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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA24-526

Filed 7 May 2025

Stanly County, No. 23JT000013-830

IN THE MATTER OF: R.S.T.

Appeal by Respondent-Mother and Father from Order entered 29 February 2024 by Judge T. Thai Vang in Stanly County District Court. Heard in the Court of Appeals 16 January 2025.

Mercedes O. Chut for Respondent-Appellant Mother.

Rebekah W. Davis for Respondent-Appellant Father.

Jeannie Blake for Petitioners-Appellee.

HAMPSON, Judge.

Factual and Procedural Background

Respondent-Appellants Mother and Father appeal from an Order terminating their parental rights to Rick.¹ The Record before us tends to reflect the following:

¹ A pseudonym agreed upon by the parties.

Rick, the minor child, was born to Respondent Parents on 9 June 2021. Rick has three older siblings: Kate, Gwen, and Greg.² At the time of Rick's birth, Respondent Parents lived with the children³ and Respondent-Mother's grandmother, Kimberly Mullis, in Rockwell, North Carolina.

On or about 9 July 2021, Gwen, who was five years old at the time, took three pills prescribed to Respondent-Mother. Gwen was hospitalized for two days as a result. While Gwen was in the hospital, Kate was placed in the care of a family friend, while Greg and Rick were placed in the care of Respondent-Mother's maternal aunt, Brandy Smith. After being discharged from the hospital, Gwen was also placed in Smith's care.

Rick was briefly returned to Respondent Parents' care, but Respondent Parents were informed they could not care for Rick while living with Mullis because Mullis had a history of substance abuse issues and there had been multiple incidents of domestic violence between herself and Respondent Parents. Smith told Respondent-Father her coworker Hannah Lunsford and her husband, Hunter Lunsford, were willing to care for Rick. Respondent-Father contacted Rowan County Department of Social Services (DSS) and recommended Rick be placed with the Lunsfords. On 27 July 2021, Rick entered the Lunsfords' care.

² Pseudonyms agreed upon by the parties.

³ Rick also has two younger siblings born 1 September 2022 and 19 August 2023, after the events at issue.

On 5 August 2021, DSS filed a Petition alleging Rick and his siblings were neglected. In the Petition, DSS alleged Respondent Parents had ongoing issues with their mental health, substance abuse, developmental delays, intellectual deficiencies, and domestic violence. On 10 February 2022, the children were adjudicated neglected and placed in DSS custody; Rick remained in the Lunsfords' care. Following the dispositional hearing on 10 February 2022, the trial court ordered custody of the children remain with DSS. Respondent Parents were granted supervised visitation with the children for a minimum of one hour once per week, and Respondent-Mother was granted an additional two hour visit with Rick once per week.

In its order entered after the 4 August 2022 permanency planning review hearing, the trial court made preliminary findings of fact noting neither Respondent-Mother nor Respondent-Father was present for the hearing because they "did not want to attend court." The trial court further found Respondent-Mother had not visited the children at all between December 2021 and March 2022, and missed four visits in a row "due to wanting to attend a doctor's appointment with [Respondent-Father], having a job interview, and not confirming her visit." The trial court found Respondent-Father had attended only half of his scheduled visits, noting he "was incarcerated during some visit dates" and "fails to confirm the day before the visit or has canceled the day of." The resulting order was entered 4 November 2022 and granted guardianship of Rick to the Lunsfords. The trial court ordered Respondent-Mother and Respondent-Father could each have "supervised visitation for a

minimum of two hours once per month with all the children.” The trial court further ordered Respondent-Mother’s and Respondent-Father’s visits would be separate.

Respondent Parents visited Rick only once after the 4 August 2022 permanency planning review hearing. Smith organized a visit, held on 7 September 2022, with Respondent Parents, Rick, and Rick’s siblings at the home of Respondent-Mother’s grandmother, Kathy Vanhoy. Respondent-Mother and Respondent-Father attended together, despite the trial court’s order that they should have separate visitations.

