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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA26-214

Filed 19 August 2026

Union County, No. 23 JA000127-890

IN THE MATTER OF: M.S.

Appeal by Respondent-father from an order entered on 20 October 2025 by Judge Erin S. Hucks in Union County District Court. Heard in the Court of Appeals 21 July 2026.

Marc S. Gentile for petitioner-appellee Union County Department of Social Services.

Sodoma Law Raleigh, by Annelisse Velázquez Fernández, for guardian ad litem.

Jason C. Senges for respondent-appellant father.

WOOD, Judge.

Respondent-father (“Father”) appeals from the trial court’s order terminating his parental rights to his child, M.S. (“Maria”).¹ Respondent-mother (“Mother”) is not a party to this appeal. Father argues the trial court erred by finding grounds exist as defined in N.C. Gen. Stat. § 7B-1111(a)(1), (5), and (6) to terminate his parental rights. For the reasons set forth below, we affirm the trial court’s termination of Father’s parental rights to Maria.

I. Factual and Procedural Background

Maria was born on 26 September 2022. Mother also has an older daughter, Paisley.² On 14 September 2022, prior to Maria’s birth, Union County Department of Social Service (“DSS”) received a report of improper supervision, injurious environment, and substance use regarding concerns for Paisley. According to the report, the house did not have electricity and water, there were bugs in Paisley’s bed, Mother was observed passed out in the car, and there were concerns Mother and her boyfriend were using drugs. On 28 September 2022, DSS received another report that Mother and Maria both tested positive for amphetamines.

On 30 September 2022, DSS received an additional report based on concerns Mother was under the influence of drugs at the hospital and may have dropped the

¹ Pseudonyms are used to protect the identity of juveniles pursuant to N.C. R. App. P. 42(b).

² Pseudonyms are used to protect the identity of juveniles pursuant to N.C. R. App. P. 42(b). Paisley is not a party to this appeal.

baby, but she had refused to allow nurses to assess the baby. On 14 November 2022, DSS received a fourth report alleging improper medical care and improper care. Maria had last been seen by a pediatrician on 26 October 2022 and Mother had “no showed” for four follow-up appointments.

Maria was placed with a temporary safety provider. On 30 November 2022, DSS initiated in-home services which continued until 31 January 2023 when the family moved to Mecklenburg County. A referral was sent to Mecklenburg County DSS, which closed its case on 24 May 2023.

On 26 May 2023, DSS received a Child Protective Services report regarding Maria’s safety. Reportedly, Mother has had methamphetamine in her system every time she attended the suboxone clinic. At her 25 May 2023 clinic visit, Mother was visibly impaired and it did not appear she should be driving a baby around in her car. Reporter stated the baby had a rash on her vagina and bottom that Mother was not treating and questioned whether the baby was being exposed to methamphetamine.

On 6 June 2023, DSS received two additional Child Protective Services reports regarding an injurious environment and substance abuse while the juvenile was in temporary safety placements. Maria had been placed initially with a friend of the juvenile’s father who allowed Mother to live in the home with Maria. The first report alleged Mother was out of the house all night with the baby and was around other known drug addicts and people whose children had open DSS cases. After the temporary service provider discovered a smoke bong and canister containing a

crystal-like substance, he provided pictures to the DSS social worker and informed her that law enforcement had been called to the home to confiscate the item and substance. The second report alleged that while Maria and Mother were living in the second temporary safety placement with the father of Mother's boyfriend, his daughter found methamphetamine and a bowl in the bathroom. While residing in both temporary placements with Maria, the safety provider or family member reported concerns to DSS about Mother's continued drug use.

On 21 June 2023, DSS filed a Juvenile Petition for Nonsecure Custody alleging that eight-month-old Maria was neglected and dependent in that Mother's substance abuse created an injurious environment, Father was incarcerated, and neither parent had alternative care options for Maria. The trial court granted nonsecure custody to DSS that same day.

On 5 July 2023, the trial court conducted another nonsecure custody hearing. The trial court continued custody with DSS. The trial court granted Mother one hour of supervised visitation per week, noted paternity had not been legally established, and granted Father one five-to-fifteen-minute virtual visit while he remained incarcerated.

On 19 July 2023, the trial court held a hearing to establish paternity. Father and Mother both stated that Father was Maria's biological father although he was not named on the birth certificate. The trial court granted DSS's request for paternity testing and ordered Father to submit to paternity testing.

On 15 August 2023, the trial court held an adjudication and disposition hearing. The trial court adjudicated Maria to be neglected as defined in N.C. Gen. Stat. § 7B-101(15) due to Mother's illegal substance abuse, specifically methamphetamines, while caring for Maria. The trial court adjudicated Maria as dependent as defined in N.C. Gen. Stat. § 7B-101(9) on the grounds that Mother was unable to care for Maria due to substance abuse, her inability to maintain housing, Father's incarceration, and lack of other alternative childcare arrangements.

