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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA26-564

Filed 4 November 2026

Person County, No. 23JA000050-720

IN RE: M.J.G., Minor Child.

Appeal by respondent-father from order entered 23 January 2026 by Judge Adam S. Keith in Person County District Court. Heard in the Court of Appeals 13 October 2026.

Parent Defender Annick Lenoir-Peek, by Assistant Parent Defender Jacky L. Brammer, for respondent-appellant father.

Parker Poe Adams & Bernstein LLP, by Blair M. Carpenter and Stephen V. Carey, for Guardian ad Litem.

No brief filed on behalf of petitioner-appellee Person County DSS.

FREEMAN, Judge.

Respondent-father (Father) appeals from the trial court's order terminating his parental rights to his minor child.[1] Father argues the trial court erred by finding unalleged grounds to terminate his parental rights and by terminating his rights on the sole basis of his incarceration. After careful review, we reverse.

[1] Respondent-mother did not appeal.

I. Factual and Procedural Background

Father has one child subject to this appeal, "Molly."[2] Respondent-mother (Mother) was eighteen years old when Molly was born, and Father was thirty-three. Father was incarcerated on or near the date of Molly's birth, upon entering an *Alford* plea to multiple counts of committing indecent liberties with a child and sexually exploiting a minor. Father's initial release date was set for 19 November 2025. Before the filing of the DSS report that gave rise to this case, Father testified that he had daily video calls from prison with Mother and Molly.

For the first few months after Molly's birth, she and Mother lived with Father's mother. Mother later moved in with a new boyfriend. The Person County Department of Social Services (DSS) received a report on 23 June 2023 that Molly lived in an unsanitary and violent environment. Mother and her boyfriend frequently left Molly unattended while they slept as many as sixteen hours a day, only to shout at her to stop crying when they were awake. Molly had severe diaper rash from lack of regular care. Both adults heavily used methamphetamines and marijuana, and a social worker saw them fight in front of Molly.

Molly's social worker tried to contact Father in prison to advise him of the DSS report but could not reach his case manager. DSS placed Molly with a Temporary Safety Provider on 11 July 2023. After meeting with DSS on 20 July 2023, Mother

[2] This is a pseudonym used to protect the identity of the juvenile. *See* N.C. R. App. P. 42(b).

violated the safety plan by removing Molly from the Temporary Safety Provider's home at 2:00 A.M. on 22 July and returning to her boyfriend's home.

Because of this, DSS filed a neglect petition and took nonsecure custody of Molly on 25 July 2023. A Guardian ad Litem (GAL) volunteer and an attorney were appointed for Molly. DSS again tried to call Father in prison to ask if he could suggest a placement but reported being unable to reach him. Jerome Simmons was provisionally appointed Father's attorney. Father was served a summons in this matter on 31 July 2023.

DSS and the GAL filed their initial reports and recommendations on 5 October 2023. DSS noted that a case plan had not been developed with Father due to his incarceration and advised that "[r]eunification with [Father] is not in the child's best interest." The GAL similarly reported, "Father is currently incarcerated, so there have not been any visits." The GAL's only recommendations for reunification applied to Mother. In further reports dated 11 January 2024, both DSS and the GAL again noted Father's incarceration. DSS further stated, "The court ordered that reunification efforts with [Father] are not appropriate."[3]

Molly was adjudicated neglected on 30 January 2024, after a hearing held 5

[3] To the extent that DSS based this assertion on the adjudication hearing held on 5 October 2023, it should be noted that the court's written order following that hearing only found *visitation* between Molly and Father inappropriate. However, even that finding was subject to modification, should Father contact DSS to request visitation with Molly. The court did not cease *reunification* efforts with Father until its written order dated 4 June 2024.

October 2023. Her initial permanency plan was reunification with a concurrent plan of guardianship.

The court based much of its adjudication and disposition order on the 5 October 2023 GAL report. Father, "through counsel, did not dispute the allegations of the Petition as to neglect, in that the allegations concerned actions of [Mother,] over whom [Father] had no control." The court therefore found that Father "consent[ed] to the entry of an Order finding [Molly] to be [a] neglected child." As to the goal of reunification, the court found that Father, "currently in Pender Correctional facility and therefore unavailable to parent [Molly]," had not developed a case plan due to his incarceration. The court also found "[t]hat visitation with the father is not appropriate at the present time, due to his incarceration." However, "[s]hould the father be released from prison and return to Person County, or make contact with DSS, such agency may make such supervised visitation arrangements with him as may be in the best interest of the child." The court required Mother to comply with several recommendations but made no recommendations as to Father.

