

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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

IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA26-197

Filed 21 October 2026

Cabarrus County, No. 25JT000003-120

IN THE MATTER OF: Z.K.C., a minor child.

Appeal by Respondent-Father from order entered 9 December 2025 by Judge Michael G. Knox in Cabarrus County District Court. Heard in the Court of Appeals 21 July 2026.

Jeffrey L. Miller for respondent-appellant father.

No brief filed for petitioner-appellee.

No brief filed for guardian ad litem.

GRIFFIN, Judge.

Respondent-Father appeals from the trial court's order terminating his parental rights. First, Respondent-Father argues the trial court's order "is void and must be vacated because an appointed custodian was not named as a necessary respondent party or served with a summons issued by the clerk despite being mandated by statute." Second, he argues that "the evidence and the court's findings of fact were insufficient to support a conclusion that while incarcerated Father

willfully abandoned Zola¹ during the dispositive six-month period.” Third, he argues “the trial court abused its discretion and committed error in its disposition based on the failure of Zola’s GAL to conduct an adequate and independent investigation consistent with his legal duties and responsibilities such that the trial court’s disposition Order must be vacated.” We hold the trial court did not err in terminating Respondent-Father’s parental rights and affirm.

I. Factual and Procedural Background

On 30 January 2018, Zola was born to unmarried Respondent-Father and Mother.² Respondent-Father testified Zola was born to Mother while Mother was incarcerated, and Respondent-Father “took custody of [Zola] and brought her home with [him]” after her birth. He “provid[ed] for her or whatever she needed” until he “had to go do 30 days in jail and [he] left her in the care of [Mother]” in June 2019. While Respondent-Father was in jail, Respondent-Father’s sister, Ms. Kanisha C., retrieved Zola from Mother at Mother’s request. Ms. Kanisha C. is employed at a daycare owned by Petitioner. Ms. Kanisha C. would bring Zola to Petitioner’s daycare, and Petitioner began assisting Ms. Kanisha C. with caring for Zola, eventually leading to Petitioner and Ms. Kanisha C. working out a schedule of shared custody.

¹ We use a pseudonym to protect the identity of the child. See N.C. R. App. 42(b).

² Mother is not a part of this appeal.

On 4 March 2020, the trial court heard Petitioner and Ms. Kanisha C.'s claim for custody of Zola. Respondent-Father testified he was present at the custody trial but did not testify or talk to the Judge because he "was lost about what was going on at the time." On 4 May 2020, the trial court issued an order concluding both parents were "presently unfit, and each has acted in a manner inconsistent with his/her constitutional rights as a parent" and awarded "legal and physical care, custody and control" of Zola to Petitioner and Ms. Kanisha C., ordering them to "share physical custody on an equal basis on a schedule convenient to them." Included in its findings, the trial court found Respondent-Father "consented to [Petitioner and Ms. Kanisha C.'s] having custody of [Zola,]" after he signed "a temporary custody agreement on October 1, 2019 agreeing that [Zola] should remain in the care of [Petitioner and Ms. Kanisha C.]." The trial court also found both Petitioner and Ms. Kanisha C. "have often attempted to arrange visitation between [Respondent-Father and Mother] and [Zola]" but Respondent-Father and Mother "are often late or fail to show up." The trial court additionally found Respondent-Father has eight children of which he does not have custody; was incarcerated for "some period of time between July 2018" and the custody trial in 2020 for failure to pay child support regarding another child; and "has not provided any financial support for [Zola] since at least July 2018."

The trial court ordered two tracks for visitation for both parents dependent on the results of a drug test by each parent on or before 6 March 2020. If the drug test came back positive, either parent should "have supervised visitation [with Zola] at

Families First for one hour each week.” If the test came back negative, either parent would be allowed visitation with Zola for two hours a week supervised by either Ms. Kanisha C. or Petitioner in public or at another mutually agreed to location. The trial court order ended with “[t]he parties shall exchange contact information including, but not limited to, cellular telephone numbers, email addresses and work telephone numbers as appropriate.”

