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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA25-1052

Filed 7 October 2026

Cumberland County, No. 23SP001128-250

IN RE: THE ADOPTION OF C.G.H.

Appeal by petitioners from order entered 24 March 2025 by Judge Tiffany M. Whitfield in Cumberland County District Court. Heard in the Court of Appeals 22 April 2026.

*Bagwell Holt Smith P.A., by Michael S. Harrell, for petitioners-appellants.*

*Fox Rothschild LLP, by Margaret M. Reece and Nathan W. Wilson, for respondent-appellee father.*

*No brief filed for respondent-appellee mother.*

ZACHARY, Judge.

Petitioners appeal from an order determining that Respondent-Father's consent was necessary to effectuate the adoption of his biological child, Cecilia.<sup>1</sup> After careful review, we vacate the order and remand this matter to the trial court for further proceedings.

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<sup>1</sup> We employ the pseudonym adopted by the parties to protect the identity of the juvenile. *See* N.C.R. App. P. 42(b).

**I. Background**

This case arises out of Petitioners' efforts to adopt Cecilia, who was born in October 2023 when Respondent-Father was 19 years old and Mother was 18 years old.

Cecilia was conceived when her parents were seniors in high school in Fayetteville, North Carolina. In February 2023, Mother informed Respondent-Father that she was pregnant with his child. They discussed terminating the pregnancy and agreed that they would each pay one-half of the \$800 cost to obtain an abortion. However, Respondent-Father was unable to pay his portion, and these plans were ultimately abandoned. Despite the change in plans, Respondent-Father did not give Mother any of the \$237 that he had raised for an abortion.

After further consideration, Mother and Respondent-Father decided upon adoption as the plan for their unborn child, and they voluntarily commenced the process. Initially, both parties hid the news of the pregnancy from their family and friends, but in early June 2023, Mother told her parents that she was expecting, and that she and Respondent-Father intended to place the child for adoption. Respondent-Father told one close friend but never informed his parents that Mother was pregnant.

After Respondent-Father and Mother graduated from high school in June 2023, Mother began attending summer school at Western Carolina University (WCU) in Cullowhee. Respondent-Father remained in Fayetteville where he continued his

wrestling training and began receiving tutoring for the ASVAB placement test for the U.S. Army, in which he hoped to enlist. Respondent-Father did not visit Mother in Cullowhee that summer (or after she returned to WCU that fall) because his mother would not permit him to borrow a family vehicle for that purpose; the parties remained in contact via phone and Snapchat messaging.

On 7 August 2023, Mother was scheduled for a 3D ultrasound, for which Respondent-Father initially agreed to pay one-half of the \$170 cost. He attended the appointment with Mother but did not contribute to the ultrasound's cost, which was then borne solely by Mother.

Mother returned to WCU in mid-August to begin her freshman year of college. She gave birth to Cecilia in Fayetteville on 16 October 2023, over WCU's Fall Break.

Aside from the occasional "odd job," Respondent-Father was unemployed throughout the duration of Mother's pregnancy. His parents did not allow him to have a job while he was in high school. At that time, Respondent-Father's parents paid for all of his living expenses; they shared access to his bank accounts and would transfer funds as necessary, which he was instructed to spend on purchases for his immediate family, including his four younger siblings. Respondent-Father's discretionary funds

were either gifts or earned through “odd jobs.”<sup>2</sup> Despite Mother’s pregnancy, Respondent-Father did not seek or obtain a job after he graduated from high school.

It is undisputed that Respondent-Father made no monetary payments toward the support of Mother or child during Mother’s pregnancy or in the days following Cecilia’s birth. Yet, Respondent-Father did provide some tangible support to Mother during this time, namely: a smoothie, two coffees, a chocolate milk, two trips to a tea shop, a shared meal at IHOP, a shared meal at McDonald’s, three shared visits to the movie theater along with snacks and drinks, a can of baby formula, three car rides, a wrestling sweater, and a meal from Dairy Queen.

A few days after Cecilia’s birth, Petitioners were contacted about the possibility of adopting her; Respondent-Father, Mother, and Petitioners met shortly thereafter to discuss the adoption. A week later, on 27 October 2023, Respondent-Father and Mother executed their consents to the adoption and surrendered Cecilia to Petitioners.