At the review hearing held 21 March 2024, both parents' attorneys moved to withdraw, stating "they ha[d] not had any contact with their respective client[s]" and "did not know their position on reunification."[4] The court allowed both attorneys to

[4] Father later testified that Simmons had not contacted him "one single time," while he tried to contact Simmons "probably . . . 200 times." Upon Father's information and belief, Simmons blocked the prison's phone number due to Father's repeated calls.

withdraw, as memorialized in its order entered 4 June 2024. The review order entered 14 October 2024 changed Molly's primary plan to adoption with a concurrent plan of reunification.

The court made the following statements regarding Father in the five review orders entered in this case between 12 February 2024 and 9 July 2025:

> "[Father] is[/has been] aware of this goal [of reunification or adoption] but has not been working[/has never worked] with DSS to achieve the goal; he [. . .] continues to be in the North Carolina Department of Corrections";
>
> "[Father] is currently in Pender Correctional facility[/Orange Correctional Center] and therefore unavailable to parent his daughter [and the Court has previously found that reunification efforts with him are not appropriate]";
>
> "A case plan has not been developed by [Father] at this time as he is incarcerated";
>
> "That Person County DSS has made the following efforts since removal . . . : . . . letters to father";[5]
>
> ". . . DSS recommends no visitation for [Father] [as he] remains in the Department of Corrections";
>
> "[S]hould [Father] make contact with DSS, such agency may make such supervised visitation arrangements with him as may be in the best interest of [Molly], except as limited by this Order";
>
> "That in this case reunification efforts with [Father] have been ceased";
>
> "[Father] is in prison for sexual exploitation of a minor and

[5] The record does not contain these letters, and no evidence was presented whether Father received them.

> indecent liberties with children; his projected release date is November 19, 2025[/January 7, 2026]";
>
> "[Father] has been in prison since 2022, and the Court has ordered that reunification efforts with him are not appropriate[.]"

On 8 April 2025, DSS filed a motion to terminate both parents' rights to Molly. Notice of this Motion was served upon Father in prison on 12 May 2025. The ground alleged for termination was neglect under N.C.G.S. § 7B-1111(a)(1) (2023). The Motion asserted as evidence of neglect that "[Father] has missed visitations due to his incarceration." After cataloging the reunification services available to Mother, the Motion noted that "[r]eunification efforts with the father have been ceased by the Court due to his criminal convictions," and "[Father] has not provided regular care for [Molly] due [to] his continuous incarceration during the entire pendency of this case," which gave DSS "good reason to believe that such neglect will continue."

At the review hearing held 8 May 2025, the court noted, "[n]o appearance was made by the father at this hearing as he is still in prison; [h]e has been in prison for the life of this case, and is presently housed at the Orange Correctional Center." The GAL report dated the same day includes the first warning of its kind that "if [Molly's] biological parents are released from prison and got in contact with [Molly] and/or her foster family, [Molly's] safety would be at risk."[6]

On 27 May 2025, a handwritten letter signed by Father was filed in the record.

[6] Mother had recently been arrested.

Stating, "I am not willing to give up my parental rights to my daughter," the letter requested that Father be appointed new counsel and brought to all hearings.

The court held a termination hearing on 7 October 2025. The rights of both parents were scheduled to be considered, but upon a motion by Father's newly appointed counsel, Father's portion of the proceedings was continued. Mother's parental rights to Molly were terminated by order dated 5 November 2025.

Father's termination hearing occupied two days, 12 November and 16 December 2025. Father's counsel protested during the pre-trial conference that much of the proffered evidence was "specific [to] the mother"—effectively leaving Father's criminal record and his lengthy incarceration as the only bases independent of Mother's actions to terminate Father's rights. However, after conferring with the court, Father did not object to the following four matters: (1) the use of the 30 January 2024 adjudication order to support the forthcoming termination order; (2) judicial notice of the Conclusions of Law and Orders contained in all permanency planning review orders entered since 5 October 2023; (3) the admission of Father's six Felony Judgment and Commitment Sheets from 16 June 2022; or (4) the admission of a 7 October 2025 information sheet, which described the sexual crimes against Father's older daughter that precipitated those felony convictions.

After considering the evidence presented, the trial court entered a termination order on 23 January 2026. This order concluded that grounds existed to terminate Father's parental rights to Molly based on N.C.G.S. §§ 7B-1111(a)(1) and (2) (2023).