On 16 December 2022, Respondent-Mother sent Hunter Lunsford a text message asking whether the Lunsfords would be at Vanhoy’s home for Christmas and what size clothing Rick wore so she could buy him some clothes as a Christmas gift. Hunter Lunsford confirmed they would be at Vanhoy’s home on Christmas and provided Rick’s clothing size. Respondent-Mother then stated “Whatever I don’t care [to] see [Rick] [because] [you all] have done nothing [but] keep him away from his family[.]” On 19 December 2022, Respondent-Mother contacted Hunter Lunsford again and asked if he thought Rick would like a “tablet” for Christmas and indicated she had already bought him one the night before. Hunter Lunsford told Respondent-Mother Rick already had a tablet and to “take it back and get him something else[.]” Respondent-Mother said, “You don’t care if he see[s] us or not” and “I don’t care to see him [if] you want to be like that[.]” Hunter Lunsford answered, “You get visitation the first Saturday of every month for [two] hours. You haven’t confirmed to say you

were coming yet and haven't reached out . . . that's on you." On 22 December 2022, Respondent-Father sent text messages from Respondent-Mother's phone asking for pictures of Rick and if he could see Rick on Christmas. Hunter Lunsford answered, "We will be at [Vanhoy's] Sunday if you are there" and sent pictures of Rick. The Lunsfords brought Rick to Vanhoy's home on Christmas, but neither Respondent-Mother nor Respondent-Father attended.

Respondent-Mother also sent text messages to Hunter Lunsford accusing him of keeping Rick away from Respondent Parents and stating "y'all will get what's coming to y'all[.]" On 31 August 2022, Respondent-Mother threatened to take the Lunsfords to court and accused Hunter Lunsford of not "offer[ing] to let [Respondent Parents] see" Rick. Respondent-Mother sent similar profanity-laced messages on or about 4 August 2022, 1 September 2022, 20 October 2022, 21 October 2022, and 26 November 2023, accusing Hunter Lunsford of not letting her see Rick.

On 16 February 2023, the Lunsfords filed a Petition to terminate Respondent-Mother's and Respondent-Father's parental rights to Rick. The hearings on the Petition occurred on 7 December 2023 and 18 December 2023. The evidence presented at trial included testimony from Smith, Vanhoy, Becky Goforth—one of Respondent-Mother's aunts—and the Lunsfords. Respondent Parents also testified.

Based on the evidence presented, the trial court found grounds existed to terminate both Respondent-Mother's and Respondent-Father's parental rights in Rick under N.C. Gen. Stat. § 7B-1111(a)(2), (6), and (7). On 29 February 2024, the

trial court entered a Termination of Parental Rights Order, which terminated both Respondent-Mother's and Respondent-Father's parental rights in Rick. Respondent-Mother and Father timely filed separate Notices of Appeal on 27 March 2024.

Issues

The issues on appeal are whether the trial court properly determined grounds existed to terminate: (I) Respondent-Mother's parental rights in the minor child pursuant to N.C. Gen. Stat. § 7B-1111(a); and (II) Respondent-Father's parental rights in the minor child pursuant to N.C. Gen. Stat. § 7B-1111(a).

Analysis

Respondent-Mother and Father both contend the trial court erred in determining grounds existed for termination of their parental rights under N.C. Gen. Stat. § 7B-1111(a). "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) (2023). "If the trial court's findings of fact are supported by ample, competent evidence, they are binding on appeal, even though there may be evidence to the contrary." *In re S.C.R.*, 198 N.C. App. 525, 531, 679 S.E.2d 905, 909 (2009) (citation and quotation marks omitted). Likewise, "[u]nchallenged findings are deemed to be supported by the evidence and are binding on appeal." *In re K.N.K.*, 374 N.C. 50, 53, 839 S.E.2d 735, 738 (2020) (citation and quotation marks omitted). "Moreover, we

review only those findings necessary to support the trial court's determination that grounds existed to terminate respondent's parental rights." *In re T.N.H.*, 372 N.C. 403, 407, 831 S.E.2d 54, 58-59 (2019) (citation omitted). We review the trial court's conclusions of law de novo. *In re B.S.O.*, 234 N.C. App. 706, 708, 760 S.E.2d 59, 62 (2014).

I. Termination of Respondent-Mother's Parental Rights

Respondent-Mother contends the trial court erred in determining grounds existed for termination of her parental rights under N.C. Gen. Stat. § 7B-1111(a)(7) (2023). In so arguing, Respondent-Mother challenges Findings of Fact 27, 28, 29, 30, 31, and 35 as unsupported by the evidence. Those Findings provide:

27. Respondent parents have the means and ability to visit and see RST. Respondent Father drove to court during the hearing but denied having driven. [The] Court finds his testimony to not be credible. Petitioners saw Respondent Father driving and parking his car the morning of the hearing before the Court.