On 16 January 2025, while Respondent-Father was incarcerated, Petitioner filed the petition for termination of parental rights subject to this appeal. The petition alleged Respondent-Father and Mother “willfully abandoned [Zola] for at least six consecutive months immediately preceding the filing of the [p]etition” because, in relevant part, Respondent-Father’s “last in-person visit with [Zola] was in December 2023 for approximately 15 minutes at Christmas. That since this visit, the Respondent[-]Father has made no attempts to see [Zola] or inquire as to her well-being[] and has never sent gifts or paid any support for the juvenile.” The petition further alleged the parents had “a history of drug addiction” and neither of the parents “ever submitted themselves for drug testing and never initiated any visits with [Zola] pursuant to the custody [o]rder.” Respondent-Father denied these allegations. The summons in the proceeding was sent to Respondent-Father and Mother. Ms. Kanisha C. was neither a petitioner nor listed on the summons.

On 14 October 2025, the trial court held a hearing, combining both the adjudication and disposition phases.³ There, the GAL testified “[t]he only person [he] had heard from in this case was [P]etitioner.” He further testified that Petitioner informed him, “the child had been in her custody since she was six or seven months old and in her custody consistently and exclusively for the last two to three years;” Zola “does everything with [Petitioner’s] family;” Petitioner “provides all the support, all emotional, financial;” Zola is a part and involved in Petitioner’s family; Petitioner keeps Zola in sports; “[a]nd further that, [Zola] doesn’t really know her biological parents or have a connection with them.” Based on that, the GAL recommended the trial court “grant the . . . petition to terminate parental rights.” The GAL “did not have any contact with the biological parents,” “[b]ut based on just hearing from [Petitioner], [the GAL] didn’t see the need to really investigate much further than that.” The GAL was then excused from the stand without objection.

Next, Petitioner testified Zola had lived in her home since Zola was “about like eight months.” Petitioner testified that although both she and Ms. Kanisha C. share custody of Zola, Zola lives with Petitioner. Regarding Respondent-Father, Petitioner testified she did not know the last time Zola had seen him because she “always let his

³ “[A] trial court is not required to bifurcate th[is] hearing into two distinct stages.” *In re S.M.M.*, 374 N.C. 911, 915, 845 S.E.2d 8, 12 (2020) (citing *In re R.B.B.*, 187 N.C. App. 639, 643–44, 654 S.E.2d 514, 518 (2007)).

-- his sister deal with -- with him,” stating it was “not because [she] wasn’t willing to deal with him” but “[h]e’s just never reached out to me to -- to deal with me.”

Petitioner’s testimony continued:

Q. Was there ever a time where he reached out to you directly to see her?

A. Yes, this was before the -- our court case -- the last court case. And I did bring her to the park, to his residence at that time, and he took her to the park.

Q. In that order -- your final order in that matter was entered on May 4th of 2020?

A. Right. After that, I never heard not a word from either parent, not myself anyways.

Q. Okay. Does [Respondent-Father] provide any financial support for the child?

A. Not to me. No.

Q. Okay. Does he to Kanisha C[.]?

A. Not of my knowledge, no.

Petitioner also testified that Zola is on Ms. Kanisha C.’s health insurance, but she pays for “other cases and things” that are not covered and Zola is “part of our family.” Petitioner is the main point of contact for Zola’s school. When asked if Zola would recognize Mother or Respondent-Father, Petitioner testified Zola would not recognize Mother but knows Respondent-Father. Ultimately, Petitioner’s goal is to adopt Zola, and she is “not trying to take [Respondent-Father] from [Zola].” When asked if Respondent-Father had her phone number, Petitioner said,

My phone number has never, ever changed. And my daycare is where it's been. And there's a big number on the front. And it's just been like that. He had my number from the beginning. So I would think if I'm the person that has the daughter, he would make sure and some people in his family have the number as well.

Respondent-Father testified he was incarcerated from 15 February 2024 to 11 September 2025 for selling drugs. He testified after he got out of jail previously in July 2019, he saw Zola, and she "was in [Petitioner]'s care at the time, but [he] usually see her at [Ms. Kanisha C.]'s house most of the times." Respondent-Father also testified "when [Zola] [was] at the daycare, [he] tried to go up there and see her, but most of the time she's at [his] sister's." Respondent-Father further testified "when [he] did see her, it was always for a little bit of time because she was always about to leave with [Petitioner] at the time." He testified he did not know Petitioner's phone number, and she did not reach out to him.

Respondent-Father testified as to his contact with Zola during the time from the 2020 court date to 2024.

