

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

November 16, 2010

*Permanency Planning; Termination of Parental Rights*

**Permanency planning order; termination of parental rights**

- Findings were supported by competent evidence in the record and were sufficient to support conclusion that reunification efforts should cease.
- Trial court lacked subject matter jurisdiction when termination petition was not verified.

***In re T.R.M.*, \_\_\_ N.C. App. \_\_\_, \_\_\_ S.E.2d \_\_\_ (Nov. 16, 2010).**

<http://www.aoc.state.nc.us/www/public/coa/opinions/2010/pdf/100728-1.pdf>

**Facts:** In 2/08, the child came into foster care following a consent adjudication of neglect. In 12/09 the court entered a permanency planning order ceasing reunification efforts and changing the plan from reunification to adoption. Findings addressed in part the child's bizarre and disturbing behaviors related to visits with respondents, and improvements in his behavior after visits ceased. DSS filed a petition to terminate respondent's rights, and an order terminating her rights was entered in 7/09. Respondent appealed from both the permanency planning and the termination orders.

**Held:** Permanency planning order affirmed; termination order vacated.

1. Because the termination petition was not verified, all parties conceded that the trial court did not have subject matter jurisdiction in the termination proceeding.
2. The court of appeals reviewed the record and the trial court's extensive findings relating to ceasing reunification efforts and held that they supported the trial court's conclusion that reunification would be inconsistent with the child's health, safety, and need for a safe, permanent home.

**TPR: Jurisdiction under UCCJEA**

1. Parties cannot stipulate to subject matter jurisdiction or waive UCCJEA requirements.
2. Another state's determination that it no longer has jurisdiction or that it relinquishes jurisdiction should be reflected in a court order from that state filed with the N.C. action.

***In re K.U.-S.G.*, \_\_\_ N.C. App. \_\_\_, \_\_\_ S.E.2d \_\_\_ (Nov. 16, 2010).**

<http://www.aoc.state.nc.us/www/public/coa/opinions/2010/pdf/100695-1.pdf>

**Facts:** In June 2005, when all parties lived in PA, the court there awarded custody of respondent's three children to petitioners, who then moved to N.C. with the children. The order gave visitation rights to respondent, who remained in PA. Petitioner and respondents later purported to enter a consent order in N.C. returning custody to respondent and giving petitioners visitation rights. Respondent later returned the children to petitioners, and they subsequently filed a petition to terminate respondent's rights. Apparently the judge in N.C. contacted the court in PA, but no order in the record indicated that the PA court had either determined that it no longer had exclusive continuing jurisdiction or relinquished jurisdiction to N.C. as a more convenient forum. The trial court terminated respondent's rights.

**Held:** Vacated.

1. Because PA entered an initial custody determination, PA had exclusive continuing jurisdiction, and N.C. could exercise jurisdiction to modify the PA order only if
  - PA determined that it no longer had exclusive continuing jurisdiction,
  - PA relinquished jurisdiction to N.C. on the basis that N.C. was a more convenient forum, or
  - either a court in PA or a court in N.C. determined that the children, the parents, and anyone acting as a parent no longer lived in PA.
 Respondent continued to live in PA, and the record included no court order from PA indicating that it relinquished jurisdiction or determined that it no longer had jurisdiction.
2. The determination by another state that it no longer has jurisdiction or that it relinquishes jurisdiction should be reflected in a court order from that state filed in the N.C. action.
3. Parties cannot stipulate to subject matter jurisdiction or waive the requirements of the UCCJEA.

**TPR: sufficiency of evidence and findings**

1. Evidence and findings were sufficient to conclude that ground for termination existed under G.S. 7B-1111(a)(9).
2. Terminating respondent's rights was not an abuse of discretion.

*In re D.J.E.L.*, \_\_\_ N.C. App. \_\_\_, \_\_\_ S.E.2d \_\_\_ (Nov. 16, 2010).

<http://www.aoc.state.nc.us/www/public/coa/opinions/2010/pdf/100685-1.pdf>

**Facts:** After being adjudicated neglected and dependent, the child was in foster care for more than two years. The trial court terminated respondent's rights after concluding that three grounds had been established and that termination was in the child's best interest.

**Held:** Affirmed.

1. Respondent mother did not contest evidence that her rights to another child had been involuntarily terminated. Evidence supported findings related to respondent's pattern of being in violent relationships, and other evidence, including testimony of her therapist, was sufficient to establish that she lacked the ability or willingness to establish a safe home for the child.
2. Having found that one ground was properly established, the court of appeals did not review the other two grounds.
3. The trial court's findings indicated that the court had considered the required dispositional factors, including the child's age (8), likelihood of adoption, accomplishment of permanent plan, bonding with respondent and with foster parents, and child's wish not to return to his mother. The court did not abuse its discretion in terminating respondent's rights.

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