28. Since the appointment of the Petitioners as the guardians of RST, the Mother and Father have been in the home of Kathy Vanhoy for a visit on one occasion. The date was Wednesday, September 7, 2022. Brandy Smith and Kathy Vanhoy had arranged a visit with the Mother and Father at the Vanhoy home to see the new child . . . born on September 1, 2022. Brandy Smith contacted the Petitioners and asked if RST could also come. The Petitioners were having a revival at their church and agreed to drop RST off on the way to the revival. The visit lasted several hours, and the child was picked up by the Petitioners after the revival service. There have been no other visits by the Mother and Father with RST after August 4, 2022.

29. The Mother texted Hunter Lunsford on or about December 13, 2022, inquiring if they were going to the Vanhoy home for

Christmas, and what size clothing RST wore. Hunter Lunsford responded they would be there and gave the sizes. On December 19, 2022, the Mother again texted Hunter Lunsford that she had a tablet for RST. When Hunter told her he already had a tablet, the Mother became angry and told him to show her where he got one. When Hunter Lunsford refused to show her when he had gotten the tablet for RST, the Mother called him an “ass hole” and said, “I don’t care to see him you want to be like that.” The Mother and the Father did not attend the Christmas celebration at the home of Kathy Vanhoy, and they did not provide any gifts for RST. The Petitioners and RST did [not] attend the Christmas, 2022 celebration at the Vanhoy home. The Mother and Father failed to participate in visitation with RST when it was made available to them by the Petitioners and Ms. Smith.

30. On May 23, 2023, the Mother and Father attended the wedding of Brandy Smith’s daughter. The Mother and Father were not invited and arrived unexpectedly. The Petitioners were invited and present with RST The Mother and Father sat at the same table as Kathy Vanhoy, Brandy Smith and RST’s three siblings. The Petitioners and RST sat at an adjacent table, a matter of a few feet apart. RST interacted with his siblings, Smith and Vanhoy. The Mother and Father made no contact or communication with RST during the one to two hours they were in close proximity to him and the Petitioners. The Father made one casual greeting to Hunter Lunsford as they passed near each other in the parking lot. The Father testified he made no contact or inquiry with or about RST because he didn’t want to see a “fight” between the Mother and the Petitioners. The Mother justified their failure to speak or have contact with RST because the Petitioners did not “offer” for her to speak to RST. Respondent Mother also admitted she did not think anything “bad” would happen if she went to the Petitioners.

31. Since August 4, [2022], the Mother and Father have visited with RST only one time. They have not contacted Brandy Smith concerning the visitation with RST. The only time they have had contact with RST, it was arranged and requested by Brandy Smith for the visit on September [7], 2022. The Mother and Father have not sent any gifts, cards or letters to RST since August 4, 2022. The Mother and Father did not celebrate

Christmas or the birthday of RST in 2022 and 2023. They have not provided any support, either monetary or in kind, despite receiving SSI, and money “under the table” for the Father’s work.

....

35. The Mother and Father have willfully abandoned RST for at least six (6) consecutive months immediately preceding the filing of the petition in this matter.

As to Finding 27, Respondent-Mother contends the trial court’s Finding that Respondent Parents had the *means* to visit Rick is not supported by competent evidence because Hunter Lunsford only testified to seeing Respondent-Father driving a car—not parking it, testimony that Respondent-Father was seen driving on one occasion “does not establish the parents had the ‘means and ability’ to visit”, and “[n]either parent had a driver’s license or vehicle.” We disagree.

The evidence presented at trial tended to show Respondent-Father had been seen driving despite testifying he did not have a driver’s license. Hunter Lunsford testified he saw Respondent-Father driving “at the entrance to the parking lot behind the courthouse” on the day of the hearing, and Smith testified Respondent-Mother had told her Respondent-Father drove them to court. Not only was there evidence Respondent-Father drove even though he did not have a license, but Respondent-Father also testified Goforth and Mullis could provide Respondent Parents with transportation. Goforth testified she takes Respondent Parents “where they need to go”, including to doctor appointments, court, and the store, and would bring Respondent Parents to a visit with Rick if they asked her to—but they never had.