On 31 October 2023, Petitioners filed a petition to adopt Cecilia. Respondent-Father received a copy of the preplacement assessment on 30 January 2024 and revoked his consent on 5 February 2024. He then filed a motion to dismiss the adoption petition on 12 March 2024, asserting that he timely revoked his consent and

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<sup>2</sup> According to Respondent-Father, he sporadically worked for his father’s company prior to Cecilia’s conception. However, as evinced by Respondent-Father’s bank records, the father’s company also deposited funds into Respondent-Father’s account during Mother’s pregnancy.

that his “consent [was] required by statute.” On 19 March 2024, Petitioners filed a motion alleging that Respondent-Father’s consent was not necessary, and on 20 March 2024, the Cumberland County Clerk of Superior Court transferred all pending motions to Cumberland County District Court. Petitioners filed a motion for summary judgment on 22 November 2024, alleging that Respondent-Father’s consent was not statutorily required because, *inter alia*, he had “[f]ailed to provide any tangible assistance to or for [Mother],” despite having “the means and ability” to do so.

On 4 and 11 December 2024, the trial court conducted a hearing to determine “whether [Respondent-Father]’s consent [was] necessary for [the] adoption.” In an order entered on 24 March 2025, the court concluded, *inter alia*, that Respondent-Father had acknowledged his paternity of Cecilia and regularly communicated with Mother. As to the issue of “reasonable and consistent” support, the court found that Mother and her family had only incurred \$605 in reasonable out-of-pocket expenses during Mother’s pregnancy and immediately after Cecilia’s birth, noting that Mother received Medicaid benefits. The court determined that although it was “undeniable” that Respondent-Father “did not provide any consistent monetary funds to [Mother,]” Respondent-Father had “fulfilled needs of [Mother] and [Cecilia] by providing transportation, support during his visits, and a can of formula.” The court thus concluded that Respondent-Father had complied with the statutory requirements

regarding pre-adoption consent and ordered that his consent was therefore “required to effectuate an adoption of [Cecilia].”

The trial court also denied Petitioners’ motion for summary judgment and Respondent-Father’s motion to dismiss.

Petitioners timely filed notice of appeal from the order determining that Respondent-Father’s consent was required to effectuate Cecilia’s adoption.

## **II. Discussion**

On appeal, Petitioners contend that 1) “the trial court erred in misallocating the burden of proof . . . as to whether Respondent[-Father]’s consent was required for adoption”; and 2) “the trial court erred as a matter of law in finding [Respondent-Father] had provided reasonable and consistent support under the consent statute.”

### **A. Standard of Review**

“All proceedings under [the Adoptions] Chapter must be heard by the court without a jury.” N.C. Gen. Stat. § 48-2-202 (2025). “In a trial without a jury, a trial court’s findings of fact are conclusive on appeal if there is competent evidence to support them, though findings not supported by competent evidence are not conclusive and will be set aside on appeal.” *In re C.H.M.*, 371 N.C. 22, 28, 812 S.E.2d 804, 809 (2018) (extraneity omitted). “Conclusions of law drawn by the trial court from its findings of fact are reviewable de novo on appeal.” *Id.* (italics omitted). “Where the trial court fails to make adequate and sufficient findings to support its

conclusions, this Court must vacate the order and remand for further proceedings.” *Shomette v. Needham*, 298 N.C. App. 400, 406, 915 S.E.2d 39, 44 (2025).

## **B. Presentation of Evidence**

Petitioners first argue that “the trial court erred in misallocating the burden of proof” by having Petitioners present their evidence first, despite the fact that Respondent-Father bore the burden of proving compliance with N.C. Gen. Stat. § 48-3-601(2)(b)(4)(II). Yet, Petitioners failed to preserve this issue for appellate review.

“In order to preserve an issue for appellate review, a party must have presented to the trial court a timely request, objection, or motion, stating the specific grounds for the ruling the party desired the court to make if the specific grounds were not apparent from the context.” N.C.R. App. P. 10(a)(1). Here, Petitioners did not object to the order of presentation before the trial court. “As such, this issue was not preserved for appeal. We decline to address this unpreserved issue and dismiss this argument.” *Bethesda Rd. Partners, LLC v. Strachan*, 267 N.C. App. 1, 7, 832 S.E.2d 503, 508 (2019), *disc. review denied*, 373 N.C. 588, 838 S.E.2d 198 (2020).

## **C. Reasonable and Consistent Support**

Petitioners next assert that “the trial court erred as a matter of law in finding [Respondent-]Father had provided reasonable and consistent support under the consent statute,” thereby preserving the need for his consent to proceed with Cecilia’s adoption.

