 393–94, 831 S.E.2d 49, 52–53 (2019) (affirming termination of parental rights even though the father was subject to the no-contact provision of a temporary custody order because “by definition [the order was] provisional,” and the father admitted “he made no effort to have any form of involvement with the children for several consecutive years following the entry of the Temporary Custody Judgment”); *In re S.I.D.-M.*, 288 N.C. App. 154, 168, 885 S.E.2d 344, 353 (2023) (“It is unfortunate [the father] did not read the Order Suspending Visitation well enough to realize it was not a ‘no[-]contact’ order particularly because the order set forth what he needed to do to resume visitation.”). Here, Mother was limited in the ways she could contact Father about George but still had an enforceable right to visit with George that she did not take advantage of for over four years. Whether Mother was subject to a no-contact provision was immaterial in the context of abandonment under N.C. Gen. Stat. § 7B-1111(a)(7). Neither of Mother's asserted material conflicts undermines the trial court's ultimate findings that Mother abandoned George with purpose and deliberation.

The trial court's findings clearly establish that Mother left George's life in January 2020 and at no point before the petition was filed expressed an interest in

maintaining a relationship with her son. Even after the petition was filed, Mother failed to reignite any connection with her son. We hold the evidentiary findings are supported by clear, cogent, and convincing evidence; the ultimate findings are supported by the evidentiary findings; and finally, the trial court's conclusion of law that grounds existed to terminate Mother's parental rights to George based on her willful abandonment of George for the six months preceding the petition, as set out in N.C. Gen. Stat. § 7B-1111(a)(7), is supported by the trial court's findings of fact. Accordingly, the trial court did not err in adjudicating grounds to terminate Mother's parental rights for willful abandonment.

#### **IV. Conclusion**

The trial court's evidentiary findings are supported by clear, cogent, and convincing evidence; the trial court's ultimate findings are supported by its evidentiary findings; and the trial court's conclusions of law are supported by its findings of fact. The trial court did not err in adjudicating grounds under N.C. Gen. Stat. § 7B-1111(a)(7) to terminate Mother's parental rights, and the order is affirmed.

**AFFIRMED.**

Judges STROUD and FLOOD concur.

Report per Rule 30(e).