Respondent-Mother testified she relied on family for transportation, and they were “available all the time.” That Respondent Parents had the means to visit Rick, therefore, is supported by the evidence as to both Respondent-Mother and Respondent-Father.

Respondent-Mother further argues there was no evidence she had the *ability* to visit Rick because Hunter Lunsford “placed requirements on visits that did not appear in the guardianship order, could not reasonably be inferred from the order, and even violated the order” and “he never communicated those requirements to the parents, leaving them no way to deduce what they were supposed to do to visit.”

Assuming Respondent-Mother’s assertions are true, there is nonetheless sufficient evidence to support the trial court’s Finding that Respondent Parents had the ability to visit Rick. At the hearing, Respondent-Mother acknowledged the 4 November 2022 Order provided for visits with Rick once a month but testified she had not visited Rick because the Lunsfords had not “offered” to let her see him. “[T]his court has held that ‘[a]lthough his options for showing affection [were] greatly limited, the respondent will not be excused from showing interest in the child’s welfare by whatever means available.’” *In re R.R.*, 180 N.C. App. 628, 634, 638 S.E.2d 502, 506 (2006) (citing *In re Hendren*, 156 N.C. App. 364, 368, 576 S.E.2d 502, 506 (2006)) (rejecting respondent father’s argument he did not willfully abandon the minor child because he “was not given the opportunity to participate in the child’s life”). Regardless of any requirements that may have been wrongfully imposed by the

Lunsfords on Respondent Parents' visits, the evidence tended to show Respondent-Mother never requested a visit with Rick.

Moreover, Hunter Lunsford testified he was prepared to bring Rick to every Sunday visitation "[i]f confirmed by [Respondent-Mother] or [Respondent-Father] that they would be present." He further testified he waited on Respondent Parents to reach out about confirming visits but they did not, and that after 19 December 2022, Respondent Parents never reached out to schedule a visit with Rick. Hannah Lunsford testified she had "in [no] way" limited Respondent Parents' access to Rick. Smith testified she "never refused" [Respondent-Mother] visitation. Vanhoy testified she never refused to allow Respondent Parents to come to her home to visit Rick and "[Respondent Parents] were always welcome at my house and whether they come or not." Indeed, a visit with Rick was available to Respondent Parents on Christmas in 2022, of which Hunter Lunsford informed Respondent-Mother on 19 December 2022 and Respondent-Father on 22 December 2022. Yet, neither Respondent-Mother nor Respondent-Father attended. As to Respondent-Father, he acknowledged that visits were supposed to be scheduled on Sundays and Respondent Parents were to "call and confirm" before a visit. Thus, the trial court's Finding that Respondent Parents had the ability to visit Rick is supported by the evidence as to both Respondent-Mother and Respondent-Father.

Respondent-Mother contends Findings 28, 29, and 31 are not supported by the evidence because they suggest Respondent Parents voluntarily chose not to visit Rick

or be involved in his life in other capacities. Respondent-Mother argues these Findings disregard Respondent Parents’ testimony they were never “invited . . . to any events involving Rick”, nor did the Lunsfords offer them any visits with Rick. Therefore, according to Respondent-Mother, Respondent Parents did not “fail to participate in any offered or scheduled visits.”

Contrary to Respondent-Mother’s assertion, the trial court did not find Respondent Parents failed to participate in any offered or scheduled visits. Rather, the trial court found Respondent Parents “failed to participate in visitation with [Rick] *when it was made available to them* by the [Lunsfords] and Ms. Smith.” As explained, there is competent evidence Respondent Parents could have visited Rick if they requested and confirmed a visit with Smith or the Lunsfords. Indeed, the evidence tends to show a visit was available on Christmas in 2022, yet Respondent Parents did not attend. Finding 29, therefore, is supported by the evidence.

As to Finding 28, Respondent-Mother’s argument misses the crux of the Finding: that Respondent Parents have only visited Rick one time since 4 August 2022. Smith, Hannah Lunsford, and Hunter Lunsford each testified the only visit Respondent Parents had with Rick after the 4 August 2022 permanency planning hearing—where the Lunsfords were granted guardianship of Rick—was on 7 September 2022. Thus, Finding 28 is supported by the evidence.