“N.C. Gen. Stat. § 48-3-601 specifies the individuals whose consent is required prior to the granting of a petition to adopt a minor child.” *In re Adoption of Shuler*, 162 N.C. App. 328, 331, 590 S.E.2d 458, 460 (2004). At issue in the case at bar is subsection (2)(b)(4)(II) of N.C. Gen. Stat. § 48-3-601. This subsection requires the pre-adoption consent of, *inter alia*:

b. Any man who may or may not be the biological father of the minor but who:

. . . .

4. Before the earlier of the filing of the petition or the date of a hearing under [N.C. Gen. Stat. §] 48-2-206, has acknowledged his paternity of the minor and

. . . .

II. Has provided, in accordance with his financial means, reasonable and consistent payments for the support of the biological mother during or after the term of pregnancy, or the support of the minor, or both, which may include the payment of medical expenses, living expenses, or other tangible means of support, and has regularly visited or communicated, or attempted to visit or communicate with the biological mother during or after the term of pregnancy, or with the minor, or with both[.]

N.C. Gen. Stat. § 48-3-601(2)(b)(4)(II).

The statute provides an objective test to determine whether a putative father’s consent is required in adoption proceedings involving a minor child. “To protect his rights under the objective statutory test, a putative father must fulfill all statutory requirements no later than the filing of the adoption petition.” *C.H.M.*, 371 N.C. at

30, 812 S.E.2d at 810. Significantly, neither age nor school enrollment absolves a putative father of compliance with these statutory mandates. *See, e.g., In re Adoption of B.J.R.*, 238 N.C. App. 308, 311, 312, 767 S.E.2d 395, 396–97, 398 (2014) (affirming a trial court’s order concluding that the putative father’s consent was not required to effectuate an adoption where the “unwed biological father,” a high-school student, had failed to “provide ‘reasonable and consistent’ payments of support commensurate with his ability to provide such payments”).

On appeal, Petitioners do not contend that Respondent-Father failed to acknowledge his paternity of Cecilia or to regularly communicate or visit with Mother. Rather, Petitioners’ challenge is limited to whether Respondent-Father provided reasonable and consistent support under N.C. Gen. Stat. § 48-3-601(2)(b)(4)(II).

As our Supreme Court has explained, the support section of the statute has three prongs that a putative father must satisfy. First, “a putative father must show he has provided real, tangible support through an adequate payment method.” *C.H.M.*, 371 N.C. at 30, 812 S.E.2d at 810. “Second, a putative father must present evidence that, during the relevant time period, he has made *reasonable* payments for the support of the biological mother, minor child, or both”; the reasonableness of the payments is “calculated based upon the earnings or financial resources of the putative father before the date of the adoption petition’s filing.” *Id.* at 30–31, 812 S.E.2d at 810. “Third, the statute requires that the putative father demonstrate he has made

consistent payments,” which is determined through the putative father’s presentation of “an objectively verifiable record showing that he consistently made reasonable payments before the statutory deadline.” *Id.* at 31, 812 S.E.2d at 810 (emphasis omitted). Our Supreme Court has defined “payment” in this context as the “performance of an obligation by the delivery of money or some other valuable thing accepted in partial or full discharge of the obligation.” *Id.* at 30, 812 S.E.2d at 810 (extraneity omitted).

In the instant case, the trial court concluded, *inter alia*, that although it was “undeniable” that Respondent-Father “did not provide any consistent monetary funds” to Mother,<sup>3</sup> he nevertheless “fulfilled needs of . . . [M]other and the minor child, [Cecilia], by providing transportation, support during his visits, and a can of formula.” However, the court failed to determine that the support Respondent-Father provided was “reasonable and consistent.” *See* N.C. Gen. Stat. § 48-3-601(2)(b)(4)(II). In addition, the trial court’s findings of fact are insufficient to support such a conclusion.

The court found that Respondent-Father’s family had a rule prohibiting the children from working while they were enrolled in high school, so that they could “prioritize school, sports and extracurricular activities.” Yet even after Respondent-Father graduated from high school in June 2023, he still did not obtain a steady job; instead, he opted to continue his wrestling training and to attend tutoring sessions

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<sup>3</sup> On appeal, Petitioners and Respondent-Father agree that Respondent-Father never provided any monetary payments to Mother.

for the ASVAB placement test. Notably, however, the court made no finding concerning Respondent-Father's ability to obtain employment during the months between his June 2023 high-school graduation and Petitioners' 31 October 2023 filing of the petition to adopt Cecilia—the final deadline relevant to this statutory determination. *See C.H.M.*, 371 N.C. at 30, 812 S.E.2d at 810.