The court further concluded that termination was in Molly's best interests. Father timely appealed.

II. Jurisdiction

This Court has jurisdiction to review "any final judgment of a district court in a civil action." N.C.G.S. § 7A-27(b)(2) (2023). We have jurisdiction to review "[a]ny order that terminates parental rights." N.C.G.S. § 7B-1001(a)(7) (2021).

III. Standard of Review

We review a final order terminating parental rights "to determine whether the findings are supported by clear, cogent, and convincing evidence and the findings support the conclusions of law." *In re L.C.*, 387 N.C. 475, 479–80 (2025) (cleaned up). "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.S.T.*, 375 N.C. 547, 549 (2020) (quoting *In re B.O.A.*, 372 N.C. 372, 379 (2019)). Findings of fact left unchallenged are binding on appeal. *In re J.M.*, 275 N.C. App. 517, 521 (2020). We review the trial court's conclusions of law de novo. *In re K.S.*, 380 N.C. 60, 64 (2022).

IV. Discussion

Father raises two issues on appeal: (1) whether the trial court erred by finding an unalleged ground to terminate his parental rights, and (2) whether the trial court reversibly erred by finding that Father neglected Molly based solely on his incarceration throughout the proceedings below. We address each issue in turn.

A. Unalleged Ground for Termination

"[A] finding of only one ground is necessary to support a termination of parental rights." *In re A.R.A.*, 373 N.C. 190, 194 (2019).

Father argues the trial court's Conclusion of Law 5—that Father willfully left Molly in foster care for more than twelve months under Section 7B-1111(a)(2)—must be vacated because DSS did not allege this ground in its motion for termination of his parental rights. The GAL concedes that neglect under Section 7B-1111(a)(1) was the only termination ground DSS alleged in its motion. However, to the extent that the trial court's Conclusion of Law 5 was improper, the GAL contends this was harmless error because only one ground for termination is needed to uphold an order terminating parental rights.

We have previously held that a respondent parent's rights may not be terminated based on a ground that was not alleged in the termination motion. *In re S.R.G.*, 195 N.C. App. 79, 83 (2009). If the neglect ground alone would suffice to uphold this order, "we need not address respondent's contention that the trial court erred in determining that grounds likewise existed to support" Father having willfully left Molly in foster care for more than twelve months. *In re E.H.P.*, 372 N.C. 388, 395 (2019).

Both the neglect ground, Section 7B-1111(a)(1), and the leaving in foster care for more than twelve months ground, Section 7B-1111(a)(2), require a showing of the respondent parent's willful acts (or failures to act) for the evidence to support the trial

court's findings of fact. *In re N.D.A.*, 373 N.C. 71, 81 (2019) (neglect); *S.R.G.*, 195 N.C. App. at 84 (leaving in foster care). "Willfulness is 'more than an intention to do a thing; there must also be purpose and deliberation. . . . Whether a biological parent has a willful intent to abandon his child is a question of fact to be determined from the evidence.' " *S.R.G.*, 195 N.C. App. at 84 (quoting *In re Adoption of Searle*, 82 N.C. App. 273, 275–76 (1986)). As we explain below in our analysis of the neglect ground, the evidence presented and the trial court's findings of fact did not demonstrate willfulness on the part of Father. Thus, a termination of Father's parental rights based on either ground, (a)(1) or (a)(2), cannot be upheld on appeal.

B. Incarceration as Sole Basis of Neglect Finding

A trial court may terminate parental rights upon a finding of a single ground, including that the "parent has abused or neglected the juvenile." N.C.G.S. § 7B-1111(a)(1) (2023). A neglected juvenile is one under eighteen years of age whose parent does not "provide proper care, supervision, or discipline"; or "[c]reates or allows to be created a living environment that is injurious to the juvenile's welfare." N.C.G.S. § 7B-101(15) (2026).

This ground requires "a showing of neglect at the time of the termination hearing." *In re D.L.W.*, 368 N.C. 835, 843 (2016). "Where 'a child has not been in the custody of the parent for a significant period of time prior to the termination hearing, the trial court must employ a different kind of analysis to determine whether the evidence supports a finding of neglect . . . .' " *In re C.L.S.*, 245 N.C. App. 75, 78, *aff'd*

per curiam 369 N.C. 58 (2016) (quoting *In re Pierce*, 146 N.C. App. 641, 651 (2001), *aff'd* 356 N.C. 68 (2002)).

