

## Juvenile Cases Decided by the North Carolina Court of Appeals

July 6, 2010, and August 3, 2010

*Termination of parental rights; Delinquency*

TPR Case decided July 6, 2010, ordered published.

On July 26, 2010, the Court of Appeals ordered that the opinion in the case summarized below be published. The decision was filed July 5, 2010, in an unpublished opinion.

### Termination of parental rights

- Court of appeals will not review an order that is not specified in the notice of appeal.
- Where record showed that children were represented by a GAL at the termination hearing, absence from the record of an order appointing a GAL was not error.

**In re D.W.C.**, \_\_\_ N.C. App. \_\_\_, \_\_\_ S.E.2d \_\_\_ (7/6/10).

**Facts:** Children were adjudicated neglected and placed in foster care after parents stipulated to neglect based on domestic violence and an injurious environment. A year later DSS filed petitions to terminate the parents' rights, alleging three grounds. The court terminated both parents' rights and the mother appealed.

**Held:** Affirmed.

1. Respondent's assertion that the trial court erred in failing to appoint a GAL for the children when the initial neglect petition was filed was not properly before the court, because the notice of appeal referred only to the order terminating the parents' rights.
2. The court rejected respondent's argument that the trial court erred by failing to enter an order appointing a GAL for the children when respondent filed an answer to the termination petition. Failure of the record to show GAL appointment papers does not require reversal when the record and the trial court's findings show that the children were represented by a GAL who carried out her statutory duties.
3. The court also rejected respondent's argument that the trial court abused its discretion in terminating her rights, holding that the trial court's findings of fact indicated that the court properly considered the statutory best interest factors.

### Delinquency

- The statutory timeline for filing petitions is not jurisdictional.
- To properly accept a juvenile's admission, the court must comply with all six mandatory requirements in G.S. 7B-2407(a).

**In re J.A.G.**, \_\_\_ N.C. App. \_\_\_, \_\_\_ S.E.2d \_\_\_ (8/3/10).

**Facts:** The trial court dismissed a petition alleging that the juvenile was delinquent, because it was filed more than 15 days after the court counselor received the complaint. At the request of the court counselor law enforcement filed a second complaint based on the same conduct, and within 15 days the court counselor approved and filed a second petition almost identical to the first. The trial court denied the juvenile's motion to dismiss for lack of jurisdiction, accepted the juvenile's admission,

and adjudicated the juvenile delinquent. The court of appeals reversed, holding that the trial court erred in denying the juvenile's motion to dismiss for lack of jurisdiction. The juvenile sought review from the Supreme Court, which granted review for the sole purpose of remanding to the Court of Appeals for reconsideration in light of *In re D.S.*, \_\_\_ N.C. \_\_\_, 2010 WL 2403448 (2010), in which the Supreme Court held that the filing deadlines relating to delinquency petitions are not jurisdictional.

**Held:** Reversed and remanded.

1. The trial court properly denied the juvenile's motion to dismiss for lack of jurisdiction, because, as held by the Supreme Court in *In re D.S.*, \_\_\_ N.C. \_\_\_, 2010 WL 2403448 (2010), statutory filing deadlines relating to delinquency petitions are not jurisdictional
2. In accepting the juvenile's admission, the trial court did not comply with G.S. 7B-2407(a). Of the six mandatory requirements in that subsection for accepting a juvenile's admission, the trial court omitted three, in that the court did not inform the juvenile of the most restrictive disposition, that his admission waived his right to confront the witnesses against him, or that he had a right to remain silent and anything he said could be used against him.

Appellate court opinions can be found at <http://www.aoc.state.nc.us/www/public/html/opinions.htm>

Earlier case summaries can be found at [http://www.sog.unc.edu/programs/dss/case\\_summaries.html](http://www.sog.unc.edu/programs/dss/case_summaries.html)



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