As to Finding 31, Respondent-Mother correctly contends it is not supported by competent evidence because “the evidence is undisputed that both parents attended

a celebration for Rick’s first birthday in June of 2022.” Hannah and Hunter Lunsford both testified Respondent Parents attended a celebration for Rick’s first birthday in June 2022 at Vanhoy’s home. Thus, to the extent Finding of Fact 31 states Respondent Parents did not celebrate Rick’s birthday in 2022, we agree with Respondent-Mother that this portion of the Finding is not supported by the evidence. “‘However, to obtain relief on appeal, an appellant must not only show error, but that . . . the error was material and prejudicial, amounting to denial of a substantial right that will likely affect the outcome of an action.’” *In re B.S.O.*, 234 N.C. App. at 713, 760 S.E.2d at 65 (alteration in original) (quoting *Starco, Inc. v. AMG Bonding and Ins. Servs.*, 124 N.C. App. 332, 335, 477 S.E.2d 211, 214 (1996)). “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.M.O.*, 250 N.C. App. 570, 573, 794 S.E.2d 858, 861 (2016) (alterations, citations, and quotations marks omitted); see also *In re B.S.O.*, 234 N.C. App. at 713 n.4, 760 S.E.2d at 65 n.4 (disregarding respondent father’s argument he had “close contact” with his children in deciding whether the children were willfully abandoned because the contact occurred outside the relevant six-month period). Here, the Petition was filed on 16 February 2023; thus, the six-month determinative period for assessing whether Respondent-Mother willfully abandoned Rick is 16 August 2022 to 16 February 2023. Therefore, the June 2022 visit falls outside of the six-month

determinative period. Accordingly, the trial court's error is harmless. *See In re Estate of Mullins*, 182 N.C. App. 667, 670-71, 643 S.E.2d 599, 601 (2007) ("In a non-jury trial, where there are sufficient findings of fact based on competent evidence to support the trial court's conclusions of law, the judgment will not be disturbed because of other erroneous findings which do not affect the conclusions." (quotation marks and citation omitted)), *disc. rev. denied*, 361 N.C. 693, 652 S.E.2d 262 (2007).

Respondent-Mother further argues there is no evidence Respondent Parents were required to "pay child support, make in-kind contributions for Rick's care," or were asked for support by the Lunsfords, and no evidence she had the "means or opportunity" to give Rick presents or contribute financially to his care. Respondent-Mother contends the evidence is undisputed she attempted to gift Rick a tablet and clothes for Christmas 2022. In considering whether a minor child has been willfully abandoned, a trial court may consider "whatever means" by which the parent shows interest in the child's welfare. *See In re R.R.*, 180 N.C. App. at 634, 638 S.E.2d at 506 (citation omitted). Thus, the trial court did not err by considering whether and how Respondent Parents supported or contributed to Rick's care. Moreover, the trial court did not solely consider whether Respondent Parents made financial contributions to Rick's care, but also whether Respondent Parents visited Rick, wrote him letters, or provided in-kind support. Additionally, there was evidence Respondent Parents had the means to contribute to Rick's care: Respondent Parents testified they received social security income as well as additional money for Respondent-Father's work

“under the table[,]” and evidence Respondent-Mother had purchased a tablet for Rick for Christmas in 2022 and inquired about buying him clothes. And, although Respondent-Mother attempted to gift Rick a tablet as a Christmas gift in 2022, when she was asked to give him something else because he already had a tablet, the evidence tended to show Respondent-Mother chose not to buy a different gift or give Rick a gift at all. Thus, Finding 31 is supported by the evidence.

As to Finding 30, Respondent-Mother argues the Finding wrongfully “characterizes the parents['] lack of interaction with Rick as a ‘failure,’ and disregards their testimony about why they did not interact with Rick or the Lunsfords [at the wedding]” and no evidence “supports the inference in finding 30 that the parents’ actions at the wedding show they have no concern for Rick’s welfare and view him as a stranger.” Our review of the Record, however, shows Finding 30 accurately describes the testimony given at the hearing. Indeed, Respondent Parents both testified they did not acknowledge Rick at the wedding. This Finding, therefore, is supported by the evidence as to both parents.

As to Finding 35, Respondent-Mother contends the evidence does not support the necessary Finding she willfully abandoned Rick because the Findings do not consider whether Respondent-Mother “had the ability to visit and be involved in Rick’s life”. Thus, she argues, this Finding is not supported by the evidence and the Findings are insufficient to support a Conclusion Respondent-Mother willfully abandoned Rick. We disagree.