"When determining whether . . . future neglect is likely, the . . . court must consider evidence of changed circumstances occurring between the period of past neglect and the time of the termination hearing." *In re Z.V.A.*, 373 N.C. 207, 212 (2019). "The determinative factors must be the best interests of the child and the fitness of the parent to care for the child at the time of the termination proceeding." *Pierce*, 146 N.C. App. at 651 (emphasis omitted) (quoting *In re Ballard*, 311 N.C. 708, 715 (1984)).

"[I]ncarceration, by itself, cannot serve as clear, cogent, and convincing evidence of neglect. Instead, the extent to which a parent's incarceration . . . support[s] a finding of neglect depends upon an analysis of the relevant facts and circumstances, including the length of the parent's incarceration." *In re K.N.*, 373 N.C. 274, 283 (2020). "[I]ncarceration, standing alone, is neither a sword nor a shield in a termination of parental rights decision." *In re A.G.D.*, 374 N.C. 317, 320 (2020). "Where a respondent has been and continues to be incarcerated, our courts have prohibited termination of parental rights solely on that factor." *In re D.R.B.*, 182 N.C. App. 733, 738 (2007).

"Although 'a parent's options for showing affection while incarcerated are greatly limited, a parent will not be excused from showing interest in [the] child's welfare by whatever means available.' " *A.G.D.*, 374 N.C. at 320 (emphasis omitted)

(quoting *In re C.B.C.*, 373 N.C. 16, 19–20 (2019)).

> 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. (citing *K.N.*, 373 N.C. at 283).

"[T]he circumstances attendant to a parent's incarceration are relevant when determining whether a parent willfully abandoned his or her child." *In re D.M.O.*, 250 N.C. App. 570, 575 (2016). "[F]indings of fact regarding whether respondent-father had the ability to contact [his child] while he was incarcerated . . . [are] necessary in order for the trial court to make a valid determination regarding the extent to which respondent-father's failure to contact [his child] was willful." *N.D.A.*, 373 N.C. at 82; *see also In re D.E.M.*, 257 N.C. App. 618, 621 (2018).

Here, Molly's social worker testified that the trial court ended reunification efforts between Molly and Father, not simply because Father was incarcerated, but because he had been convicted of "sexual . . . offenses [with] minors." "Because of the nature of [Father's] charges," DSS ended its efforts to contact Father in prison "early on in the case" and chose not to offer him visitation. Father's only effort on record to establish contact was the handwritten letter his attorney filed for him in response to the 8 April 2025 termination motion. Father never directed any correspondence to

Molly, such as Christmas or birthday cards.[7]

Father's convictions for sexually molesting minor girls, including a daughter older than Molly, concerned DSS that he might make similar attempts with Molly if visitation were offered. The same concern prompted DSS to move to terminate Father's parental rights before his projected release date, so as to preclude any contact between Father and Molly. Counsel for the GAL and for DSS highlighted the difficulties Father would face if he tried to be involved in Molly's life as a registered sex offender, but this was not noted in the trial court's findings of fact.

At this same termination hearing, the social worker testified on redirect that it would be in Molly's best interests to be adopted by her foster family, not because of Father's criminal convictions, but because of his "lack of contact with [Molly]" that was "enforced because he was in prison." She asserted, "you can't really have reasonable efforts [toward reunification] when he's in prison[.]"

1. Findings of Fact

Father challenges the following findings of fact in his termination order:

> 54 – "[Father] has missed all visitations with [Molly] during her life due to his incarceration";
>
> 55 – "Reunification efforts with [Father] have been ceased by the Court due to his criminal convictions";
>
> 56 – "[Father] has not provided regular care for [Molly] due

[7] Father testified that he had cards written and ready to send to Molly, but due to lack of information from DSS and his mother's fear of repercussions from contacting the foster family, he had nowhere to send them.