A. . . . I tried to see her at the time, but she was never present. Every time I went to my other sister's house, because like I said, they stayed side by side. Then when I did see her, I would stay there and spend time with my child.

Q. So you did see [Zola] during that time?

A. Yes.

Q. Okay. Then did you see her at all, or have any contact with her when you were in prison?

A. I tried. My sister said she was going to do it, but then my sister just stopped hitting me up on the tablet. I called her phone, and she actually stopped answering my phone calls. I was paying for the phone calls myself. And I never -- like I say, I never knew [Petitioner]'s number. My sister never provided me with that because I just plain and simple and told her and asked her, "Okay, well, if I send you the paperwork home, can one of y'all at least, can you get either you or [Petitioner] to fill out the form to bring my daughter to see me?" My sister's -- she just went cold turkey on me and just stopped talking to me, period. Like I try to reach out to her now. She doesn't respond back to me. She doesn't call me. Like I said, I have no contact with her at all?

Q. Since you've been out -- since September 11th, have you seen [Zola]?

A. No.

Q. Have you asked to see her?

A. Yeah. I tried to get in contact with my sister to see her. Because that's who I always went through instead of [Petitioner]. I always went through my sister because that's --

Q. As opposed to [Petitioner]?

A. Yes.

Q. All right. Are you willing to go to the daycare to see [Petitioner]? To see your daughter?

A. Yes.

....

Q. What are you asking the Court to do with respect to your daughter?

A. I would just love to be in my daughter's life.

Respondent-Father testified he had not spoken to his sister since the year prior to the trial. Additionally, he knew the name of the daycare Petitioner ran; knew his sister worked at said daycare with Petitioner; knew Zola “didn’t really spend any time with [his] sister;” knew Zola “was full time” with Petitioner; knew he could contact Petitioner about his daughter but never contacted Petitioner; and never provided child support to either Petitioner or his sister. Respondent-Father never requested the trial court change its previous order nor did he ask the trial court to let Zola live with him, and he knew Zola was well taken care of as her medical and educational needs were met.

Respondent-Father’s other sister, Ms. Layotora C., testified Respondent-Father had custody of Zola until she was five or six months old. After Zola was out of his custody, Zola would sometimes come over to her house to play with her daughter. Respondent-Father would see Zola if he was visiting Ms. Layotora C., “but [Zola] would be getting ready to leave.” She further testified Respondent-Father “would pop up sporadically,” but he did not “even get to spend 10 or 15 minutes with [Zola] because [Petitioner] [would] be coming to pick her up,” and Zola never stayed with Respondent-Father overnight. Ms. Layotora C. testified Zola loved her dad and Respondent-Father is “a great dad,” but he never asked her for Petitioner’s contact information and “[i]t’s been a long time since [she had] seen [Zola].”

On 5 December 2025, the trial court entered an order finding clear, cogent, and convincing evidence that supported termination of parental rights for both parents and determined that termination will be “in the best interest of [Zola].” Therefore, the trial court terminated parental rights as to both parents. Respondent-Father timely appeals.

II. Analysis

We are presented with three issues on appeal. The first is “[w]hether the trial court’s Order terminating Father’s parental rights is void and must be vacated because an appointed custodian was not named as a necessary respondent party or served with a summons issued by the clerk despite being mandated by statute.” The second is “[w]hether the evidence and the court’s findings of fact were insufficient to support a conclusion that while incarcerated Father willfully abandoned Zola during the dispositive six-month period.” The third is “[w]hether the trial court abused its discretion and committed error in its disposition based on the failure of Zola’s GAL to conduct an adequate and independent investigation consistent with his legal duties and responsibilities such that the trial court’s disposition Order must be vacated.”

A. N.C. Gen. Stat. § 7B-1106(a)(3)

First, Respondent-Father argues “[t]he trial court’s Order terminating [his] parental rights is void and must be vacated because an appointed custodian was not named as a necessary respondent party or served with a summons issued by the clerk despite being mandated by statute.” He further argues “[t]he violation of the

statutory mandate prejudiced [him] and is reversible error under the circumstances of this case.” N.C. General Statute section 7B-1106(a)(3) provides:

[U]pon the filing of the petition, the court shall cause a summons to be issued. The summons shall be directed to the following persons or agency, not otherwise a party petitioner, who shall be named as respondents: . . . (3) The custodian of the juvenile appointed by a court of competent jurisdiction.