The trial court found Respondent Parents had the “means and ability to visit and see” Rick; Respondent Parents did not request to arrange visits with Rick; a visit was made available to Respondent Parents on Christmas, but they did not attend; and Respondent Parents did not send any gifts, cards, or letters to Rick during the determinative period, or provide any kind of support for Rick’s care, despite having the ability to do so. For the reasons explained above, these Findings are supported by competent evidence. Finding 35, therefore, is supported by the evidence.

Our Courts have consistently held “a finding by the trial court that any one of the grounds for termination enumerated in N.C.G.S. § 7B-1111(a) exists is sufficient to support a termination order.” *In re B.O.A.*, 372 N.C. 372, 380, 831 S.E.2d 305, 311 (2019) (citations omitted). Parental rights may be terminated pursuant to N.C. Gen. Stat. § 7B-1111(a)(7) if “[t]he parent has willfully abandoned the juvenile for at least six consecutive months immediately preceding the filing of the petition or motion[.]” “The word ‘willful’ encompasses more than an intention to do a thing; there must also be purpose and deliberation.” *In re Searle*, 82 N.C. App. 273, 275, 346 S.E.2d 511, 514 (1986) (citation omitted). The trial court may consider “a parent’s financial support for a child and ‘emotional contributions,’ such as a father’s ‘display of love, care and affection for his children.’” *In re D.E.M.*, 257 N.C. App. 618, 619, 810 S.E.2d 375, 377-78 (2018) (citing *In re McLemore*, 139 N.C. App. 426, 429, 533 S.E.2d 508, 510 (2000)). “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 Searle*, 82 N.C. App. at 275, 346 S.E.2d at 514.

In the case *sub judice*, the trial court’s Findings of Fact indicate the trial court considered that during the six-month period between 16 August 2022 and 16 February 2023, Respondent-Mother visited Rick only one time. “This Court has found willful abandonment ‘where a parent withholds his presence, his love, his care, the opportunity to display filial affection, and willfully neglects to lend support and maintenance.’” *In re B.S.O.*, 234 N.C. App. at 713, 760 S.E.2d at 65 (quoting *In re D.J.D.*, 171 N.C. App. 230, 241, 615 S.E.2d 26, 33 (2005)). Although communication difficulties and differing understandings of the visitation agreement may have created obstacles to arranging visits with Rick, it did not render it impossible. Moreover, other options for maintaining a relationship with Rick existed; indeed, the trial court considered not only whether Respondent Parents had visited Rick, but also whether Respondent Parents had requested visits with Rick; sent gifts, cards, or letters; or provided monetary or in-kind support. However, the Record before us indicates Respondent-Mother failed to utilize those options to have any contact with Rick during the determinative period, outside of one solitary visit. We have held such minimal contact will not preclude a finding of willful abandonment. *See id.* (trial court did not err in finding and concluding respondent father willfully abandoned children even though respondent father had been arrested, deported, and made one phone call to respondent mother and his children).

The trial court’s Findings of Fact demonstrate Respondent-Mother willfully

withheld her love, care, and affection from Rick and her conduct during the determinative six-month period constituted willful abandonment. Thus, the trial court's Findings of Fact support its Conclusion that Respondent-Mother willfully abandoned Rick for at least six consecutive months immediately preceding the filing of the Petition. Therefore, the trial court did not err in concluding Respondent-Mother's parental rights were subject to termination based on willful abandonment pursuant to N.C. Gen. Stat. § 7B-1111(a)(7).⁴ Respondent-Mother did not challenge the trial court's determination that termination was in Rick's best interests. Accordingly, we affirm the trial court's Termination of Parental Rights Order as to Respondent-Mother.

II. Termination of Respondent-Father's Parental Rights

Like Respondent-Mother, Respondent-Father contends the trial court erred in determining grounds existed for termination of his parental rights under N.C. Gen. Stat. § 7B-1111(a)(7) (2023). In addition to the Findings challenged by Respondent-Mother, Respondent-Father challenges Finding 21, which addresses his sources of income:

21. Currently, Respondents both receive SSI payments and Respondent Father also admitted that he "works under the table" and receives cash payments for his work.