The trial court identified the issues Father needed to address as substance abuse, housing, and employment, and ordered Father to participate in any substance abuse programs available to him during his incarceration, and to obtain housing, employment, a drug assessment and drug testing upon his release. It was unclear how long Father's incarceration would last. Father engaged in visitation with Maria virtually as much as was feasible given her age and the difficulty of virtual visits while he was incarcerated. The trial court ordered Maria to remain in foster care and made reunification the initial plan.

On 24 October 2023, the trial court conducted a permanency planning hearing. Father reported his projected release date from custody was in October 2026. Additionally, he reported he had charges pending in Mecklenburg County and South Carolina, but those charges could be disposed of without adding additional time to his sentence. Father reported that he attended daily online substance abuse courses. DSS reported that the paternity test had been completed and results were pending.

The trial court noted parents were making reasonable progress and continued the plan of reunification.

Permanency planning hearings scheduled in January, April, and May 2024 were continued based on the needs of the parents. Father required a new attorney when he reached “an impasse in his representation” with the previous attorney and Father was moved to a maximum-security prison and placed in solitary confinement where he could not participate in hearings. His visitation was suspended during his solitary confinement, to be reinstated upon his return to general population and subject to prison regulations.

The trial court conducted another permanency planning hearing on 9 July 2024. Mother attended the hearing with her attorney. Father did not attend but he was represented by counsel. Father’s attorney made a motion to continue the hearing because the Department of Corrections had transferred Father to York County jail in South Carolina to appear on his pending charges. Because it was not known when the charges would be heard or whether Father would be returned to North Carolina after his South Carolina charges were heard, the trial court denied the motion to continue.

The trial court found that Father’s current projected release date from jail in North Carolina, where he was serving a seven-year sentence, was December 2026. Additionally, Father had been extradited to South Carolina to appear on conspiracy and grand larceny charges. The trial court found Mother had been inconsistent with

drug screens and had tested positive for methamphetamines in January and February of 2024. Mother also had not provided any verification of employment to DSS. The trial court further found the paternity test result had determined Father was the biological father of the juvenile. It ordered Father to participate in Child and Family Team meetings and substance abuse programs while he was in jail and granted him virtual visitation with Maria. The trial court continued custody with DSS, continued reunification as the permanent plan, and added adoption as the concurrent secondary plan.

On 25 September 2024, Father filed a Motion for Review to enforce his court ordered virtual visitation with Maria. A permanency planning hearing was scheduled for 12 November 2024 but was continued because Mother's attorney had to be present in federal court. There was no mention of a hearing specifically regarding Father's motion for review.

On 13 January 2025, the trial court attempted to hold a permanency planning hearing, but Mother could not be located. The trial court held the case open until 14 January 2025, at which time the trial court proceeded with the hearing. At the outset, Mother's attorney made a motion to continue because Mother had checked into a detox facility the previous day. The trial court denied the motion to continue.

Father and his attorney were present for the hearing, and Father testified. The trial court found Father had been incarcerated for the life of the case with his potential release date now sometime in February 2027. Regarding Mother, the trial

court found that her substance abuse continued to be a problem. Additionally, Mother still had not addressed her need for employment and was not participating in parenting classes. Finally, the trial court found Maria had been in care for 574 days and was thriving with her foster parents. The trial court continued custody with DSS, changed the primary plan to adoption with guardianship as the secondary plan, and recommended DSS file a motion to terminate the parental rights of Mother and Father. The trial court also ordered that “should DSS find a way to have video visits with [Father], DSS shall allow the juvenile to visit with the father by video one video visit per week.” The trial court entered the resulting order on 24 January 2025. On 3 February 2025, Father filed notice to preserve his right to appeal the 24 January 2025 order eliminating reunification as the permanent plan.

On 20 March 2025, DSS filed a Motion for Termination of Mother’s and Father’s Parental Rights. DSS alleged neglect, dependency, and failure to establish paternity as grounds for termination of Father’s parental rights.

On 10 September 2025, the trial court conducted the termination of parental rights hearing and found grounds existed to terminate both parents’ parental rights.

On 2 October 2025, DSS voluntarily dismissed its Motion for Termination of Mother’s Parental Rights without prejudice after she had voluntarily relinquished her parental rights and the time period to revoke relinquishment expired.

On 7 October 2025, the trial court conducted the disposition hearing, finding termination of Father’s parental rights to be in Maria’s best interest. During this

hearing, the trial court held Father in criminal contempt and sentenced him to thirty days in jail for interrupting and interfering with the proceeding. According to the trial court's order, Father interrupted a testifying witness stating loudly, "I don't care about this shit." Father then interrupted the trial court multiple times, was given two warnings and a chance to respond, before the trial court held him in contempt.