N.C. Gen. Stat. § 7B-1106(a)(3) (2025).

Here, Ms. Kanisha C. had been awarded custody along with Petitioner; thus, she meets the statutory definition of a custodian⁴ but was not listed on the summons. Respondent-Father argues this makes the trial court’s judgment “null and void.”

Respondent-Father did not object at trial. “When a trial court acts contrary to a statutory mandate and a defendant is prejudiced thereby, the right to appeal the court’s action is preserved, notwithstanding defendant’s failure to object at trial.” *In re E.D.*, 372 N.C. 111, 116, 827 S.E.2d 450, 454 (2019) (citation modified). Our Supreme Court has said, “[a] statute contains a statutory mandate when it ‘is clearly mandatory, and its mandate is directed to the trial court.’” *State v. Chandler*, 376 N.C. 361, 366, 851 S.E.2d 874, 878 (2020) (quoting *In re E.D.*, 372 N.C. at 117, 827 S.E.2d at 454). “It is well established that the word ‘shall’ is generally imperative or mandatory when used in our statutes.” *Hughes v. Bd. of Trs. Teachers’ & State*

⁴ “Custodian.--The person or agency that has been awarded legal custody of a juvenile by a court.” N.C. Gen. Stat. § 7B-101(8) (2025).

Employees' Ret. Sys., 296 N.C. App. 478, 491, 909 S.E.2d 697, 707 (2024) (quoting *Morningstar Marinas/Eaton Ferry, LLC v. Warren Cnty.*, 368 N.C. 360, 365, 777 S.E.2d 733, 737 (2015)). Thus, Respondent-Father's argument is preserved, and we review de novo. *In re J.Q.*, ___ N.C. App. ___, ___, 933 S.E.2d 609, 611 (2026) (citation omitted).

However,

As [this Court] has clearly held in cases subject to Chapter 7B of the North Carolina General Statutes, to obtain relief on appeal, an appellant must not only show error, but [also] 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 L.E.W., 375 N.C. 124, 128, 846 S.E.2d 460, 464–65 (2020) (citation modified).

Here, Respondent-Father's arguments do not overcome the evidence presented at trial to constitute a likely contrary effect on the outcome of this case.

We must be clear that “[i]n any given case under the Juvenile Code, [t]he issuance and service of process is the means by which the court obtains jurisdiction, and thus where *no* summons is issued, the court acquires jurisdiction over neither the parties nor the subject matter of the action.” *In re J.T.*, 363 N.C. 1, 4, 672 S.E.2d 17, 18 (2009) (emphasis and alteration in original) (quoting *In re Poole*, 151 N.C. App. 472, 475, 568 S.E.2d 200, 202 (2002) (Timmons–Goodson, J., dissenting), *rev'd per curiam for reasons stated in dissenting opinion*, 357 N.C. 151, 579 S.E.2d 248 (2003)); *In re K.J.L.*, 363 N.C. 343, 348, 677 S.E.2d 835, 838 (2009) (“Because the purpose of

the summons is to obtain jurisdiction over the parties to an action and not over the subject matter, summons-related defects implicate personal jurisdiction and not subject matter jurisdiction.”). Thus, here, because it is not contested that a summons was issued, albeit a summons excluding Ms. Kanisha C., the trial court had subject matter jurisdiction. Rather, the error of not issuing Ms. Kanisha C. a summons and not naming Ms. Kanisha C. on a summons is an “example[] of insufficiency of process and insufficiency of service of process, respectively, both of which are defenses that implicate personal jurisdiction and thus can be waived by the parties.” *In re J.T.*, 363 N.C. at 4, 672 S.E.2d at 19 (citations omitted). Even under Rule 19 of our Rules of Civil Procedure,⁵ to which Respondent-Father analogizes, our Supreme Court recently held “the failure to join a necessary party pursuant to Rule 19 is not an issue of subject matter jurisdiction” because “subject matter jurisdiction is conferred by our constitution and General Assembly.” *Face v. Face*, ___ N.C. ___, ___, 933 S.E.2d 750, 754 (2026).