⁴ Because we conclude this ground has ample support in the trial court's Findings, we need not address Respondent-Mother's arguments as to the remaining termination grounds found by the trial court under N.C. Gen. Stat. § 7B-1111(a)(2) and (a)(6).

At the hearing, Respondent-Father testified he and Respondent-Mother both receive social security income and he earns additional money “doing a little part-time tree work . . . under the table.” Thus, this Finding is supported by the evidence.

Next, Respondent-Father, citing *In re S.Z.H.*, 247 N.C. App. 254, 785 S.E.2d 341 (2016) and *In re D.M.O.*, 250 N.C. App. 570, 794 S.E.2d 858 (2016), argues the trial court’s Findings are insufficient to support a Conclusion he willfully abandoned Rick because “the findings did not legitimately explain whether Father had the capacity to” visit Rick, give him gifts, or provide other support. In *In re S.Z.H.*, this Court concluded findings that the respondent father had “not sought any overnight visitation with the minor child”, “had the ability and means to maintain communication and to arrange or schedule such visitation”, and “failed to maintain communications to show his love, care, or concern for the minor child” were unsupported by the evidence. 247 N.C. App. at 259-60, 785 S.E.2d at 345-46. Rather, the evidence showed the respondent father had called the minor child “roughly half” the months out of the six-month determinative period and “attempted to communicate” with the minor child but her mother had “stopped allowing him to contact her.” *Id.* at 261, 785 S.E.2d at 346-47. The only other findings relating to whether the minor child had been willfully abandoned stated the respondent father had not sent gifts or cards, pursued custody of the minor child, or provided financial support. *Id.* at 264, 785 S.E.2d at 348. These findings, the Court held, were insufficient to support a conclusion the respondent father had abandoned the minor

child.

Similarly, this Court in *In re D.M.O.* held there were insufficient findings to support an ultimate finding of willful abandonment. There, the respondent mother was incarcerated for approximately five months out of the six-month determinative period. *In re D.M.O.*, 250 N.C. App. at 573, 794 S.E.2d at 862. The trial court “never made findings addressing how respondent-mother’s periodic incarceration at multiple jails, addiction issues, or participation in a drug treatment program while in custody might have affected her opportunities to request and exercise visitation, to attend games, or to communicate with” the minor child. *Id.* at 578, 794 S.E.2d at 864. The Court also noted “[t]he trial court made no findings establishing whether respondent-mother had made any effort, had the capacity, or had the ability to acquire the capacity, to perform the conduct underlying its conclusion that respondent-mother abandoned” the minor child willfully. *Id.*

Here, by contrast, the trial court made Findings that Respondent-Mother and Respondent-Father had the means and ability to visit and support Rick. These Findings are supported by competent evidence. The evidence at trial also tended to show Respondent-Father knew he was supposed to confirm visits with the Lunsfords and knew he could reach out to Hunter Lunsford to ask about Rick. Yet, Respondent-Father did not request to visit Rick during the determinative period and reached out to ask about Rick only “once every four months.” Further, Respondent-Father had the opportunity to visit Rick on Christmas in 2022 but did not attend.

In light of Respondent-Father's single inquiry about Rick's wellbeing and single visit with Rick during the six months immediately preceding the filing of the Petition, the trial court did not err in Finding Respondent-Father willfully abandoned Rick. Thus, the trial court's Findings support its Conclusion that Respondent-Father willfully abandoned Rick for at least six consecutive months immediately preceding the filing of the Petition. Therefore, the trial court did not err in Concluding Respondent-Father's parental rights were subject to termination based on willful abandonment pursuant to N.C. Gen. Stat. § 7B-1111(a)(7).⁵ Respondent-Father did not challenge the trial court's determination that termination was in Rick's best interests. Consequently, we affirm the trial court's Termination of Parental Rights Order as to Respondent-Father.

Conclusion

Accordingly, for the foregoing reasons, we affirm the trial court's Order terminating Respondent-Mother's and Respondent-Father's parental rights to the minor child.

AFFIRMED.

Judges GORE and FREEMAN concur.

⁵ Because we conclude this ground has ample support in the trial court's Findings, we need not address Respondent-Father's arguments as to the remaining termination grounds found by the trial court under N.C. Gen. Stat. § 7B-1111(a)(2) and (a)(6).

IN RE: R.S.T.

Opinion of the Court

Report per Rule 30(e).