On 23 October 2025, Father filed notice of appeal of the 20 October 2025 order terminating his parental rights.

II. Analysis

On appeal, Father argues the trial court erred by finding grounds existed under N.C. Gen. Stat. § 7B-1111(a)(1), (5), and (6) to terminate his parental rights. We disagree.

"We review a trial court's adjudication under [N.C. Gen. Stat.] § 7B-1111 to determine whether the findings are supported by clear, cogent, and convincing evidence and the findings support the conclusions of law. The trial court's conclusions of law are reviewable de novo on appeal." *In re K.N.*, 381 N.C. 823, 827, 874 S.E.2d 594, 598 (2022) (quoting *In re S.C.L.R.*, 378 N.C. 484, 861 S.E.2d 834 (2021)).

A. Findings of Fact

"A trial court's finding of fact that is supported by clear, cogent, and convincing evidence is deemed conclusive even if the record contains evidence that would support a contrary finding." *In re A.A.M.*, 379 N.C. 167, 172, 864 S.E.2d 509, 513 (2021) (quoting *In re B.O.A.*, 372 N.C. 372, 379, 831 S.E.2d 305, 310 (2019)). Additionally,

“[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.” *In re G.C.*, 384 N.C. 62, 65, 884 S.E.2d 658, 661 (2023). “Findings of fact not challenged by respondent are deemed supported by competent evidence and are binding on appeal.” *In re T.N.H.*, 372 N.C. 403, 407, 831 S.E.2d 54, 58 (2019).

In the case at bar, Father challenges only findings of fact 16(B) and 16(C)(13); the other eighteen findings of fact with numerous subparts are all uncontested and are therefore binding on this Court. *Id.* at 407, 831 S.E.2d at 58.

Finding of fact 16(B) starts with the heading and ultimate finding that Father “is incapable of providing the proper care and supervision of the juvenile . . . and that there is a reasonable probability that such incapability will continue for the foreseeable future.” The finding then lists twelve underlying evidentiary findings of fact which support the ultimate finding:

- 1) [Father’s] testimony was that he was arrested when [Maria] was born.
- 2) Prior to [Maria’s] birth, [Father] had been incarcerated for Larceny for years in New York. He was released in 2017.
- 3) He moved to North Carolina in 2019.
- 4) The first charges [Father] received in North Carolina were in 2020 and he continued to accumulate charges until 2023.
- 5) In 2023, he was on probation and violated probation thereafter and his underlying sentence was activated,

along with additional sentences for new convictions.

6) [Father] testified that his total sentence is approximately 7 years, 3 months and 20 days.

7) [Father] has provided names of family or friends.

8) He provided the paternal grandfather, [] who lives in New York. An ICPC was requested and denied.

9) He provided the name of [Mr. N]. DSS spoke with [Mr. N] and he did not want to move forward as placement for the juvenile.

10) [Father] provided the information for the paternal aunt and she indicated she would have difficulty caring for the juvenile due to her age.

11) There have been no other names provided as potential placement options for the juvenile.

12) There are no alternative childcare arrangements available for [Maria].

Father's testimony, the social workers' testimony, and the record evidence, including the multiple felony judgments against Father, clearly support the trial court's evidentiary findings of fact.

Finding of fact 16(C)(13) states the ultimate finding, "based on the historical facts of this case, there is high probability of repeated neglect." This ultimate finding is supported by the other uncontested evidentiary findings within finding of fact 16(C) including:

1) [Father's] testimony was that he was arrested when [Maria] was born.

4) The first charges [Father] received in North Carolina

were in 2020 and he continued to accumulate charges until 2023.

5) In 2023, he was on probation and violated probation thereafter and his underlying sentence was activated, along with additional sentences for new convictions.

6) [Father] testified that his total sentence is approximately years, months and 20 days.

8) Despite taking advantage of coursework through the prison system, [Father] has received infractions since completing that coursework.

10) [Father] remains incarcerated and it appears to the Court that his release date is sometime in 2027.

11) Since being incarcerated, [Father] has received number of infractions:

a) On February 28, 2025, Possession of Audio/Video Device- He pled guilty and was found guilty.

b) On December 12, 2024, Possession of Audio/Video Device He pled guilty and was found guilty.

c) On October 25, 2024, Controlled Substance Use Possession He pled guilty and was found guilty.

d) On October 25, 2024, Weapons possession and Possess Excessive Stamps-He pled guilty and was found guilty.

e) On October 23, 2024, Controlled Substance possession and Weapon Possession He pled guilty and was found guilty.

f) On October 18, 2024, Unauthorized leave- He pled guilty and was found guilty.

g) On September 16, 2024, Fighting He pled guilty and was found guilty.

h) On August 30, 2024, Unauthorized Leave He pled guilty

and was found guilty.

i) On May 29, 2024, Disobey and Order and Create Offensive Condition He pled guilty and was found guilty.

j) On May 29, 2024, Controlled Substance Possession and Possess Audio/Video Device He did not enter plea but was found guilty by the disciplinary hearing office.

k) On February 24, 2024, Controlled Substance Possession He pled guilty and was found guilty.

l) On February 20, 2024, Tobacco Possession- He pled guilty and was found guilty.