Of course, both the lack of subject matter jurisdiction and personal jurisdiction over a party or nonparty subject to an order would render the order void. *In re J.T.*, 363 N.C. at 3, 672 S.E.2d at 18 (“This is because ‘the proceedings of a court without

⁵ “[T]hose who are united in interest must be joined as plaintiffs or defendants; but if the consent of anyone who should have been joined as plaintiff cannot be obtained he may be made a defendant, the reason therefor being stated in the complaint; provided, however, in all cases of joint contracts, a claim may be asserted against all or any number of the persons making such contracts.” N.C. R. Civ. P. 19(a) (2025).

jurisdiction of the subject matter are a nullity.” (quoting *Burgess v. Gibbs*, 262 N.C. 462, 465, 137 S.E.2d 806, 808 (1964)); *Joint Entities, LLC v. Cobham*, No. COA25-858, ___ N.C. App. ___, ___ S.E.2d ___, ___, 2026 WL 2248253, at *3 (N.C. Ct. App. Aug. 5, 2026) (“Courts lack personal jurisdiction over nonparties and thus their orders are void when they are without notice or an opportunity to be heard.” (citing *Helbein v. S. Metals Co., Inc.*, 119 N.C. App. 431, 433, 458 S.E.2d 518, 519 (1995))).

However, here, the trial court had subject matter jurisdiction as discussed, and Respondent-Father lacks standing to raise a personal jurisdiction argument for his sister. See *Joint Entities, LLC*, ___ N.C. App. at ___, ___ S.E.2d at ___, 2026 WL 2248253, at *4 (“[O]bjections to the court’s exercise of personal jurisdiction must be raised by the party *itself*.” (citing *J.T.*, 363 N.C. at 4, 672 S.E.2d at 18)). Further, even under Respondent-Father’s analogy to Rule 19, the trial court here would not need to have Ms. Kanisha C. on the summons for the termination of parental rights action to determine whether or not to terminate parental rights as her custody of Zola was neither implicated in the action nor in the order on appeal to be a necessary party for Rule 19.⁶

⁶ To be sure, section 7B-1106(a)(3) required Ms. Kanisha C.’s inclusion on the summons, but the failure to include her leads to the analysis in which we are engaged. But, for Rule 19, our Supreme Court has determined “[a] sound criterion’ for discerning whether a party’s interest is sufficiently vital to an action is found in the following definition: ‘Necessary parties are those persons who have rights which must be ascertained and settled before the rights of the parties to the suit can be determined.’” *Face*, ___ N.C. at ___, 933 S.E.2d at 755 (quoting *Equitable Life Assurance Soc’y of the U.S. v. Basnight*, 234 N.C. 347, 352, 67 S.E.2d 390, 395 (1951)).

Therefore, although the summons did erroneously exclude Ms. Kanisha C., the order is not null and void and, as discussed further below, the exclusion does not amount to a contrary effect on the outcome of the order.

B. Abandonment

Second, Respondent-Father argues “[t]he evidence and the court’s findings of fact were insufficient to support a conclusion that while incarcerated Father willfully abandoned Zola during the dispositive six-month period.” Our General Statutes allow for termination of parental rights if “[t]he parent has willfully abandoned the juvenile for at least six consecutive months immediately preceding the filing of the petition or motion.” N.C. Gen. Stat. § 7B-1111(a)(7) (2025). “When reviewing a trial court’s determination that grounds existed to terminate parental rights, we ask whether the trial court’s findings are supported by clear, cogent and convincing evidence and the findings support the conclusions of law.” *In re B.C.B.*, 374 N.C. 32, 35, 839 S.E.2d 748, 751 (2020) (citation modified). “The issue of whether a trial court’s findings of fact support its conclusions of law is reviewed de novo.” *In re J.S.*, 374 N.C. 811, 814, 845 S.E.2d 66, 71 (2020) (citation omitted).

“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 B.C.B.*, 374 N.C. at 35, 839 S.E.2d at 752 (quoting *In re Young*,

346 N.C. 244, 251, 485 S.E.2d 612, 617 (1997)). “To find that a parent has willfully abandoned his or her child, the trial court must find evidence that the parent deliberately eschewed his or her parental responsibilities in their entirety.” *In re A.L.L.*, 376 N.C. 99, 110, 852 S.E.2d 1, 9 (2020) (citation modified). Thus, “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 B.C.B.*, 374 N.C. at 35, 839 S.E.2d at 752 (citation modified).

