

The juvenile was adjudicated neglected after the parents stipulated to their substance use and domestic violence in the child's presence. The child was placed in DSS custody, and father entered into a case plan to complete mental health and substance use assessments and follow recommendations that included outpatient treatment for substance use, submit to drug screens before visits, complete parenting classes, and attend his visits. Father made initial progress but ultimately stalled such that the court eliminated reunification with father as a permanent plan. DSS filed a TPR motion with the following:

Factual Allegation

Per G.S. 7B-1111(a)(6) father is incapable of providing for the proper care and supervision of the juvenile such that the juvenile is a dependent juvenile within the meaning of G.S. 7B-101, and there is a reasonable probability that such incapability will continue for the foreseeable future. Father has not provided for the financial or housing needs of the child since the child came into the custody of DSS and is not prepared to do so now. Father has done nothing to address or alleviate the conditions which led to the adjudication of this child as a neglected juvenile.

The TPR motion incorporated by reference the neglect adjudication order, dispositional order, and permanency planning order that eliminated reunification with father after describing his history of substance use, case plan requirements, and noncompliance with the case plan as time progressed.

The court granted the TPR on the following grounds:

G.S. 7B-1111(a)(1): Neglect

G.S. 7B-1111(a)(2): Failure to make reasonable progress

G.S. 7B-1111(a)(6): Dependency continuing for foreseeable future

Father appeals arguing insufficient notice for 7B-1111(a)(1) and (a)(2). GAL and DSS argue the incorporation of prior orders and the allegation "father has done nothing to address or alleviate the conditions which led to the adjudication of this child as a neglected juvenile" is sufficient notice.

Who Do You Agree With and Why? [In re D.R.J., 381 N.C. 381 (2022)]

The children were adjudicated dependent based on based on mother's inability to care for them due to dementia resulting from a TBI and her need to live in a secure facility. Father has a history of substance use, mental health issues, and domestic violence. Ultimately, the children were placed with relatives who planned to adopt the children. DSS filed a TPR petition with an incorporated affidavit by the DSS social worker.

The TPR petition includes thirteen numbered paragraphs and states the following:

Facts sufficient to warrant a determination that one or more grounds for terminating parental rights exist under N.C.G.S. 7B-1111 are as follows: a) That the alleged father . . . of the children born out of wedlock has not, prior to the filing of a petition or motion to terminate his parental rights, done any of the following: (a) filed an affidavit of paternity in a central registry maintained by the Department of Health and Human Services (b) Legitimated the juveniles pursuant to provisions of N.C.G. S. 49-10, N.C. G. S. 49-12.1, or filed a petition for this specific purpose (c) Legitimated the juveniles by marriage to the mother of the juveniles (d) Provided substantial financial support or consistent care with respect to the juveniles and mother (e) Established paternity through N.C.G.S. 49-14, 110-132, 130A-101, 130A-118, or other judicial proceeding.

The 15-page affidavit attached and incorporated in the petition addresses the last known address for father and efforts to obtain his whereabouts, details of the family's case plan including the social worker's efforts in developing the case plan and contacting or attempting to contact father; father's absence from, or attendance at, a particular meeting or hearing; and statements about father made by the maternal grandmother, father's therapist, and the children's therapist. The affidavit concludes with "father . . . refuses to make regular contact with the agency. The social worker is unable to assess all his needs but is aware of domestic violence issues, substance abuse concerns and issues with parenting. Father did meet with worker and agreed to complete substance abuse assessment/counseling, domestic violence assessment/counseling and mental health assessment/counseling."

Is the TPR petition sufficient to respondent on notice of the grounds under

G.S. 7B-1111(a)(2) (failure to make reasonable progress)

G.S. 7B-1111(a)(5) (failure to legitimate/acknowledge paternity)

Why or why not? [In re L.S., 262 N.C. App. 565 (2018)]

Child was born in 2015. In 2016, mother and father obtained a Chapter 50 custody order granting them joint legal custody. In 2017, mother obtained a DVPO against father. Father was also arrested for DWI and domestic violence against his girlfriend. Mother filed an ex parte motion to modify that was granted giving her sole custody. Father was ordered supervised visits 1x/week. In 2019, mother filed a TPR petition alleging G.S. 7B-1111(a)(7) for willful abandonment and G.S. 7B-1111(a)(4) for failure to pay child support. Father filed a motion to dismiss arguing mother does not allege how he acted willfully.

The petition includes the statutory citations and language of both grounds, and alleged father acted willfully. The petition also states how father violated the child custody orders, and alleges that since September 2017 father did not exercise his supervised visits.

Will you grant or deny the motion to dismiss? [In re B.C.B., 374 N.C. 32 (2020)]

Mother files TPR petition against father and alleges

For more than one year, father has not had contact with the child. For more than one year, father failed and refused to pay child support. Father's rights are subject to termination under G.S. 7B-1111.

Court grants TPR on basis of willful failure to pay child support under G.S. 7B-1111(a)(4). Father appeals arguing insufficient notice.

Was the petition sufficient? Why or why not? [In re A.H.D., 287 N.C. App. 548 (2023)]

Mother has sole custody of the parties' children. Mother files a TPR petition against father and alleges

"father has failed to provide substantial financial support or consistent care for the child."

The court grants the TPR on basis of abandonment and willful failure to pay child support under G.S. 7B-1111(a)(4). Father appeals arguing as part of his appeal that there was insufficient notice for the willful failure to pay child support ground.

Was the petition sufficient? Why or why not? [In re I.R.L., 263 N.C. App. 481 (2019)]