12) Evidence was presented to the court that subsequent to these records from February of 2025, [Father] has received two (2) additional infractions. It is unclear the circumstances of the result of those infractions.

These uncontested and binding findings demonstrate Father's ongoing decisions to violate laws and prison regulations resulting in ever increasing lengths of incarceration without regard to how that would impact Maria. Additionally, these findings demonstrate Father's continued issues with substance abuse. Substance abuse was one of the primary concerns identified when Maria was adjudicated neglected, the trial court ordered Father to address his substance abuse while incarcerated, but the evidence demonstrates that substance abuse continues to be an issue for Father. These uncontested and binding evidentiary findings clearly and convincingly support the ultimate finding in 16(C)(13) that "there is a high probability of repeated neglect."

Therefore, all the trial court's findings of facts which Father contests are

supported and binding on appeal.

B. Neglect

Father contends the trial court erred in determining grounds for termination existed based on neglect because the trial court used Father's incarceration as the sole basis for this determination. We disagree.

A neglected juvenile is defined as:

[a] juvenile who does not receive proper care, supervision, or discipline from the juvenile's parent, guardian, custodian, or caretaker; or who has been abandoned; or who is not provided necessary medical care; or who is not provided necessary remedial care; or who lives in an environment injurious to the juvenile's welfare; or who has been placed for care or adoption in violation of law.

In re J.H.K., 215 N.C. App. 364, 368, 715 S.E.2d 563, 567 (2011) (quoting N.C. Gen. Stat. § 7B-101(15)).

"[I]ncarceration, standing alone, is neither a sword nor a shield in a termination of parental rights decision." *In re M.A.W.*, 370 N.C. 149, 153, 804 S.E.2d 513, 517 (2017) (quoting *In re P.L.P.*, 173 N.C.App. 1, 10, 618 S.E.2d 241, 247 (2005)). "[T]he extent to which a parent's incarceration or violation of the terms and conditions of probation support a finding of neglect depends upon an analysis of the relevant facts and circumstances, including the length of the parent's incarceration." *In re J.B.*, 379 N.C. 233, 240, 864 S.E.2d 285, 290 (2021). Ultimately, "[t]he trial court must consider evidence of changed conditions following the adjudication and must evaluate the probability of repetition of neglect. Where the evidence shows a

likelihood of repetition of neglect, the trial court may reach a conclusion of neglect under N.C. Gen. Stat. § 7B-1111(a)(1).” *In re J.H.K.*, 215 N.C. App. at 368, 715 S.E.2d at 567 (cleaned up).

Here, the trial court found that Maria had been adjudicated neglected. The trial court further found Father was arrested when Maria was born, incarcerated when Maria was adjudicated neglected, and has remained incarcerated for the entirety of her time in care. Additionally, drug use has been a concern for Father since Maria came into care.

In evaluating the evidence of changed conditions, the trial court found that although Father had taken a variety of parenting classes, he had “received infractions since completing that coursework.” The trial court listed at least nine infractions Father received in the year before the termination hearing as well as an additional five infractions in the year prior. These infractions include multiple controlled substance possession incidents, including an infraction received after Father was found on the toilet with a needle in his arm.

Father’s conduct and continued infractions extended his release date thereby detrimentally impacting his ability to provide proper care, supervision, and discipline to Maria. The Supreme Court has held an incarcerated parent who “voluntarily made himself unavailable to care for [the juvenile] for a substantial portion of [the juvenile’s] life[,]” constitutes sufficient evidence from which a trial court could find a high probability of repeated neglect. *In re A.S.T.*, 375 N.C. 547, 554, 850 S.E.2d 276,

281 (2020). Therefore, the trial court did not err in determining that due to a high probability of repeated neglect, Father's parental rights could be terminated under N.C. Gen. Stat. § 7B-1111(a)(1).

As "a finding of only one ground is necessary to support a termination of parental rights," we need not address Father's arguments regarding N.C. Gen. Stat. §§ 7B-1111(a) (5) and (6). *In re A.R.A.*, 373 N.C. 190, 194, 835 S.E.2d 417, 421 (2019).

III. Conclusion

For the foregoing reasons, we affirm the termination of Father's parental rights pursuant to N.C. Gen. Stat. § 7B-1111(a)(1) based on neglect.

AFFIRMED.

Judges STROUD and TYSON concur.

Report per Rule 30(e).