“Although a parent’s options for showing affection while incarcerated are greatly limited, a parent will not be excused from showing interest in his child’s welfare by whatever means available.” *In re A.J.P.*, 375 N.C. 516, 532, 849 S.E.2d 839, 852 (2020) (citation modified). “As a result, our decisions concerning the termination of the parental rights of incarcerated persons require that courts recognize the limitations for showing love, affection, and parental concern under which such individuals labor while simultaneously requiring them to do what they can to exhibit the required level of concern for their children.” *Id.* (citation omitted). Additionally, “the trial court may consider a parent’s conduct outside the six-month window in evaluating a parent’s credibility and intentions within the relevant period.” *Id.* (citation modified).

“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 B.C.B.*, 374 N.C. 32, 35,

839 S.E.2d 748, 752 (2020) (quoting *In re Adoption of Searle*, 82 N.C. App. 273, 276, 346 S.E.2d 511, 514 (1986)). “The trial judge ha[s] the responsibility to pass upon the credibility of the witnesses and the weight to be given their testimony and the reasonable inferences to be drawn therefrom.” *In re D.L.W.*, 368 N.C. 835, 843, 788 S.E.2d 162, 167–68 (2016) (citation modified). Thus, “[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 B.R.L.*, 381 N.C. 56, 58, 871 S.E.2d 491, 493 (2022) (citation omitted).

Here, Respondent-Father challenges Finding of Fact 17(c) of the adjudication, in which the trial court found:

c. That [Respondent-Father] has willfully abandoned the child for six (6) consecutive months preceding the filing of the Petition. Specifically:

i. [Respondent-Father] was in state prison from February 15, 2024 until September 11, 2025 for selling drugs. During that time, he did not see the minor child or otherwise reach out to the Petitioner regarding her care and well-being.

ii. [Respondent-Father] saw the child sporadically after the entry of the May 4, 2020 custody order when the child happened to be at his sister’s residence. He did not take the child from paternal aunt’s home, and did not stay with the child overnight.

iii. [Respondent-Father] never reached out to Petitioner to see the child, although he had knowledge that the child resided with her, that his sister worked for the Petitioner, and that she owned

and operated a daycare locally in Concord.

iv. [Respondent-Father] has failed to provide for the care, support, and education of the child.

First, we hold these findings are supported by clear, cogent, and convincing evidence. Respondent-Father testified he was incarcerated from 15 February 2024 to 11 September 2025 for selling drugs, and he testified he did not see Zola during that time or after nor did he contact Petitioner; thus, the evidence supports Finding 17(c)(i).

Finding 17(c)(ii) is supported by Respondent-Father's testimony he "tried to see her at the time, but she was never present. Every time I went to my other sister's house, because like I said, they stayed side by side. Then when I did see her, I would stay there and spend time with my child." Also, Ms. Layotora C. testified Respondent-Father "would pop up sporadically," and Respondent-Father did not "even get to spend 10 or 15 minutes with [Zola] because [Petitioner] be coming to pick her up," and Zola never stayed with Respondent-Father overnight.

Finding 17(c)(iii) is supported by Respondent-Father's testimony he knew the name of the daycare Petitioner ran; knew his sister worked at said daycare with Petitioner; knew Zola "didn't really spend any time with [his] sister;" knew Zola was full time with Petitioner; knew he could contact Petitioner about his daughter but never contacted Petitioner; and never provided child support to either Petitioner or

his sister. Petitioner also testified Respondent-Father “just never reached out to me to -- to deal with me.”

Finding 17(c)(iv) is supported by Petitioner’s testimony that Zola is on Ms. Kanisha C.’s insurance; Respondent-Father does not provide any financial support for Zola; Petitioner’s testimony that she is the main contact for Zola’s school; and Zola currently lives with Petitioner. Thus, because the trial court has the ability to weigh the evidence, pass on the credibility of the witnesses, and draw reasonable inferences, each finding is supported by clear, cogent, and convincing evidence.