[to] continuous incarceration during the entire pendency of this case";

57, 62, 66 – "That the actions of [Father] are willful";

58, 63 – "That the willfulness of [Father] continues at this time";

61 – "More than twenty-one months have passed since [Molly] was removed from [Father's] custody and little likelihood exists that [Father] will ever be able to resume custody of [Molly]";

65 – "[Molly] has remained in foster care for in excess of twelve months without [Father] showing to the satisfaction of the Court that reasonable progress under the circumstances has been made in correcting those conditions which led to the removal of [Molly] [N.C.G.S. § 7B-1111(a)(2)]";

69, 70 – "Based upon the foregoing facts, there are grounds to terminate the parental rights as to [Father] pursuant to [N.C.G.S. § 7B-1111(a)(1)] as [Molly] is a neglected juvenile";

71 – "There is a probability that [Father's] neglect will continue for the [foreseeable] future pursuant to the statute because he has not addressed the issues that brought [Molly] into care, i.e. lack of appropriate parental care and substance abuse and he is not eligible for release from prison at this time";

72 – "Termination of Parental Rights is in the best interests of [Molly,] based on the relationship she has with her foster parents who plan to adopt, growth [she has] shown in education[,] and stability of the home [she is] in now";

73 – "There is a probability that the neglect will continue for the [foreseeable] future pursuant to the statute because [Father] has not addressed the issues that brought [Molly] into care including substance abuse and lack of parental

> care";
>
> 78 – "A termination of [Mother's] parental rights has been accomplished";
>
> 82 – "[Molly] has virtually no bond at all between herself and her father, due to the total lack of contact by [Father] during her lifetime and the bond, if any, is not significant";
>
> 83 – "The Court finds by clear, cogent and convincing evidence that Termination of [Father's] Parental Rights is in the best interests of the minor child[.]"

Father argues that these findings are all unsupported. More specifically, Father alleges that the findings of probable future neglect by him (71 and 73) are unsupported because of the three issues the trial court named: substance abuse, lack of parental care, and ineligibility for release from prison. First, Father denies struggling with substance abuse—reminding this Court that DSS took Molly into nonsecure custody because of Mother's substance abuse, not Father's.[8] Second, he asserts that without substance abuse, the only other possible basis for a finding that Father would neglect Molly in the future is his incarceration, which is not a permissible basis under *K.N.* *See also In re S.D.*, 243 N.C. App. 65, 70 (2015). Third, Father disputes his characterization as "not eligible for release from prison at this time," when he was scheduled for release less than a month after his termination hearing, and the order terminating his parental rights was not filed until after his

[8] All of Father's 2022 sentencing worksheets have a box checked that says, "The Court recommends substance abuse treatment." No other evidence of substance abuse was presented regarding Father.

release.

Father invokes his numerous educational achievements and strides he claims to have made toward self-improvement while incarcerated, as well as his ongoing care for and positive relationships with his older children, to counter the finding that he is likely to neglect Molly in the future. The GAL responds that as far as Molly herself is concerned, however, she and Father have no relationship.

We "may not reweigh the underlying evidence presented at trial." *In re J.A.M.*, 372 N.C. 1, 11 (2019). We only consider whether the findings of fact are adequately supported by the evidence presented. We conclude that the trial court did not sufficiently identify evidence to support most of its findings of fact.

Regarding findings 54 and 56, this Court recently vacated a termination order for "bas[ing] its decision to terminate [a] Respondent-Father's parental rights almost entirely on [the] Respondent-Father's incarceration," when the trial court's findings of fact were not sufficient to support a conclusion that the father had neglected the juvenile. *In re L.B.*, 928 S.E. 2d 520, 527–28 (N.C. Ct. App. 2026). That trial court erred by failing to determine whether the respondent father had "an appropriate alternative child care arrangement for the juvenile" while the father remained incarcerated. *Id.* at 528. Likewise, here the trial court identified no specific evidence to support a finding regarding Father's ability to arrange care for Molly if his planned solutions for post-release housing and employment were not immediately successful. Furthermore, the trial court did not make findings regarding whether Father knew

of his ability to contact DSS and request visitation with Molly, nor whether he was provided with the requisite information to do so.

Regarding finding 55, the permanency planning orders on record support a finding that the trial court knew of Father's criminal convictions and agreed with DSS' recommendation to cease reunification efforts.

Regarding findings 57, 58, 62, 63, and 66, DSS framed Father's voluntary *Alford* plea to all sexual offenses and his acceptance of the associated prison time as a willful choice to "[make] himself unavailable . . . to be with his child." In response to this allegation that his plea demonstrates willful neglect of Molly, Father testified he took the plea in the belief that it would give him immediate release with a year of probation, enabling him to return home and care for Molly. Our Supreme Court has held that a respondent-father who took an *Alford* plea to "get the case over with," resulting in his incarceration for more than two years, had "voluntarily made himself unavailable to care for [his infant child] for a substantial portion of [the child's] life." *A.S.T.*, 375 N.C. at 551, 554. However, while the trial court in *A.S.T.* diligently recorded this information in its findings of fact as specific evidentiary support for its conclusion of law that the child was neglected, the trial court below did not. *Id.* at 550–51. The trial court identified no specific evidence that would tend to show Father's willfulness, as it was required to do by *N.D.A.* and *D.E.M.*

Regarding finding 61, the length of time that Father and Molly were apart is supported by the record and by findings of fact 52 and 59, which are unchallenged

and therefore binding on appeal. However, the trial court identified no specific evidence to support a finding whether Father could ever resume custody of Molly.