Furthermore, although Respondent-Father was aware of Mother's pregnancy "on or about February 20, 2023," he sought neither gainful employment nor his parents' assistance and support—financial, emotional, or otherwise—following his June 2023 graduation. To the contrary, Respondent-Father intentionally concealed Cecilia's *very existence* from his family until she was nearly four months old.

Moreover, the court made no finding regarding the amount of money that Respondent-Father received from gifts or earned from odd jobs during Mother's pregnancy, nor how he spent those funds. While Respondent-Father testified that his parents and his father's business transferred to his bank account funds that were earmarked for spending on family necessities, his testimony also indicated that he acquired more than \$1500 beyond these transfers. Respondent-Father raised \$237 for the abandoned abortion; earned approximately \$370–470 from odd jobs; and received gifts of \$100 and \$774, respectively, for his birthday and high-school graduation. In any case, Respondent-Father repeatedly conceded at the hearing that he contributed none of these funds toward the support of Mother and Cecilia.

In addition, the trial court made no finding as to the total amount spent by

Respondent-Father for the support of Mother or the dates or reasons for those expenditures. This Court's review of the record indicates that Respondent-Father's verifiable expenditures in support of Mother, during her pregnancy and immediately following Cecilia's birth, amounted to approximately \$256. At the hearing, Respondent-Father testified that many of these expenses were incurred during the couple's dates, with the funds spent on shared meals or experiences, including movies that they attended together. Respondent-Father also testified that, at some point, he spent money to send Mother a wrestling sweater; that he purchased gas to visit Mother and to transport her to two doctor's appointments and a party; and that he purchased a can of baby formula, at Mother's request.

Finally, the trial court made no findings to support a conclusion that Respondent-Father provided consistent support. The court found in Finding 53 that Respondent-Father made the aforementioned vague purchases of food, movie tickets, and "other things" for Mother "as support during her pregnancy," and that "[t]hese purchases were corroborated" by Respondent-Father's bank records; yet, the court made no findings as to the dates or details of any specific purchases, verified in the bank records, that the court deemed "support" for purposes of N.C. Gen. Stat. § 48-3-601(2)(b)(4)(II). Absent such specificity in the trial court's findings, we are unable to engage in full and meaningful review of this issue. *See C.H.M.*, 371 N.C. at 31, 812 S.E.2d at 810 (emphasizing "the need for a precise payment record to demonstrate that a putative father consistently made reasonable payments before the statutory

deadline”).

In sum, because the trial court failed to “make adequate and sufficient findings” regarding Respondent-Father’s means and the reasonableness and consistency of his payments in support of Mother and Cecilia, such that its conclusion of Respondent-Father’s statutory compliance was unsupported, we “must vacate the order and remand for further proceedings.” *Shomette*, 298 N.C. App. at 406, 915 S.E.2d at 44.

#### **D. Consideration of Mother’s Expenses**

We also briefly address the trial court’s erroneous consideration of Mother’s expenses. The court found that Mother was on Medicaid and that the “total expenses outlaid by [Mother] were \$170 for the ultrasound, \$150 for clothing, \$30-\$35 for a glucose monitor and additional money to purchase the glucose strips.” In sum, the court found that Mother incurred “approximately \$355[ ] in out-of-pocket expenses, and [Mother’s] family had an additional \$250[ ] of out-of-pocket reasonable expenses.”

Petitioners dispute the trial court’s finding of \$355 as well below the total expense Mother incurred. Nonetheless, Mother’s expenses, and the fact that she received Medicaid, are not relevant to this inquiry and were improperly considered by the court in its determination of whether Respondent-Father’s support was reasonable. *See C.H.M.*, 371 N.C. at 30–31, 812 S.E.2d at 810 (“A reasonable payment is calculated based upon the earnings or financial resources of the *putative father* before the date of the adoption petition’s filing.” (emphasis added)). On remand, the

trial court may not consider Mother's expenses for the purpose of ascertaining the reasonableness of Respondent-Father's support.

### **III. Conclusion**

We vacate the order and remand this matter to the trial court for further proceedings, including additional findings of fact. *See Shomette*, 298 N.C. App. at 406, 915 S.E.2d at 44 ("Where the trial court fails to make adequate and sufficient findings to support its conclusions, this Court must vacate the order and remand for further proceedings."). The court may, in its discretion, receive additional evidence on remand and shall enter an amended order consistent with this opinion.

VACATED AND REMANDED.

Judges GRIFFIN and FREEMAN concur.

Report per Rule 30(e).