Next, we hold these findings of fact are sufficient to support the conclusion of law. Looking at the relevant six-month time period here, 16 July 2024 to 16 January 2025,⁷ although incarcerated, Respondent-Father did not “show[] interest in his child’s welfare by whatever means available.” *In re A.J.P.*, 375 N.C. at 532, 849 S.E.2d at 852 (citation omitted). Rather, based on Findings 17(c)(i), (iii), and (iv), Respondent-Father “did not see the minor child or otherwise reach out to the Petitioner regarding her care and well-being,” “[Respondent-Father] never reached out to Petitioner to see the child, although he had knowledge that the child resided with her, that his sister worked for the Petitioner, and that she owned and operated a daycare locally in Concord;” and during these six months he provided no “care, support, and education of the child.” Thus, even though he was incarcerated for the

⁷ Six months prior to the filing date of the petition. N.C. Gen. Stat. § 7B-1111(a)(7).

relevant six-month period, the findings support he did not take any necessary steps to maintain or at least show he wanted to maintain his parental relationship with Zola. *Id.* (“As a result, our decisions concerning the termination of the parental rights of incarcerated persons require that courts recognize the limitations for showing love, affection, and parental concern under which such individuals labor while simultaneously *requiring them to do what they can* to exhibit the required level of concern for their children.” (citation omitted) (emphasis added)).

Respondent-Father testified he wants to be in his daughter’s life. But even considering Respondent-Father’s “conduct outside the six-month window [to] evaluat[e] [hi]s credibility and intentions within the relevant period,” *id.* (citation modified), and overlooking the relevant six-month period because of his incarceration, Finding 17(c)(ii) says Respondent-Father only “saw the child sporadically after the entry of the May 4, 2020 custody order when the child happened to be at his sister’s residence. He did not take the child from paternal aunt’s home, and did not stay with the child overnight.” Further, the trial court found Respondent-Father “has failed to provide for the care, support, and education of the child” after infancy. Thus, the findings still show conduct “which manifests a willful determination to forego all parental duties and relinquish all parental claims to the child,” *In re B.C.B.*, 374 N.C. at 35, 839 S.E.2d at 752 (quoting *In re Young*, 346 N.C. at 251, 485 S.E.2d at 617), because Respondent-Father withheld “his presence, his love, his care, the opportunity to display filial affection, and willfully neglect[ed] to lend support and maintenance

... relinquish[ing] all parental claims and abandon[ing] the child.” *Id.* at 35, 839 S.E.2d at 752 (citation modified).

Therefore, because Respondent-Father did not provide support or care to Zola or attempt, by the means available to him, to see or contact Zola during the applicable six-month period, nor does incarceration seem to have been the cause of this lack of support or contact, the trial court did not err in concluding Respondent-Father willfully abandoned Zola.

C. GAL Duties

Respondent-Father next argues “[t]he failure of Zola’s GAL to conduct an adequate and independent investigation consistent with his legal duties and responsibilities constituted prejudicial error requiring the trial court’s disposition Order to be vacated” because “[t]he GAL relied solely on [P]etitioner’s statements in a single phone call which he regurgitated for his testimony and recommendation, without any further investigation of the facts.” Consequently, as Respondent-Father argues, “[t]he trial court abused its discretion and erred in its disposition terminating [Respondent-F]ather’s parental rights without receiving or assuring adequate evidence of the [GAL]’s investigation of Zola’s best interests.” We disagree.

This Court has held “the Juvenile Code imposes an implicit duty upon the trial court to ensure the role(s) of the guardian ad litem are performed as required by statute.” *In re S.D.H.*, 296 N.C. App. 392, 402, 908 S.E.2d 868, 877 (2024) (citations omitted). Respondent-Father did not object at trial for this issue; however, “[w]hen

an appellant argues the trial court failed to follow a statutory mandate, the error is preserved, and the issue is a question of law and reviewed de novo.” *Id.* at 399, 908 S.E.2d at 876 (citation omitted).

In this case, Mr. Benjamin Goff was appointed and served as both GAL and attorney advocate pursuant to N.C. Gen. Stat. § 7B-1108(b). *In re J.H.K.*, 365 N.C. 171, 175, 711 S.E.2d 118, 120 (2011). “A [GAL] appointed under section 7B-1108 has the same duties as a [GAL] appointed under section 7B-601.” *In re S.D.H.*, 296 N.C. App. at 400, 908 S.E.2d at 876 (citation omitted). “A guardian ad litem program represents a juvenile within the meaning of N.C. Gen. Stat. §§ 7B-601 and 7B-1108 by performing the duties listed in N.C. Gen. Stat. § 7B-601.” *Id.* (citation modified).