Regarding finding 65, we decline to consider Section 7B-1111(a)(2) as a ground for termination of Father's parental rights, as it was unalleged below. *See S.R.G.*, 195 N.C. App. at 83.

Regarding findings 69 and 70, the trial court identified no specific evidence apart from Father's incarceration to support a finding that Father neglected Molly.

Regarding findings 71 and 73, our Supreme Court has described a case plan, which is within the trial court's authority to order under N.C.G.S. § 7B-904(d1)(3), as a crucial tool: the trial court relies heavily on evidence of a parent's compliance or noncompliance with a case plan when evaluating whether grounds exist to terminate that parent's rights. *B.O.A.*, 373 N.C. at 383–85. "A parent's failure to make progress in completing a case plan is indicative of a likelihood of future neglect." *In re M.A.*, 374 N.C. 865, 870 (2020) (quoting *In re M.J.S.M.*, 257 N.C. App. 633, 637 (2018)). Here, however, DSS unilaterally elected not to provide Father with a case plan due to his criminal convictions. Without a case plan, Father had no measurable way to address the issues that brought Molly into DSS custody (to the extent that Mother's issues were within Father's power to address). The trial court identified no specific evidence to support a finding that Father is likely to neglect Molly in the future.

Regarding finding 78, the termination of Mother's parental rights is supported by the record.

Regarding finding 82, the trial court identified no specific evidence to support a finding that Molly had no contact with Father during her life and that they have no bond or an insignificant bond.

Regarding findings 72 and 83, evidence of Molly's best interests is supported by testimony and by findings of fact 74, 79, 80, and 81, which are unchallenged and therefore binding on appeal.

The order terminating Father's parental rights below is little more than a template that appears to have been copied and pasted from Mother's order with few edits. The most detailed findings of fact concern the events that surrounded Molly's initial removal from Mother's custody. The remaining findings about subsequent events are extremely vague, and only five of them (6, 54, 55, 74, and 78) are unique to Father without also appearing in Mother's order.

2. Conclusions of Law

Father also challenges the following conclusions of law and order of the court:

> 2 – "That pursuant to N.C.G.S. [§§] 7B-1109 and 7B-1111 there exist grounds for terminating the parental rights of [Father] as to [Molly]";
>
> 3 – "That [Father] has neglected his minor child, [Molly] [N.C.G.S. § 7B-1111(a)(1)]";
>
> 4 – "That the neglect of [Father] is likely to continue in the future";
>
> 5 – "That [Father] has left [Molly] in foster care for in excess of twelve months without showing to the satisfaction of the Court that reasonable progress under

> the circumstances has been made in correcting those conditions which led to the removal of [Molly] by [N.C.G.S. § 7B-1111(a)(2)]";
>
> 6 – "That it would be in the best interests of the minor child, [Molly], for the parental rights of [Father] to be terminated as to such minor child[.]"
>
> Order 1 – "That the parental rights of [Father] as to [Molly] . . . are terminated as to such minor child[.]"

Regarding conclusions 2 and 3, the ground of Father's neglect of Molly is not adequately supported by the findings of fact.

Regarding conclusion 4, the likelihood that Father's neglect of Molly will continue in the future is not adequately supported by the findings of fact.

Regarding conclusion 5, we decline to consider Section 7B-1111(a)(2) as a ground for termination of Father's parental rights, as it was unalleged below.

Regarding conclusion 6, Molly's best interests as to Mother are adequately supported by the findings of fact.

Regarding Order 1, most of the trial court's challenged conclusions of law are not adequately supported by the findings of fact, many of which are in turn not supported by clear, cogent, and convincing evidence. Simply, there was insufficient evidence offered by DSS to terminate Father's parental rights, and the evidence offered could only lead to the opposite conclusion. This order must be reversed.

V. Conclusion

For the foregoing reasons, we reverse the order terminating parental rights as

to Father.

REVERSED.

Chief Judge DILLON and Judge COLLINS concur.

Report per Rule 30(e).