Section 7B-601 says, in pertinent part,

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

N.C. Gen. Stat. § 7B-601(a) (2025).

Respondent-Father highlights what the GAL did not do or who the GAL did not talk to in this case. Fulfillment of the GAL’s duties typically involve “interviewing

the child, the parents, and any other persons relevant to the proceedings to acquire intimate knowledge pertinent to the best interests of the child.” *In re S.D.H.*, 296 N.C. App. at 401, 908 S.E.2d at 876 (citation modified). We agree that it would be best for the GAL to have conducted an investigation with all parties, if possible, including Petitioner, Respondent-Father, Mother, and Ms. Kanisha C.; visit all of the pertinent locations pertaining to Zola; and prepare a report. *See In re C.J.C.*, 374 N.C. 42, 46, 839 S.E.2d 742, 745–46 (2020) (holding a GAL “competently fulfilled” his duties where, in that case, the GAL investigated “the case prior to the termination hearing by contacting the parties, visiting the [juvenile] at [the] petitioner’s home, and going to [the] petitioner’s workplace” and reported the findings to the trial court). However, the statute does not solely implement this structure as the only means of compliance with its requirements nor have the courts required such a high standard which would go beyond the statutory text. *See* N.C. Gen. Stat. § 7B-601(a); *In re S.D.H.*, 296 N.C. App. at 401, 908 S.E.2d at 876 (“[D]uring disposition, the [GAL] must offer evidence, *either* written reports, testimony, *or* both, recommending to the trial court which course of action is in the best interests of the child.” (emphases added)).

Thus, here, we look for “evidence offered” by the GAL and an “indication that he conducted a pre-trial investigation or prepared reports to assist the trial court in understanding [Zola’s] family dynamics or determining what was in their best interest.” *In re S.D.H.*, 296 N.C. App. at 403, 908 S.E.2d at 878. Here, while minimal,

the GAL did just that. The GAL testified at the 14 October 2025 hearing that “[t]he only person [he] had heard from in this case was [P]etitioner.” He further testified Petitioner informed him, “the child had been in her custody since she was six or seven months old and in her custody consistently and exclusively for the last two to three years,” Zola “does everything with [Petitioner’s] family;” Petitioner “provides all the support, all emotional, financial;” Zola is a part and involved in Petitioner’s family; Petitioner keeps Zola in sports; “[a]nd further that, [Zola] doesn’t really know her biological parents or have a connection with them.” Based on that, the GAL recommended the trial court “grant the . . . petition to terminate parental rights.” The GAL “did not have any contact with the biological parents,” “[b]ut based on just hearing from [Petitioner], [the GAL] didn’t see the need to really investigate much further than that.”

The discussion with Petitioner indicates the GAL conducted an investigation before the trial, and, further, the GAL offered testimony to the best interest of the Zola. See N.C. Gen. Stat. § 7B-601(a); *In re S.D.H.*, 296 N.C. App. at 401, 403, 908 S.E.2d at 876, 878. Therefore, the GAL fulfilled his minimum statutory duty under section 7B-601(a). *In re S.D.H.*, 296 N.C. App. at 403–04, 908 S.E.2d at 878 (citation omitted) (holding the trial court erred and vacating and remanding for a new disposition hearing where the GAL “provided no indication that he conducted a pre-trial investigation or prepared reports to assist the trial court” and there was “no indication that the Guardian ad Litem completed his duties as required by statute”);

In re R.A.H., 171 N.C. App. 427, 430, 614 S.E.2d 382, 384 (2005) (holding the trial court erred and vacating and remanding where “there was no representative of [the juvenile] performing the duties required by N.C. Gen. Stat. § 7B–601 until four days into the termination hearing”). Consequently, because no statutory error occurred and Respondent-Father bases his challenge of Adjudication Finding #12, Disposition Findings #1 and #6, and Conclusion of Law #3 on the alleged statutory error, we need not review whether the “trial court abused its discretion and erred in its disposition terminating [Respondent-F]ather’s parental rights without receiving or assuring adequate evidence of the [GAL]’s investigation of Zola’s best interests.”

III. Conclusion

We affirm the trial court’s order terminating Respondent-Father’s parental rights.

AFFIRMED.

Judges HAMPSON and GORE concur.

Report per Rule 30(e).